PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Alan J. Goldberger, CPA and William A. Postelnik, CPA* *Respondents.*	PCAOB Release No. 2005-011 PCAOB No. 105-2005-002 May 24, 2005

Summary

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Alan J. Goldberger and William A. Postelnik, two associated persons of a registered public accounting firm. The Board is imposing these sanctions because of Goldberger's and Postelnik's participation in the firm's efforts to conceal information from the Board, and to submit false information to the Board, in connection with a Board inspection. The Board is limiting these sanctions to censures because Goldberger and Postelnik promptly and voluntarily brought the matter to the Board's attention, disclosed their own misconduct and the misconduct of others, and made affirmative efforts to provide the Board with relevant information.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Alan J. Goldberger, CPA and William A. Postelnik, CPA (collectively, "Respondents").

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, the Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for the purpose of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party,

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and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, the Respondents each consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of information obtained by the Board in this matter, the Board finds[1/] that:

1. Alan J. Goldberger is a certified public accountant licensed by the State of New York. During the relevant time period, Goldberger was a partner in Goldstein & Morris ("G&M" or "Firm"), a registered public accounting firm, and was an associated person of G&M, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

2. William A. Postelnik is a certified public accountant licensed by the State of New York. During the relevant time period, Postelnik was a partner in G&M and was an associated person of G&M, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. From about October 2003 through July 2004, G&M prepared the financial statements for New York Film Works, Inc. ("NYFW") and RTG Ventures, Inc. ("RTG"). During this same time period, NYFW and RTG each filed these financial statements with the U.S. Securities and Exchange Commission ("Commission") under the cover of various Forms 10-KSB and 10-QSB. Both NYFW and RTG are issuers, as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. G&M issued an audit report for NYFW, dated October 10, 2003, with respect to financial statements that G&M had prepared for NYFW.

5. G&M issued an audit report for RTG, dated December 9, 2003, with respect to financial statements that G&M had prepared for RTG.

[1/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

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6. On or about September 20, 2004, the Board, through its Division of Registration and Inspections ("Inspections"), informed G&M that it would be conducting an inspection of the Firm during November 2004. In connection with the inspection, Inspections directed a request to the Firm in the care of the Firm's co-founder, president and managing partner ("the managing partner"). Among other things, the request called for the Firm to provide the Board in writing with the total number of engagement hours incurred by all of the Firm's accounting or professional personnel related to the Firm's audits of NYFW and RTG, the number of hours each person worked on the engagement, and certain other documents related to each engagement.

7. The managing partner discussed with the Respondents how to respond to the Board's request. The managing partner and the Respondents were aware that federal law prohibits a registered public accounting firm from providing its issuer audit clients with certain bookkeeping services,[2/] and they discussed what to do about the fact that the Firm had provided NYFW and RTG with the services described in paragraph 3 above. Ultimately, they formulated and carried out a plan to conceal from the Board information about some of the services that the Firm had provided to NYFW and RTG. Pursuant to that plan, on or about October 1, 2004, the Respondents prepared, and the Firm submitted to Inspections, a written response that omitted the number of hours worked by a G&M employee on the audits of NYFW and RTG. The Respondents intentionally omitted that information from the Firm's response because that employee had also worked on preparing the financial statements of NYFW and RTG, and the Respondents' were concerned that information about the employee's work on the audits might lead Inspections to discover that the Firm had also prepared the financial statements – a fact that the Respondents wished to conceal from the Board.

8. In addition, the Respondents and the managing partner discussed the possibility that the Board would find fault with the Firm because of the lack of certain audit documentation in the Firm's files. They therefore formulated and carried out a plan to create and back-date certain documents and place them in the Firm's audit files before Inspections reviewed the files. Specifically, on or about October 15, 2004, the Respondents and the managing partner generated purported management representation letters from both NYFW and RTG, back-dated them to dates in 2003 and 2004, and placed them in the Firm's audit files. In participating in this conduct, the

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[2/] See Section 10A(g)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78j-1(g)(1); see also Rule 2-01(c)(4)(i) of Regulation S-X, 17 C.F.R. 210.2-01(c)(4)(i).

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Respondents intended to conceal from the Board that the Firm had failed to comply with certain PCAOB standards in connection with the preparation and issuance of audit reports for NYFW and RTG.[3/]

9. Approximately two weeks after the Firm's submission of the written response described in paragraph 7 above, and before Inspections began its field work, the Respondents, through counsel, contacted Inspections and disclosed the conduct described in paragraphs 7 and 8 above. Within one day of that disclosure, the Respondents resigned their positions with the Firm. After resigning their positions, the Respondents made themselves available for voluntary interviews with the PCAOB's Division of Enforcement and Investigations ("Enforcement"). In addition, the Respondents each voluntarily produced to Enforcement documents and other relevant information.

10. PCAOB Rule 4006 states that –

> [e]very registered public accounting firm, and every associated person of a registered public accounting firm, shall cooperate with the Board in the performance of any Board inspection. Cooperation shall include, but is not limited to, cooperating and complying with any request, made in furtherance of the Board's authority and responsibilities under the Act, to – (1) provide access to, and the ability to copy, any record in the possession, custody, or control of such firm or person, and (2) provide information by oral interviews, written responses, or otherwise.

11. Inherent in the obligation to cooperate with requests for documents and information is both an obligation not to conceal requested documents or information and an obligation not to fabricate and provide false or misleading documents or information. When a request is made in furtherance of the Board's inspection authority, any associated person who participates in preparing or providing the response to that request has an obligation under Rule 4006 to cooperate with the request, including an obligation not to participate in concealing or fabricating information or documents. Through the conduct described in paragraphs 7 and 8 above, the Respondents breached their

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[3/] AU Section 333, "Management Representations," requires the independent auditor to obtain written representations from management as a part of an audit of financial statements.

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obligations to cooperate with a Board request for documents and information made in furtherance of the Board's authority and responsibilities under the Act. In doing so, the Respondents each violated PCAOB Rule 4006.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Respondents' Offers. Although the Board views the misconduct in which the Respondents participated as serious, the Board, in determining the appropriate sanction, has taken into account the Respondents' voluntary disclosure of that misconduct, as well as the fact that the Respondents disclosed the misconduct shortly after its occurrence and before the Board took any substantial steps in reliance upon the false information. In addition, the Board has taken into account the Respondents' affirmative efforts to provide Enforcement with all relevant information and documents. Accordingly, it is hereby ORDERED that:

i. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Alan J. Goldberger is hereby censured; and

ii. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), William A. Postelnik is hereby censured.

ISSUED BY THE BOARD.

J. Gordon Seymour
Acting Secretary

May 24, 2005

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Goldstein and Morris, CPAs, P.C. and Edward B. Morris, CPA* *Respondents.*	PCAOB Release No. 2005-010 PCAOB No. 105-2005-001 May 24, 2005

Summary

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Goldstein and Morris CPAs, P.C., and barring Edward B. Morris from being an associated person of a registered public accounting firm. The Board is imposing these sanctions because of the respondents' conduct in concealing information from the Board, and submitting false information to the Board, in connection with a Board inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Goldstein and Morris CPAs, P.C. ("G&M" or "Firm") and Edward B. Morris, CPA (collectively, "Respondents").

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Morris and the Firm have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for the purpose of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, the Respondents

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each consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of information obtained by the Board in this matter, the Board finds[1/] that:

1. G&M is an accounting firm incorporated in the state of New York and registered with the Board pursuant to Section 102(a) of the Act and PCAOB Rule 2100. Its only office is located in New York City.

2. Edward B. Morris is a certified public accountant licensed by the State of New York. He is the co-founder, president and managing partner of G&M. Morris is an associated person of G&M, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. From about October 2003 through July 2004, the Firm prepared the financial statements for New York Film Works, Inc. ("NYFW") and RTG Ventures, Inc. ("RTG"). During this same time period, NYFW and RTG each filed these financial statements with the U.S. Securities and Exchange Commission ("Commission") under the cover of various Forms 10-KSB and 10-QSB. Both NYFW and RTG are issuers, as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. G&M issued an audit report for NYFW, dated October 10, 2003, with respect to financial statements that G&M had prepared for NYFW.

5. G&M issued an audit report for RTG, dated December 9, 2003, with respect to financial statements that G&M had prepared for RTG.

6. On or about September 20, 2004, the Board, through its Division of Registration and Inspections ("Inspections"), informed G&M that it would be conducting an inspection of the Firm during November 2004. In connection with the inspection,

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[1/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

ORDER

Inspections directed a request to Morris's attention that the Firm provide the Board with certain information. Among other things, Inspections requested that the Firm provide in writing the total number of engagement hours incurred by all of the Firm's accounting or professional personnel related to the Firm's audits of NYFW and RTG, the number of hours each person worked on the engagement, and certain other documents related to each engagement.

7. In considering how to respond to the Board's request, Morris was aware that federal law prohibits a registered public accounting firm from providing its issuer audit clients with certain bookkeeping services,[2/] and he and two subordinates discussed what to do about the fact that the Firm had provided NYFW and RTG with the services described in paragraph 3 above. Ultimately, they formulated and carried out a plan to conceal from the Board information about some of the services that the Firm had provided to NYFW and RTG. Pursuant to that plan, on or about October 1, 2004, the Firm submitted to Inspections a written response that omitted the number of hours worked by a G&M employee on the audits of NYFW and RTG. Morris intended and approved the omission of that information from the Firm's response because that employee had also worked on preparing the financial statements of NYFW and RTG, and Morris was concerned that information about the employee's work on the audits might lead Inspections to discover that the Firm had also prepared the financial statements – a fact that Morris wished to conceal from the Board.

8. In addition, Morris and the two subordinates discussed the possibility that the Board would find fault with the Firm because of the lack of certain audit documentation in the Firm's files. They therefore formulated and carried out a plan to create and back-date certain documents and place them in the Firm's audit files before Inspections reviewed the files. Specifically, on or about October 15, 2004, Morris and the two subordinates generated purported management representation letters from both NYFW and RTG, back-dated them to dates in 2003 and 2004, and placed them in the Firm's audit files. In approving and participating in this conduct, Morris intended to

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[2/] See Section 10A(g)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78j-1(g)(1); see also Rule 2-01(c)(4)(i) of Regulation S-X, 17 C.F.R. 210.2-01(c)(4)(i).

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conceal from the Board that the Firm had failed to comply with certain PCAOB standards in connection with the preparation and issuance of audit reports for NYFW and RTG.[3/]

9. Under the Act, the Firm had an obligation, to which it assented in applying for registration with the Board, to cooperate in and comply with any request for documents or testimony made in furtherance of the Board's authority and responsibilities under the Act. The Firm also had, and assented to, an obligation to secure and enforce similar consents from its associated persons. Under the Act, such cooperation and compliance is a condition of the continuing effectiveness of a Firm's registration with the Board. In addition, PCAOB Rule 4006 states that –

> [e]very registered public accounting firm, and every associated person of a registered public accounting firm, shall cooperate with the Board in the performance of any Board inspection. Cooperation shall include, but is not limited to, cooperating and complying with any request, made in furtherance of the Board's authority and responsibilities under the Act, to – (1) provide access to, and the ability to copy, any record in the possession, custody, or control of such firm or person, and (2) provide information by oral interviews, written responses, or otherwise.

10. Inherent in the obligation to cooperate with requests for documents and information is both an obligation not to conceal requested documents or information and an obligation not to fabricate and provide untruthful or misleading documents or information. When a request is made in furtherance of the Board's inspection authority, any registered public accounting firm or associated person who participates in preparing or providing the response to that request has an obligation under Rule 4006 to cooperate with the request, including an obligation not to participate in concealing or fabricating information or documents. Through the conduct described in paragraphs 7 and 8 above, the Respondents breached their obligations to cooperate with a Board request for documents and information made in furtherance of the Board's authority and responsibilities under the Act. In doing so, the Firm violated a statutory condition to its continuing registration, and both Respondents violated PCAOB Rule 4006.

[3/] AU Section 333, "Management Representations," requires the independent auditor to obtain written representations from management as a part of an audit of financial statements.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Respondents' Offers. Accordingly, it is hereby ORDERED that:

i. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), Goldstein & Morris, CPAs, P.C.'s registration with the Board is revoked; and

ii. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Edward B. Morris is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

J. Gordon Seymour
Acting Secretary

May 24, 2005

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 2005-021 PCAOB No. 105-2005-003
In the Matter of Clyde Bailey, P.C., and Clyde B. Bailey, CPA,	November 22, 2005
Respondents.	

Summary

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Clyde Bailey, P.C, and barring its sole shareholder, Clyde B. Bailey, CPA, from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings concerning the respondents' violations of PCAOB rules and auditing standards in auditing the financial statements of four issuer clients during 2004 and 2005.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Clyde Bailey, P.C., ("CBPC") and Clyde B. Bailey, CPA ("Bailey") (collectively, "Respondents").

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, CBPC and Bailey have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, the Respondents

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each consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers and information obtained by the Board in this matter, the Board finds[1/] that:

A. Respondents

1. CBPC is an accounting firm incorporated in the state of Texas and licensed by the Texas State Board of Accountancy (license no. C02330). CBPC is registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. Its only office is located in San Antonio, Texas.

2. Bailey, 50, of San Antonio, Texas, is a certified public accountant licensed by the state of Texas (license no. 023975). He has been the principal shareholder of CBPC since 1990. Bailey is an associated person of CBPC, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondents Violated PCAOB Auditing Standards

3. An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance PCAOB standards.[2/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an

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[1/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5)(A), which provides that such sanctions may be imposed in the event of "intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard."

[2/] See AU § 508.07, *Reports on Audited Financial Statements*.

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opinion regarding the financial statements.[3/] In connection with their audits of the fiscal year ("FY") 2003 financial statements of four issuer clients, Respondents failed to exercise due professional care, failed to exercise professional skepticism, and failed to obtain sufficient competent evidential matter. Specific instances of Respondents' conduct constituting violations of PCAOB standards are described below.

1. FY 2003 Audit of Endevco, Inc.

4. Endevco, Inc. ("Endevco") (formerly Adair International Oil and Gas, Inc.) is a Texas corporation with offices in Houston, Texas. Its common stock is registered with the United States Securities and Exchange Commission ("Commission") under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and is dually quoted on the OTC Bulletin Board and the Pink Sheets. Endevco's public filings disclose that it is pursuing, among other things, oil and gas exploration and development opportunities in the United States and Colombia. Endevco is an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. CBPC was engaged as Endevco's independent auditor from March 2003 through July 2005. On January 26, 2004, CBPC issued an unqualified audit report on Endevco's consolidated financial statements for the year ended December 31, 2003.[4/] The report stated that the company's financial statements fairly presented its financial condition in all material respects in conformity with U.S. generally accepted accounting principles ("GAAP").[5/] CBPC's audit report was included in the Form 10-KSB filed by Endevco with the Commission on March 31, 2004.

[3/] See AU § 150.02, *Generally Accepted Auditing Standards*; § 230, *Due Professional Care in the Performance of Work*; § 326, *Evidential Matter.*

[4/] The audit report included an explanatory paragraph expressing substantial doubt as to Endevco's ability to continue as a going concern.

[5/] CBPC's audit reports for Endevco, Call Now, Inc., and Image Innovations Holdings, Inc. stated that its audits were conducted in accordance with U.S. generally accepted auditing standards ("GAAS"). Respondents were required to conduct those audits in accordance with the PCAOB's interim auditing standards pursuant to PCAOB Rule 3200T, which took effect on April 25, 2003. However, at the time those audits were performed, the PCAOB's interim auditing standards were the same as GAAS as it existed on April 16, 2003, and, until PCAOB Auditing Standard No. 1 took effect on May

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a. Valuation of Options to Acquire Leasehold Interests

6. During FY 2003, Endevco disclosed that it acquired two options to acquire interests in certain oil and gas leasehold interests in Colombia and the Gulf of Mexico. The company stated that it acquired the options in exchange for a $500,000 note and 1.5 million shares of preferred stock valued at $1.00 per share. Endevco recorded those options as assets (characterized as "oil and gas properties and equipment under full cost method") valued at $2,000,000, representing 61 percent of the company's total reported assets at December 31, 2003. Other than obtaining the option agreements and reviewing the Board resolution authorizing the option purchases, Respondents performed no audit procedures to assess the values assigned by management to the option rights or to the preferred shares that were exchanged for those rights.

7. Moreover, other than relying on management's assurances, Respondents performed no audit procedures to test whether the option rights would result in a probable future economic benefit to Endevco.[6/] Respondents failed to perform such procedures despite the existence of several factors that cast doubt on Endevco's ability to exercise the options. As set forth in the option agreements included in Respondents' work papers, each option was exercisable by Endevco until June 30, 2005, at an exercise price of $2 million per option. That $4 million total exercise price, however, exceeded Endevco's total reported assets at year end 2003. In addition, even if Endevco had exercised the options, the company would have been obligated to execute a purchase agreement warranting that the company had a minimum of $5 million in current and unencumbered assets. At December 31, 2003, however, Endevco's balance sheet reflected current assets totaling only 11 percent of the required $5 million, and the company had not generated operating income for at least the preceding eight years. Finally, in prior periods, Endevco had written off assets associated with similar option contracts due to either non-performance or expiration of the option agreements.

24, 2004, it remained appropriate for auditors to refer to GAAS in their audit reports. Accordingly, while the references to GAAS in CBPC's reports for the aforementioned issuers were appropriate at the time, the standards pursuant to which those audits were required to be performed are more appropriately referred to as PCAOB auditing standards (or PCAOB standards), and that is how they are referred to in this Order.

6/ See FASB Concepts Statement No. 6, *Elements of Financial Statements*, paragraph 25 (asset defined as a "probable future economic benefit obtained or controlled by a particular entity as a result of past transactions or events").

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8. In the face of these "red flags" concerning Endevco's ability to exercise the options, Respondents relied exclusively on management's assurances that the company would be able to obtain from unidentified sources the funds needed for the exercise price and that the option sellers would waive the $5 million current asset requirement if the exercise price were paid. PCAOB standards provide that "representations from management are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those audit procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[7/] Respondents violated PCAOB standards by relying solely on representations made by Endevco's management and failing to perform other audit procedures sufficient to evaluate those representations.

b. Revenue Recognition

9. Endevco's consolidated financial statements reported that revenues increased from $2,286 in FY 2002 to $1,513,419 in FY 2003. Most of that increase related to a contract that, according to Endevco, provided for initial funding of $2 million to conduct a certain feasibility study. As of year end 2003, Endevco had recorded as received, and had recognized as revenue, approximately 75 percent of the initial funding.[8/] Endevco also recorded a subcontract cost in that same amount because, according to Endevco, it had entered into a fixed-price agreement with a consulting firm to have the consulting firm perform the feasibility study, and it had paid the consulting firm an amount equal to what Endevco had received ($1,496,500) on the contract.

10. Respondents failed to perform necessary audit procedures to evaluate whether it was appropriate for Endevco to recognize the recorded receipts under the contract as revenue in FY 2003. Respondents did not evaluate whether Endevco had earned the amounts recognized and did not evaluate whether the amounts met the revenue recognition criteria set forth in GAAP.[9/] In fact, Respondents ignored evidence suggesting that revenue recognition may not have been appropriate. Specifically,

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[7/] AU § 333.02, *Management Representations*.

[8/] Endevco recorded a receivable for the remaining 25 percent and deferred recognition of such revenue.

[9/] SEC Staff Accounting Bulletin No. 101, *Revenue Recognition* ("SAB 101"), sets out relevant principles relating to revenue recognition.

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Respondents were aware that the feasibility study was not completed in FY 2003, and the contract made no provision for payment for partial performance, which are relevant factors in assessing the appropriateness of recognizing the revenue.

c. Related Party Transactions

11. Respondents failed to perform necessary audit procedures to evaluate whether Endevco had engaged in material related party transactions during FY 2003. In fact, Respondents ignored evidence in the work papers indicating that such transactions may have occurred.

12. Specifically, documents contained in Respondents' work papers identified one individual who served as president of four entities that had significant business relationships with Endevco during FY 2003, including the two entities that purportedly sold Endevco the leasehold options valued at $2 million on Endevco's balance sheet, the consulting firm to which Endevco purportedly subcontracted the contract feasibility study and to which Endevco purportedly paid $1,496,500, and a fourth entity to which Endevco issued 529,904 shares of preferred stock and that may thereby have effectively obtained voting control of the company.[10/] In addition, a schedule contained in Respondents' work papers indicated that the consulting firm controlled by this individual directly paid more than $180,000 of Endevco's operating expenses in FY 2003 (including more than $23,000 in audit-related fees paid to CBPC) and received preferred shares as repayment. The name of the expense-paying entity identified on the schedule was a truncated version of the consulting firm's full name. Respondents, however, performed no audit procedures to determine whether the entity identified on the schedule was the same as the consulting firm performing the feasibility study, beyond asking a member of Endevco's management and being told that they were not the same.

[10/] Endevco issued the preferred stock to that entity purportedly in return for the entity having directly paid certain Endevco operating expenses totaling $529,904. As disclosed in the notes to Endevco's financial statements, each share of Endevco's preferred stock was convertible into 1,000 shares of the company's common stock, and the preferred shares carried voting rights on an as-converted basis with the common stock. Thus, the 529,904 preferred shares held by the entity had voting rights equivalent to 529,904,000 common shares. With 150,000,000 shares of Endevco common stock issued and outstanding as of December 31, 2003, the information in Respondents' work papers should have indicated to Respondents that that entity's holdings of preferred stock may have given it voting control of the company.

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13. Documents evidencing the same individual's apparent involvement in the management of four entities having significant business relationships with Endevco, one of which may have had voting control of the company, should have caused Respondents to perform audit procedures to test whether Endevco's purchase of the leasehold options and its contract with the consulting firm constituted material related party transactions requiring disclosure under GAAP.[11/] Instead, Respondents ignored these "red flags," and in doing so, violated PCAOB standards requiring them to exercise due professional care and professional skepticism in their performance of the Endevco audit.

2. FY 2003 Audit of Call Now, Inc.

14. Call Now, Inc. ("Call Now") (formerly Phone One International, Inc.) is a Nevada corporation with offices in Selma, Texas. Its common stock is registered with the Commission under Section 12(g) of the Exchange Act and is quoted on the Pink Sheets. Call Now's public filings disclose that its primary operation is the management, through an 80 percent owned subsidiary, of the Retama Horse Racing Facility in Selma, Texas. Call Now is an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

15. CBPC was engaged as Call Now's independent auditor from approximately 1998 through April 2005. On March 10, 2004, CBPC issued an unqualified audit report on Call Now's consolidated financial statements for the year ended December 31, 2003. The report stated that the company's financial statements fairly presented its financial condition in all material respects in conformity with GAAP. CBPC's audit report was included in the Form 10-KSB filed by Call Now with the Commission on March 31, 2004.

16. Call Now reported that it held marketable securities valued at $5,407,565, representing nearly 40 percent of total recorded assets at December 31, 2003. Respondents failed to perform audit procedures necessary to assess the valuation of those securities.

17. For example, one security (representing 81 percent of the total reported value of Call Now's marketable securities) was valued by management at an amount substantially less than the value reflected in a brokerage statement issued by the

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11/ Statement of Financial Accounting Standards ("SFAS") No. 57, *Related Party Disclosures*, requires, among other things, that financial statements include disclosures of certain material related party transactions.

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company's investment firm. While the investment firm priced that security (a bond issue) at $0.235 per unit, Call Now's management verbally informed Respondents that the appropriate price was $0.10 per unit. As a result of management's reduced valuation, Call Now reported the value of its holdings in that security as $4,396,250, rather than the $10,331,187.50 shown in the brokerage statement. Respondents accepted management's reduced valuation at face value without performing additional procedures necessary to test whether the valuation was appropriate.

3. FY 2003 Audit of Image Innovations Holdings, Inc.

18. Image Innovations Holdings, Inc. ("Image") (formerly Busanda Explorations, Inc.) is a Nevada corporation with a mailing address in New York, New York. Its common stock is registered with the Commission under Section 12(g) of the Exchange Act and is dually quoted on the OTC Bulletin Board and the Pink Sheets. Image's public filings disclose that it has facilities in New York and British Columbia, Canada, and that it is in the business of promotional licensing and branding of low-cost products. Image is an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

19. CBPC was engaged as Image's independent auditor from January 2003 to January 2005. On March 10, 2004, CBPC issued an unqualified audit report on Image's consolidated financial statements for the year ended December 31, 2003. The report stated that the company's financial statements fairly presented its financial condition in all material respects in conformity with GAAP. CBPC's audit report was included in the Form 10-KSB filed by Image with the Commission on April 14, 2004.

20. Although CBPC was engaged as Image's independent auditor at the time, the company separately engaged another audit firm to perform audit procedures on its FY 2003 consolidated financial statements. While the other firm did not issue an audit opinion, it provided copies of its work papers to CBPC for its review and acknowledged its understanding that CBPC intended to rely on its work as a component of its audit procedures. The audit evidence obtained through procedures performed by the other firm constituted substantially all of the audit evidence obtained to support CBPC's audit opinion.

21. The level of planning, testing, supervision, and review exercised by Respondents with regard to the other auditors' work was not sufficient to enable CBPC to use the work of the other auditor in the same manner as if it had been performed by

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CBPC's own personnel.[12/] As a result, Respondents violated PCAOB standards in issuing an audit report on Image's FY 2003 consolidated financial statements.

4. FY 2003 Audit of Health Discovery Corporation

22. Health Discovery Corporation ("Health Discovery") (formerly Direct Wireless Communications, Inc.) is a Texas corporation with offices in Lorena, Texas and Savannah, Georgia. Health Discovery is required to file reports under Section 15(d) of the Exchange Act and its stock is dually quoted on the OTC Bulletin Board and the Pink Sheets. Health Discovery's public filings disclose that it is in the business of developing a product line of newly discovered biomarkers and pathways to assist pharmaceutical and diagnostic companies. Health Discovery is an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

23. On January 5, 2005, CBPC issued an unqualified audit report on the financial statements of Health Discovery for the year ended December 31, 2003.[13/] The report stated that CBPC had conducted an audit of those statements in accordance with PCAOB standards. The report also stated that Health Discovery's financial statements fairly presented its financial condition in all material respects in conformity with GAAP. CBPC's audit report was included in the Form 10-KSB/A filed by Health Discovery with the Commission on January 7, 2005.

24. CBPC was the second audit firm to report on Health Discovery's FY 2003 financial statements. The first audit firm (the "prior auditor") issued a report on those statements on February 27, 2004.[14/] As Health Discovery learned several months later, however, its prior auditor had never registered with the PCAOB as required by Section 102 of the Act. On December 15, 2004, Health Discovery filed a Form 8-K reporting that it had been notified by NASDAQ of the prior auditor's non-registered status. The company disclosed that, as a result, it was not in compliance with NASDAQ listing standards.

[12/] See AU § 230 and AU § 311, *Planning and Supervision*.

[13/] The audit report included an explanatory paragraph expressing substantial doubt as to Health Discovery's ability to continue as a going concern.

[14/] The prior auditor's report was included in the Form 10-KSB filed by Health Discovery on March 30, 2004.

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25. Although Health Discovery engaged a new independent auditor in August 2004,[15] the company did not use the new auditor to reaudit its FY 2003 financial statements. Instead, Health Discovery's prior auditor arranged for CBPC to issue a new FY 2003 audit report. One of the prior auditor's principals was a long-time business acquaintance of Bailey, and, during the last week of December 2004, he asked whether Bailey would review his work papers and issue a revised report on Health Discovery. Bailey agreed to do so, even though, according to Bailey, Health Discovery never paid him for the work. Bailey viewed the arrangement in terms of a barter transaction with the prior auditor, and testified that "I did this work for him and he's done some work for me . . . I felt it was more of a trade . . . ."

26. Where an auditor accepts an engagement to audit and report on financial statements that have been previously audited and reported on (i.e., a "reaudit"), "information obtained from [inquiries of the predecessor auditor] and any review of the predecessor auditor's report and working papers is not sufficient to afford a basis for expressing an opinion."[16] Instead, the auditor is required to plan and perform the reaudit in accordance with PCAOB standards, and is prohibited from assuming responsibility for the predecessor auditor's work.[17] Respondents did precisely the opposite. In lieu of planning and performing the required reaudit, they merely consulted with the prior auditor and relied on his work papers in issuing CBPC's audit opinion.[18] According to Bailey's

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[15] See Health Discovery Form 8-K, filed on August 8, 2004.

[16] AU § 315.15, *Communications Between Predecessor and Successor Auditors – Audits of Financial Statements That Have Been Previously Audited*.

[17] AU § 315.16.

[18] On January 7, 2005, Health Discovery filed an amended Form 10-KSB for the year ended December 31, 2003, which substituted CBPC's audit report for that of the prior auditor. Health Discovery issued a contemporaneous press release announcing the amended filing and noting that "[n]o material changes were made to the financial information as originally filed." On July 18, 2005, Health Discovery filed a Form 8-K reporting that CBPC had withdrawn its audit report on the company's FY 2003 financial statements. The company disclosed that, as a result, its board of directors had concluded that those financial statements could not be relied upon. On August 16, 2005, Health Discovery filed a Form 8-K disclosing that it had engaged another auditor to re-audit its FY 2003 financial statements. On September 27, 2005, Health Discovery

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testimony, the only other work performed before issuing CBPC's audit report was a telephone call lasting "less than half an hour" with a Health Discovery employee and a review of the company's Form 8-K filings to evaluate events that occurred subsequent to December 31, 2003. Respondents did not do the audit planning or engage in the performance, supervision, or review of audit procedures necessary for CBPC to be able to issue an audit report on Health Discovery's FY 2003 financial statements. By issuing an audit report in those circumstances, Respondents violated PCAOB standards.[19/]

C. Respondents Violated PCAOB Rules

27. PCAOB Rule 3100 requires that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards. That requirement encompasses a requirement to comply with the PCAOB's interim auditing standards as described in PCAOB Rule 3200T. Respondents' failure to comply with PCAOB auditing standards, as described above, violated PCAOB Rules 3100 and 3200T.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

i. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), Clyde Bailey, P.C.'s registration with the Board is revoked; and

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filed an amended Form 10-KSB for the year ended December 31, 2004, which included re-audited financial statements for FY 2003.

19/ The egregiousness of Respondents' failure in this regard is highlighted by the fact that less than eight months before CBPC's issuance of the audit report on Health Discovery, during a Board inspection of CBPC, the Board's inspection team identified a similar deficiency in a different engagement and pointed out to Respondents the seriousness of the deficiency.

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ii. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Clyde B. Bailey is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

J. Gordon Seymour
Acting Secretary

November 22, 2005

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Kenny H. Lee CPA Group, Inc., and Kwang Ho Lee, CPA* *Respondents.*	PCAOB Release No. 2005-022 PCAOB No. 105-2005-004 November 22, 2005

Summary

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Kenny H. Lee CPA Group, Inc., and barring its sole shareholder, Kwang Ho Lee, CPA, from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings concerning the respondents' violations of PCAOB rules and auditing standards in auditing the financial statements of two issuer clients in 2004, and their violations of PCAOB independence standards with respect to one of those clients in 2003.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Kenny H. Lee CPA Group ("KHL") and Kwang Ho Lee, CPA ("Lee") (collectively, "Respondents").

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, KHL and Lee have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, the Respondents

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each consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers and information obtained by the Board in this matter, the Board finds[1/] that:

A. Respondents

1. KHL is an accounting firm incorporated in the state of California and licensed by the California Board of Accountancy (license no. 5185). KHL is registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. Its only office is located in Los Angeles, California.

2. Lee (also known as Kenny H. Lee), 45, of Rancho Palos Verdes, California, is a certified public accountant licensed by the State of California (license no. 64155). Since 1993, Lee has been the chief executive officer and sole shareholder of KHL. Lee is an associated person of KHL, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondents Violated PCAOB Auditing Standards in the FY 2003 Audit of GSL Holdings, Inc.

3. GSL Holdings, Inc. ("GSL") (formerly Bethurum Laboratories, Inc.) is a British Virgin Islands corporation with offices in Los Angeles, California. Its common stock is registered with the Securities and Exchange Commission ("Commission") under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and is quoted on the Pink Sheets. GSL's public filings disclose that it has business operations in California and the People's Republic of China ("PRC"), and that it provides facilitation, credit and

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1/ The sanctions that the Board is imposing in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5)(A), which provides that such sanctions may be imposed in the event of "intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard."

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logistical support to manufacturers and merchants engaged in trade between the PRC and the United States. GSL is an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. KHL was engaged as GSL's independent auditor beginning on February 6, 2003. KHL audited GSL's consolidated financial statements for the fiscal year ended December 31, 2003, and issued an unqualified audit report dated April 8, 2004.[2/] In that report, KHL stated that GSL's financial statements fairly presented its financial condition in all material respects in conformity with U.S. generally accepted accounting principles ("GAAP").[3/] KHL's audit report was included in the Form 10-KSB filed by GSL with the Commission on April 14, 2004. GSL's audit committee dismissed KHL on June 17, 2004.[4/]

[2/] The audit report included an explanatory paragraph expressing substantial doubt as to GSL's ability to continue as a going concern.

[3/] KHL's audit report stated that the audit was conducted in accordance with U.S. generally accepted auditing standards ("GAAS"). Respondents were required to conduct this audit in accordance with the PCAOB's interim auditing standards pursuant to PCAOB Rule 3200T, which took effect on April 25, 2003. However, at the time of this audit, the PCAOB's interim auditing standards were the same as GAAS as it existed on April 16, 2003, and, until PCAOB Auditing Standard No. 1 took effect on May 24, 2004, it remained appropriate for auditors to refer to GAAS in their audit reports. Accordingly, while the reference to GAAS in KHL's report was an appropriate reference at the time, the standards pursuant to which the audit was required to be performed are more appropriately referred to as PCAOB auditing standards (or PCAOB standards), and that is how they are referred to in this Order.

[4/] Upon KHL's dismissal, GSL's audit committee engaged Deloitte Touche Tohmatsu (Hong Kong) ("DTT") as the company's auditor. On September 28, 2004, GSL filed a Form 8-K with the Commission disclosing that DTT had resigned on September 22, 2004, without issuing an audit report. GSL disclosed further that, "[p]rior to resigning, [DTT] advised [GSL] that the internal controls necessary for [GSL] to develop reliable financial statements do not exist and that information had come to the attention of DTT that, if investigated further, might materially impact the fairness or reliability of the report on [GSL's] consolidated financial statements for the fiscal year ended December 31, 2003[,] issued by the predecessor to [DTT], Kenny H. Lee CPA Group, Inc."

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5. An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance PCAOB standards.[5/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[6/] In connection with the audit of GSL's financial statements for FY 2003, Respondents failed to exercise due professional care, failed to exercise professional skepticism, and failed to obtain sufficient competent evidential matter. Specific instances of Respondents' conduct constituting violations of PCAOB standards are described below.

1. GSL's FY 2003 Property Acquisitions

6. During FY 2003, GSL's total reported assets increased from $755,857 to $49,861,311. According to GSL's public filings, most of that increase related to GSL's acquisitions of two properties in the PRC. GSL disclosed that both properties were acquired from GSL's controlling shareholder, Everbright Development Overseas Limited ("Everbright"), a Beijing-based entity, in exchange for restricted shares of GSL's common stock. Specifically, GSL disclosed that, in September 2003, it issued more than 9.5 million shares of its common stock to Everbright in exchange for 350,370 square meters of undeveloped real property in the city of Nantong, PRC. GSL also disclosed that it completed the purchase of a 258,241 square-foot hotel in the city of Haimen, PRC, on December 29, 2003, and issued more than 6.4 million shares of its common stock to Everbright in January 2004 as consideration for the purchase. GSL's FY 2003 financial statements reported that the Nantong property was valued at $19,064,890 and the Haimen property was valued at $12,926,830. As reported in the financial statements, the aggregate value of these properties – $31,991,720 – represented 64 percent of GSL's total reported assets at December 31, 2003.

7. Respondents never obtained sufficient competent evidence to reasonably conclude that GSL had legally acquired the two properties. For example, Respondents never verified that final acquisition agreements were executed. In the case of one acquisition, Respondents reviewed a two-page memorandum of understanding ("MOU")

5/ See AU § 508.07, *Reports on Audited Financial Statements*.

6/ See AU § 150.02, *Generally Accepted Auditing Standards*; § 230, *Due Professional Care in the Performance of Work*; § 326, *Evidential Matter*.

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in which GSL and Everbright expressed a "present intent" to negotiate and execute a definitive agreement regarding sale of the property. The MOU expressly stated, however, that it was non-binding and that material terms and conditions remained to be negotiated. Despite the contingent nature of the MOU, Respondents neither obtained the definitive agreement contemplated by the MOU, nor otherwise corroborated that the transaction occurred or that GSL had rights to the property.

8. In addition, Respondents' audit procedures were insufficient to reasonably conclude that GSL had properly valued the properties in its financial statements. To support the values reported in its financial statements, GSL provided Respondents with appraisals purportedly obtained from independent appraisers located in the PRC.[7/] While Respondents relied on these appraisals during the audit, they never evaluated whether the appraisers had the requisite experience, certification or standing to perform the appraisals; never evaluated the assumptions and methodologies used by the appraisers; and never made inquiries concerning the appraisers' relationships, if any, to GSL or Everbright.[8/]

9. Respondents' failure to obtain sufficient competent evidential matter concerning these property acquisitions is compounded by GSL's disclosure that both properties were acquired from its controlling shareholder, Everbright. At all relevant times, GSL's chairman was also the chairman and controlling shareholder of Everbright. PCAOB standards require auditors to employ a heightened standard in testing material transactions between related parties.[9/]

[7/] The property values reported in GSL's financial statements were based on the appraisals, and presumably were intended by GSL to represent the properties' fair value. However, because the transferor, Everbright, was also GSL's controlling shareholder, GAAP may have required GSL to record the properties at Everbright's carrying amount as of the date of transfer. The correct GAAP treatment depends on additional information that Respondents did not obtain or evaluate in performing the audit. See Statement of Financial Accounting Standards ("SFAS") No. 141, *Business Combinations*, paragraphs D11 & D12; see also EITF Issue No. 90-5, *Exchanges of Ownership Interests Between Entities Under Common Control.*

[8/] See AU § 336, *Using the Work of a Specialist.*

[9/] See, e.g., AU § 334.07, *Related Parties* ("The auditor should place emphasis on testing material transactions with parties he knows are related to the

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2. GSL's FY 2003 Contract Costs

10. GSL disclosed that, in the fourth quarter of FY 2003, it prepaid a PRC vendor for products and/or services related to the company's business operations in that country. GSL recorded these costs as an asset valued at $10,446,331, representing nearly 21 percent of GSL's total reported assets at December 31, 2003. Respondents failed to perform adequate audit procedures to test whether GSL had actually prepaid the vendor in FY 2003, and whether those costs were properly classified as an asset on GSL's balance sheet.

11. In addition, Respondents failed to perform adequate audit procedures to determine whether GSL's classification of those prepayment costs as an asset was consistent with GAAP. Specifically, Respondents did not take sufficient steps to obtain an understanding of the products and services in question to be able to assess whether those prepayment costs would result in a probable future economic benefit to GSL. Without an adequate understanding of the underlying products and services, Respondents had no reasonable way of assessing whether GSL's classification of the costs as an asset was appropriate.[10/] Moreover, even if it had been appropriate to classify the costs as an asset, Respondents should have, but did not, evaluate whether those costs were recoverable in light of, among other things, GSL's recurrent losses and lack of revenue history.[11/]

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reporting entity."); AU § 9334.18 ("The risk associated with management's assertions about related party transactions is often assessed as higher than for many other types of transactions because of the possibility that the parties to the transactions are motivated by reasons other than those that exist for most business transactions.").

[10/] To assess whether the classification of the prepayment costs as an asset was appropriate, Respondents needed to have sufficient understanding of the underlying products and services to be able to evaluate whether the prepayment costs would result in a probable future economic benefit to GSL. See FASB Concepts Statement No. 6, *Elements of Financial Statements*, paragraph 25 (asset defined as a "probable future economic benefit obtained or controlled by a particular entity as a result of past transactions or events").

[11/] See SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*.

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3. GSL's Statement of Cash Flows

12. GSL included certain non-monetary exchanges involving property acquisitions in its statement of cash flows. This accounting treatment departed from GAAP, which requires the reporting of non-cash activities in related disclosures, not in the cash flow statement.[12/] As a result, GSL overstated its operating cash flow by approximately $32 million (reporting an operating cash flow of approximately $23.7 million instead of -$8.3 million). Respondents failed to identify this GAAP departure, and failed even to perform audit procedures necessary to evaluate whether this accounting treatment complied with GAAP.[13/]

4. GSL's Deferred Taxes and Related Valuation Reserve

13. GSL recorded deferred tax assets of $1,150,346, which it computed based solely on U.S. federal and California state tax rates, even though most of GSL's revenues and a significant portion of its losses were attributed to the foreign operations of GSL subsidiaries. Respondents failed to identify that this accounting departed from GAAP,[14/] and failed even to perform audit procedures necessary to evaluate whether this accounting treatment complied with GAAP.

[12/] See SFAS No. 95, *Statement of Cash Flows*, paragraph 32.

[13/] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Securities and Exchange Commission has considered or made any determination concerning the issuer's compliance with GAAP.

[14/] See SFAS No. 109, *Accounting for Income Taxes*, paragraph 17 ("Deferred taxes shall be determined separately for each tax-paying component (an individual entity or group of entities that is consolidated for tax purposes) in each tax jurisdiction.").

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14. In addition, while the reduction of a deferred tax asset by a valuation allowance is required if it is more likely than not that some portion of the tax asset will not be realized in future periods,[15/] GSL recorded no valuation allowance and stated in the notes to the financial statements that, based on projections of future taxable income and the company's tax planning strategies, it was more likely than not that the deferred tax assets would be realized in future periods. GSL, however, had a consistent pattern of operating losses, and KHL's audit report included an explanatory paragraph expressing substantial doubt as to GSL's ability to continue as a going concern. Although these factors suggest that a valuation allowance may have been required, Respondents neither reviewed GSL's projections and strategies, nor otherwise evaluated whether a valuation allowance should have been recorded.

C. Respondents Violated PCAOB Independence Standards With Respect to the Axesstel Inc. Engagement in 2003

15. Axesstel, Inc. ("Axesstel") (formerly Miracom Industries, Inc.) is a Nevada corporation with offices in San Diego, California. Its common stock is registered with the Commission under Section 12(g) of the Exchange Act and is traded on the American Stock Exchange. Axesstel's public filings disclose that it has business operations in California and South Korea, and that it designs, manufactures and markets fixed wireless voice and data products. Axesstel is an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

16. KHL was engaged as Axesstel's independent auditor beginning in or about August 2002.[16/] During the fiscal year ended December 31, 2003, KHL performed interim reviews of Axesstel's financial statements for the quarters ended March 31 and June 30, 2003.

15/ Id.

16/ KHL originally served as the auditor for Miracom Industries, Inc. ("Miracom"), a public shell with few assets and no operations. In or about August 2002, Miracom entered into a reverse acquisition with Axesstel, Inc., a privately-held California company with operating assets ("Axesstel-California"). As a result of that merger, Miracom acquired all of the issued and outstanding stock of Axesstel-California and the former shareholders of Axesstel-California received 95 percent of Miracom's shares. Miracom then changed its name to Axesstel. Following the reverse acquisition, KHL was retained as Axesstel's auditor.

ORDER

17. On June 2, 2003, while KHL was engaged as Axesstel's independent auditor, Lee accepted an offer to serve on the company's board of directors. Following his acceptance of that offer, KHL continued its attest engagement for Axesstel. On August 5, 2003, KHL completed an interim review of Axesstel's financial statements for the quarter ended June 30, 2003. KHL's review report was included in the Form 10-QSB filed by Axesstel with the Commission on August 15, 2003. In late September 2003, Lee formally became a member of Axesstel's board of directors and became chairman of the board's audit committee. KHL's professional engagement as Axesstel's auditor continued until November 3, 2003.[17/]

18. At the time of the conduct at issue, PCAOB Rule 3600T, *Interim Independence Standards*, required registered public accounting firms and their associated persons to comply with the independence standard described in Rule 101 of the AICPA's Code of Professional Conduct, and interpretations and rulings thereunder, as in existence on April 16, 2003, in connection with the preparation and issuance of audit reports. That standard requires that an auditor "be independent in the performance of professional services."[18/] Interpretations of that standard provide that independence shall be considered impaired if, "[d]uring the period covered by the financial statements or during the period of the professional engagement, a . . . partner or professional employee of the firm was simultaneously associated with the client as a . . . director."[19/]

19. Accordingly, in light of the facts and circumstances described above, Respondents failed to maintain independence with respect to Axesstel during the professional engagement period, in violation of PCAOB interim independence standards and PCAOB Rule 3600T.

D. Respondents Violated PCAOB Auditing Standards In the 2004 Axesstel Restatement Engagement

20. Lee resigned from Axesstel's board of directors in or about March 2004. On or about September 21, 2004, Axesstel re-engaged KHL to perform audit services related to a restatement of the company's financial statements for the fiscal year ended

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17/ KHL became registered with the Board on October 22, 2003.

18/ ET § 101.01, *Independence*.

19/ ET § 101.02 (Interpretation 101-1).

ORDER

December 31, 2002.[20] The restatement involved, among other things, changes in Axesstel's accounting for software research and development costs, a license purchased from another company, and other items including stock options, employee bonuses, and goodwill impairment.[21] On September 30, 2004, KHL issued an audit report relating to the restatement, which stated that an audit had been conducted in accordance with PCAOB standards. The report also stated that the restated financial statements fairly presented Axesstel's financial condition in all material respects in conformity with GAAP. KHL's audit report was included in a Form 10-KSB/A filed by Axesstel with the Commission on October 13, 2004, and in a Form SB-2 Registration Statement filed on October 15, 2004.

21. Before issuing the audit report, Respondents performed no audit procedures to determine whether the restated amounts proposed by management were fairly stated in conformity with GAAP.[22] Respondents merely accepted at face value the restatement journal entries proposed by Axesstel's management. Respondents' conduct violated the most fundamental PCAOB standards, which require an auditor to perform audit procedures necessary to afford a reasonable basis for an opinion and prohibit an

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[20] KHL performed the original audit of Axesstel's FY 2002 financial statements and issued an audit report thereon on February 28, 2003. That audit report preceded the effective date of PCAOB Rule 3200T, *Interim Auditing Standards*.

[21] The restatement impact on Axesstel's FY 2002 financial statements included the following: (1) research and development expenses increased by 389 percent, from $162,909 to $796,742; (2) total assets decreased by six percent from $6,241,501 to $5,863,717; (3) gross profit decreased by 24 percent, from $4,588,136 to $3,490,226; (4) operating income decreased 82 percent, from $751,990 to $132,034; (5) net income decreased by 91 percent, from $635,626 to $55,265; (6) basic earnings per share decreased from $0.09 to $0.01; and (7) diluted earnings per share decreased from $0.06 to $0.01. See Axesstel Form 10-KSB/A (filed October 13, 2004).

[22] Respondents performed no audit procedures on the restated financial statements until they became aware in late October 2004 that the Board's Division of Enforcement and Investigations was investigating KHL's Axesstel audit engagements. After receiving a request for documents from the PCAOB staff, Lee requested documentation from Axesstel to support the restated financial statements and completed certain audit procedures on December 14, 2004 – two and a half months after KHL issued its September 30, 2004 audit report.

ORDER

auditor from relying on management representations as a substitute for such procedures.[23/]

E. Respondents Violated PCAOB Rules

22. PCAOB Rule 3100 requires that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards. That requirement encompasses a requirement to comply with the PCAOB's interim auditing standards as described in PCAOB Rule 3200T and with the PCAOB's interim independence standards as described in PCAOB Rule 3600T. Respondents' failure to comply with PCAOB auditing standards, as described above, violated PCAOB Rules 3100 and 3200T. Respondents' failure to comply with PCAOB independence standards, as described above, violated PCAOB Rules 3100 and 3600T.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

i. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), Kenny H. Lee CPA Group, Inc.'s registration with the Board is revoked; and

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[23/] AU §§ 150, 230, 326, and 333.02-04, *Management Representations*.

ORDER

ii. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Kwang Ho Lee is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

J. Gordon Seymour
Acting Secretary

November 22, 2005

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Reuben E. Price & Co. Public Accountancy Corp.* *Respondent.*	PCAOB Release No. 2006-002 PCAOB No. 105-2005-005 April 18, 2006

Summary

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Reuben E. Price & Co. Public Accountancy Corp. The Board is imposing this sanction on the basis of its findings concerning the respondent's violation of Section 10A(b)(2) of the Securities Exchange Act of 1934 in failing to take prompt and appropriate steps in response to indications that an issuer audit client may have committed an illegal act.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Reuben E. Price & Co. Public Accountancy Corp. ("Respondent").

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for the purpose of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over it and the subject matter of these proceedings, which is admitted, Respondent

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consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer and information obtained by the Board in this matter, the Board finds[1/] that:

Facts

1. Respondent is an accounting firm incorporated in the state of California and licensed by the California Board of Accountancy (license no. 3402). Its only office is located in San Francisco, California. Respondent is registered with the Board pursuant to Section 102 of the Act and PCAOB Rules.

2. Universal Communication Systems Inc. ("Universal") is a Nevada corporation headquartered in Miami Beach, Florida. Universal's filings with the Securities and Exchange Commission ("SEC" or "Commission") state that Universal is actively engaged in developing and marketing solar energy systems. Universal's common stock is registered under Section 12(g) of the Exchange Act and is dually quoted on the OTC Bulletin Board and the Pink Sheets. At all relevant times, Universal was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

3. On January 13, 2004, Universal filed with the Commission its 2003 Form 10-KSB filing. In that filing, Universal included a document that it claimed was an audit report issued by Respondent with respect to Universal's FY 2003 financial statements. In fact, although Respondent had provided Universal with a draft audit report, Respondent had neither issued the audit report nor completed the audit.[2/] Also on January 13, 2004, Respondent learned of the unauthorized use of its name in connection with the financial statements included in Universal's Commission filing.

[1/] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2/] Universal acknowledged this point in a Form 8-K that it filed with the Commission on May 4, 2004.

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4. On the day that Respondent learned of Universal's unauthorized use of Respondent's name, Respondent notified Universal's management and a member of Universal's board of directors that its audit of Universal was not complete, and that it had not given Universal its permission to use its name in connection with the financial statements included in Universal's Commission filing.

5. During the 15 weeks following January 13, 2004, Respondent was aware that Universal's management failed to take appropriate remedial actions with respect to the unauthorized use of its name and the representation concerning an audit report, but Respondent took no further steps in response to that failure. On April 23, 2004, Respondent received notice that the PCAOB would be conducting an inspection of Respondent in May 2004. Shortly thereafter, Respondent sent a letter formally notifying Universal that the audits of Universal's financial statements had not been completed, advising Universal not to rely on the draft audit report, and stating that Universal should notify the Commission of the situation. On May 4, 2004, Universal filed with the Commission a Form 8-K disclosing that Respondent was unwilling to be associated with the financial statements Universal filed with the Commission on January 13, 2004, because it had not completed its audit procedures relating to those financial statements.[3/]

Violations

6. When conducting audits of issuer financial statements required pursuant to the Securities Exchange Act of 1934 ("Exchange Act"), auditors must comply with the requirements of Section 10A of the Exchange Act. Section 10A(b) requires an auditor to take certain actions if, in the course of an audit, the auditor detects or otherwise becomes aware of information indicating that an illegal act has or may have occurred. Unless the illegal act is clearly inconsequential, Section 10A(b)(1) requires that the auditor inform the appropriate level of management about the illegal act and assure itself that the issuer's

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[3/] Universal acknowledged in its Form 8-K that "[n]otwithstanding the fact that [Respondent] had not completed its audit and the Financial Statements were only in draft form, the 2003 Report, including the Financial Statements and the Firm's preliminary report thereon, was filed with the SEC." On June 30, 2004, Universal filed an amended report on Form 10-KSB/A that included Respondent's audit report dated June 2, 2004.

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audit committee, or board of directors in the absence of an audit committee, is adequately informed with respect to the illegal act.

7. In addition, under Section 10A(b)(1) and PCAOB auditing standards, if an auditor concludes that it is likely that an illegal act occurred, the auditor must consider the effect of the illegal act on the issuer's financial statements.[4/] If the auditor concludes that the illegal act has a material effect on the financial statements, that senior management has not taken (and the board of directors has not caused them to take) timely and appropriate remedial actions, and that the absence of remedial action is reasonably expected to warrant departure from a standard report of the auditor, when made, or warrant resignation from the engagement, then Section 10A(b)(2) requires the auditor to report those conclusions to the board of directors as soon as practicable. If the board of directors fails to take certain required actions in response to such a report, Section 10A(b)(3) requires the auditor to resign from the engagement or report its Section 10A(b)(2) conclusions to the Commission.[5/]

8. When Respondent learned, on January 13, 2004, that Universal filed an unauthorized audit report falsely representing that the FY 2003 financial statements had been audited by Respondent, Respondent became aware that Universal had or may have violated federal securities laws and regulations. Those laws and regulations include a requirement that small business issuers file audited financial statements as part of their annual reports on Form 10-KSB,[6/] and a requirement that periodic reports contain all

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[4/] See Section 10A(b)(1)(A) of the Exchange Act; AU § 317, *Illegal Acts by Clients*, at § 317.12.

[5/] If the auditor resigns from the engagement pursuant to Section 10A(b)(3)(A), the auditor must report the matter to the Commission pursuant to Section 10A(b)(4).

[6/] See, e.g., Exchange Act Section 13(a); Exchange Act Rule 13a-1; Regulation S-B, Item 310(a).

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information necessary to ensure that statements made in such reports are not materially misleading.[7/]

9. Respondent knew that the apparently illegal act had a material effect on Universal's financial statements.[8/] During the 15 weeks following its notification to Universal's management and a member of Universal's board, Respondent also knew that Universal did not take appropriate remedial action. Finally, Respondent realized that Universal's failure to take remedial action would warrant Respondent's resignation from the engagement. Under Section 10A(b)(2), Respondent was obligated to directly report those conclusions to Universal's board of directors "as soon as practicable." Respondent, however, waited 15 weeks before taking any further action to address the matter, and then did so only when prompted by the prospect of an imminent PCAOB inspection. In failing to take appropriate steps sooner, Respondent violated section 10A(b)(2) of the Exchange Act.

7/ See Exchange Act Rule 12b-20; see also SEC v. Parklane Hosiery, Inc., 558 F.2d 1083, 1085 n.1 (2d Cir. 1977) (implicit in requirement to file annual report is requirement that report not be materially false or misleading).

8/ Universal's representation that its financial statements were audited, as the law and Commission regulations required them to be, was material to the financial statements. Cf. SEC Staff Accounting Bulletin No. 99, Materiality (materiality not limited to quantitative degree of misstatement but also encompasses matters that affect the registrant's compliance with regulatory requirements).

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Respondent's Offer. Accordingly, it is hereby ORDERED that:

i. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Reuben E. Price & Co. Public Accountancy Corp. is censured.

ISSUED BY THE BOARD.

J. Gordon Seymour
Secretary

April 18, 2006

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 2006-009 PCAOB No. 105-2006-001
	December 19, 2006
In the Matter of Armando C. Ibarra, P.C., Armando C. Ibarra, Sr., and Armando C. Ibarra, Jr.	
Respondents.	

Summary

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Armando C. Ibarra, P.C. (the "Ibarra Firm") and barring its two partners, Armando C. Ibarra, Sr. ("Ibarra Sr.") and Armando C. Ibarra, Jr. ("Ibarra Jr.") from being associated persons of a registered public accounting firm.[1/] The Board is imposing these sanctions on the basis of its findings concerning the respondents' violations of PCAOB rules and auditing standards in auditing the financial statements of four issuer clients from 2003 to 2005.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against the Ibarra Firm, Ibarra Sr. and Ibarra Jr. (collectively, "Respondents").

[1/] The Ibarra Firm may reapply for registration after two (2) years from the date of this Order. Ibarra Sr. and Ibarra Jr. each may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, the Ibarra Firm, Ibarra Sr. and Ibarra Jr. have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, the Respondents each consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers and information obtained by the Board in this matter, the Board finds[2/] that:

A. Respondents

1. The Ibarra Firm is an accounting firm incorporated in the state of California and licensed by the California Board of Accountancy (license no. 4318). The Ibarra Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. Its office is located in Chula Vista, California.

2. Ibarra Sr., 66, of Chula Vista, California, is a certified public accountant licensed by the California Board of Accountancy (license no. 41710). He has been the principal shareholder of the Ibarra Firm at all times relevant to this matter. Ibarra Sr. is an associated person of the Ibarra Firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. Ibarra Jr., 39, of Bonita, California, is a certified public accountant licensed by the California Board of Accountancy (license no. 68766). He joined the Ibarra Firm in

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[2/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5)(A), which provides that such sanctions may be imposed in the event of "intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard."

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1985 and was a shareholder of the firm at all times relevant to this matter. Ibarra Jr. is an associated person of the Ibarra Firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondents Violated PCAOB Auditing Standards

4. An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[3/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements, and prepare appropriate audit documentation.[4/] In addition, those standards require an auditor to take appropriate actions to assess the importance of audit deficiencies identified after the date of the audit report to the auditor's present ability to support its previously expressed opinions.[5/]

5. In connection with the audits of the fiscal year ("FY") 2003 financial statements of four issuer clients, Respondents failed to exercise due professional care, exercise professional skepticism, obtain sufficient competent evidential matter, and prepare appropriate audit documentation. In May 2004, through a PCAOB inspection, Respondents were notified in writing of various audit deficiencies relating to those audits. Respondents failed, however, to take appropriate actions to assess the importance of those deficiencies to Respondents' ability to support the previously expressed opinions on those financial statements. Moreover, Respondents' audit work on those issuers' FY 2004 financial statements, less than a year after the inspection, suffered from several of those same deficiencies. Specific instances of Respondents' conduct constituting violations of PCAOB standards are described below.

[3/] See AU § 508.07, *Reports on Audited Financial Statements*.

[4/] See AU § 150.02, *Generally Accepted Auditing Standards*; § 230, *Due Professional Care in the Performance of Work*; § 326, *Evidential Matter*; Auditing Standard ("AS") No. 3, *Audit Documentation*. (AS No. 3 is effective for audits of financial statements with respect to fiscal years ending on or after November 15, 2004, which includes some of the audits discussed in this Order. AU § 339, *Audit Documentation*, applied to audits of financial statements with respect to fiscal years ending before November 15, 2004.)

[5/] See AU § 390, *Consideration of Omitted Procedures After the Report Date*; AU § 561, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*.

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FY 2003 and 2004 Audits of Triad Industries, Inc.

6. Triad Industries, Inc. (n/k/a Direct Equity International, Inc.) ("Triad") is a Nevada corporation with offices in Newbury Park, California. Its common stock is registered with the United States Securities and Exchange Commission ("Commission") under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and is dually quoted on the OTC Bulletin Board and the Pink Sheets. Triad's public filings disclose that at all times relevant to this matter it operated a merger and acquisition consulting business and various real estate ventures through wholly owned subsidiaries. At all relevant times, Triad was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

7. The Ibarra Firm was engaged as Triad's independent auditor from 2002 through 2006. The Ibarra Firm issued an audit report dated March 19, 2004, and included in Triad's Form 10-KSB filed with the Commission on March 26, 2004, in which it expressed an unqualified audit opinion on Triad's consolidated financial statements for FY 2003 and FY 2002. The Ibarra Firm subsequently issued an audit report dated March 22, 2004,[6/] and included in Triad's Form 10-KSB filed with the Commission on March 31, 2005, in which it expressed an unqualified audit opinion on Triad's consolidated financial statements for FY 2004 and FY 2003. The Ibarra Firm's reports stated that the company's financial statements were fairly presented in all material respects in conformity with U.S. generally accepted accounting principles ("GAAP"). For the audits related to those audit reports, Ibarra Sr. was the engagement partner, and Ibarra Jr. served as the concurring review partner.

8. Although Triad's FY 2003 consolidated financial statements state that all "significant intercompany transactions have been eliminated,"[7/] Triad's reported revenue of $227,171 included $90,000 of inter-company transactions that overstated the company's revenue on a consolidated basis by nearly 66% and its reported gross profit by approximately 600%. Triad's failure to eliminate those inter-company transactions

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[6/] The firm's audit report was misdated as 2004; it should have been dated as 2005.

[7/] See Triad's Form 10-KSB , filed on March 26, 2004 at Note 2.

ORDER

from the financial statements constituted a departure from GAAP,[8/] and Respondents should have identified and appropriately addressed that departure.[9/]

9. In addition, although Triad reported accounts receivable of $88,142, or approximately 10% of total assets, as of the end of FY 2003, Respondents did not confirm accounts receivable and did not document how they overcame the presumption that they would confirm accounts receivable.[10/] Indeed, Respondents did not perform any procedures to audit accounts receivable aside from obtaining management representations.

10. The departures from PCAOB standards described in paragraphs 8 and 9 were brought to Respondents attention during a PCAOB inspection in May 2004. Respondents then separately violated other PCAOB standards by failing to take action to assess the importance of those points to their ability to support the previously expressed audit opinion on the FY 2003 financial statements.[11/] Moreover, in performing their next audit of Triad's financial statements, less than a year after receiving the inspection feedback, Respondents again failed in precisely the same respects as they had failed in the earlier audit. Triad continued not to eliminate FY 2003's inter-company revenue transactions from the financial statements, and Respondents again failed to address Triad's continuing failure to eliminate inter-company revenue transactions from the FY 2003 financial statements. Respondents again performed no procedures concerning accounts receivable other than obtaining management representations. This failure was even more notable in this later audit, because, among other things, the Firm failed to

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[8/] See ARB No. 51 at ¶ 6, *Consolidated Financial Statements* (requiring elimination of inter-company balances and transactions in the preparation of consolidated financial statements).

[9/] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Commission has considered or made any determination concerning the issuer's compliance with GAAP.

[10/] See AU § 330.34-35, *The Confirmation Process*.

[11/] See AU § 390; AU § 561.

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evaluate the appropriateness of Triad's failure to record any bad debt expense even though many of the accounts that were 12 months overdue as of the end of FY 2003 remained unpaid and were 24 months overdue as of the end of FY 2004.[12/]

11. The Ibarra Firm's March 19, 2004 audit report included a going concern explanatory paragraph that failed to use certain required language. PCAOB standards require the use of the phrase "'substantial doubt about its (the entity's) ability to continue as a going concern' [or similar wording that includes the terms substantial doubt *and* going concern]."[13/] Despite this exact issue being identified for Respondents by PCAOB inspectors in May 2004, Respondents violated this PCAOB standard in the March 22, 2005 audit report, which stated that the "accompanying financial statements do not include any adjustments to the financial statements that might be necessary should the Company continue as a going concern." The going concern language was identical to that of the March 19, 2004 audit report and again failed to include the required language.

12. In connection with the audit of Triad's FY 2003 financial statements, Respondents also failed, in a number of instances, to prepare the required audit documentation.[14/] For example, Respondents' work papers failed to document that Triad's FY 2003 audit was properly planned and supervised. The work papers do not document a discussion among engagement personnel regarding the risk of material misstatement due to fraud, which is required during an audit's planning stage.[15/] In addition, there was no indication in the work papers that either Ibarra Sr., the engagement partner, or Ibarra Jr., the concurring review partner, reviewed the work papers for Triad's FY 2003 audit.

[12/] A write-off, if appropriate, of Triad's entire FYE 2004 accounts receivable balance of $61,566 would represent approximately 33% of FY 2004 reported net loss.

[13/] AU § 341.12, *An Entity's Ability to Continue as a Going Concern*.

[14/] During the relevant timeframe PCAOB standards required that, among other things, audit documentation be sufficient to: a) document that the work was adequately planned and supervised; b) enable other engagement team members to understand the nature, timing, extent, and results of procedures performed; c) indicate the engagement team members who performed and reviewed the work; and d) show that accounting records agree or reconcile with the financial statements. See AU § 339, *Audit Documentation*.

[15/] AU § 316.83, *Consideration of Fraud in a Financial Statement Audit.*

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FY 2003 and 2004 Audit of Naturewell, Inc.

13. Naturewell, Inc. ("Naturewell") is a Delaware corporation with offices in San Diego, California. Its common stock is registered with the Commission under Section 12(g) of the Exchange Act and is dually quoted on the OTC Bulletin Board and the Pink Sheets. Naturewell's public filings disclose that it is engaged in the research and development of healthcare products. At all relevant times, Naturewell was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

14. The Ibarra Firm was engaged as Naturewell's independent auditor from 2002 through 2006. The Ibarra Firm issued an audit report dated October 15, 2003, and included in Naturewell's Form 10-KSB filed with the Commission on October 17, 2003, in which it expressed an unqualified audit opinion on Naturewell's consolidated financial statements for the years ended June 30, 2003 and 2002. The Ibarra Firm also issued an audit report dated September 22, 2004, and included in Naturewell's Form 10-KSB filed with the Commission on October 13, 2004, in which it expressed an unqualified audit opinion on Naturewell's consolidated financial statements for the years ended June 30, 2004 and 2003. The audit reports stated that the company's financial statements were fairly presented in all material respects in conformity with U.S. GAAP. For the audits related to those audit reports, Ibarra Jr. was the engagement partner, and Ibarra Sr. served as the concurring review partner.

15. Naturewell's consolidated balance sheet as of June 30, 2003, reported long-term liabilities of $1,695,541, or approximately 35% of total liabilities. The footnotes to Naturewell's financial statements, however, disclosed that at least $855,000, or approximately 50%, of the liabilities reported as long-term, were in fact due within one year of the June 30, 2003 balance sheet date and had not been renegotiated under long-term arrangements.[16/] Under GAAP, those liabilities should have been reported as short-term liabilities. [17/] Respondents should have identified and appropriately addressed this departure from GAAP.

16. In addition, Respondents failed to identify and address a departure from GAAP relating to Naturewell's valuation of inventory. GAAP requires inventory to be

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[16/] See Naturewell's Form 10-KSB, filed on October 17, 2003 at Notes K and L.

[17/] See SFAS 78, *Classification of Obligations That Are Callable by the Creditor*; SFAS 6, *Classification of Short-Term Obligations Expected to Be Refinanced*.

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valued at the lower of cost or market value.[18/] Naturewell's consolidated balance sheet as of June 30, 2004 reported inventory of $356,973, or approximately 95% of total assets. Based on cost of goods actually sold during FY 2004, Naturewell's inventory balance represented approximately 22 years worth of sales, which should have increased Respondent's skepticism concerning the inventory's utility and stated value.[19/] Instead, Respondents relied solely on management's representation of the valuation of inventory.

17. Respondents' failure to identify and address the issues described in paragraphs 15 and 16 was brought to Respondents' attention in May 2004 by PCAOB inspectors. Respondents then separately violated other PCAOB standards by failing to take action to assess the importance of those points to their ability to support the previously expressed audit opinion on the FY 2003 financial statements.[20/] Moreover, in performing their next audit of Naturewell's financial statements, less than a year after receiving the inspection feedback, Respondents again failed to address Naturewell's FY 2003 classification of short-term debt as long-term in its FY 2004 financial statements.

18. Respondents also failed to prepare the required audit documentation while conducting their FY 2003 Naturewell audit.[21/] Respondents' work papers failed to document, among other things, consideration of whether and how Naturewell's accounting records agreed or reconciled with its financial statements. For example, the work papers contain no documentation related to reconciliation of Naturewell's reported long-term debt and inventory to the company's related general ledger balances.

FY 2003 and FY 2004 Audit of California Clean Air, Inc.

19. California Clean Air, Inc. ("CCA") is a Nevada corporation with offices in Escondido, California. Its common stock is registered with the Commission under Section 12(g) of the Exchange Act. CCA's public filings disclose that it owns and operates test-only vehicle emissions inspection facilities. At all relevant times, CCA was

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[18/] ARB 43, ch. 4, ¶ 8 (a loss should be recognized whenever the utility of goods is impaired by damage, deterioration, obsolescence, changes in price levels, or other causes).

[19/] Cost of Goods Sold used for this analysis represented $16,189 derived as follows: $195,559 reported Cost of Goods Sold less $179,370 applicable to an inventory write-down as of March 31, 2004.

[20/] See AU § 390; AU § 561.

[21/] See supra note 14.

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an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

20. The Ibarra Firm was engaged as CCA's independent auditor from 2004 through 2006. The Ibarra Firm issued an audit report dated March 31, 2004, and included in CCA's Form 10-KSB filed with the Commission on April 8, 2004, in which it expressed an unqualified audit opinion on CCA's consolidated financial statements for the years ended December 31, 2003 and 2002. The Ibarra Firm reissued its report dual dated June 22, 2004, and that dual-dated report was included in CCA's Form 10-KSB/A filed with the Commission on June 29, 2004. The Ibarra Firm again reissued its report dated July 14, 2004, and that reissued report was included in CCA's Form 10-KSB/A filed with the Commission on July 15, 2004. The Ibarra Firm subsequently issued an audit report dated March 4, 2005, and included in CCA's Form 10-KSB filed with the Commission on April 15, 2005, in which it expressed an unqualified audit opinion on CCA's consolidated financial statements for the years ended December 31, 2004 and 2003. Each of these audit reports stated that the company's financial statements were fairly presented in all material respects in conformity with U.S. GAAP. For the audits related to those audit reports, Ibarra Jr. was the engagement partner, and Ibarra Sr. served as the concurring review partner.

21. In its Form 10-KSB filed April 8, 2004, CCA disclosed that on August 21, 2003 it acquired all of the assets of a business for $60,000, recording $40,000 as equipment and $20,000 as goodwill. As part of its FY 2003 audit, the Respondents performed no procedures to test whether the transaction was an asset purchase or a business combination. The Respondents also did not question CCA's recording of $20,000, or approximately 20% of CCA's total assets, as goodwill, even though recording of goodwill in an asset purchase transaction is not consistent with GAAP.[22/]

22. PCAOB standards require an auditor to obtain written representations from management concerning certain assertions.[23/] Contrary to these standards, during CCA's FY 2003 audit the Respondents failed to obtain written representations from management concerning (i) management's belief that the financial statements are fairly presented in conformity with generally accepted accounting principles, (ii) management's acknowledgement of its responsibility for the design and implementation of programs and

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[22/] See SFAS 141, *Business Combinations*, at ¶¶ 3-8 and Appendix F: Glossary ("Goodwill—The excess of the cost of an acquired entity over the net of the amounts assigned to assets acquired and liabilities assumed.").

[23/] See AU § 333, *Management Representations*.

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controls to prevent and detect fraud, and (iii) plans or intentions that may affect the carrying value or classification of assets or liabilities.[24/] Moreover, although the Respondents were alerted to this issue through the PCAOB inspection in May 2004, they subsequently failed again to obtain these written representations as part of the audit of CCA's FY 2004 financial statements.

FY 2003 and FY 2004 Audit of BoysToys.com, Inc.

23. BoysToys.com, Inc. ("BoysToys") is a Delaware corporation with offices in La Jolla, California. Its common stock is registered with the Commission under Section 12(g) of the Exchange Act and is dually quoted on the OTC Bulletin Board and the Pink Sheets. BoysToys' public filings disclose that before September 12, 2002 it owned and operated a nightclub in San Francisco, California, but currently is in bankruptcy and has no operations. At all relevant times, BoysToys was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

24. The Ibarra Firm was engaged as BoysToys' independent auditor from 2000 through 2006. The Ibarra Firm issued an audit report dated February 3, 2004, and included in BoysToys' Form 10-KSB filed with the Commission on March 30, 2004, in which it expressed an unqualified audit opinion on BoysToys' consolidated financial statements for the years ended December 31, 2003 and 2002. The Ibarra Firm reissued its audit report dual dated as of March 31, 2006, and that dual-dated report was included in BoysToys' FY 2003 Form 10-KSB/A filed with the Commission on April 14, 2006. The Ibarra Firm also issued an audit report dated February 8, 2005, and included in BoysToys' Form 10-KSB filed with the Commission on April 13, 2005, in which it expressed an unqualified audit opinion on BoysToys' consolidated financial statements for the years ended December 31, 2004 and 2003. The Ibarra Firm reissued its audit report dual dated March 31, 2006, and that dual-dated report was included in BoysToys' FY 2004 Form 10-KSB/A filed with the Commission on April 14, 2006. Each of these audit reports stated that the company's financial statements were fairly presented in all material respects in conformity with U.S. GAAP. For the audits related to those audit reports, Ibarra Jr. was the engagement partner, and Ibarra Sr. served as the concurring review partner.

25. BoysToys' public filings disclose that the bankruptcy Court entered an order of liquidation on October 6, 2002. Ibarra Jr. concluded that a going concern explanatory paragraph should be included in the audit report on BoysToys' FY 2003 financial statements. Respondents nevertheless, in violation of PCAOB standards, failed to

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[24/] See AU § 333.06 at ¶¶ b, h and k, *Management Representations*.

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include a going concern paragraph in the February 3, 2004 audit report.[25/] Furthermore, Respondents also failed to include such disclosure in the February 8, 2005 audit report even though the company remained in bankruptcy.[26/]

26. Respondents also failed to audit BoysToys' cash balances as of December 31, 2003 and 2004. The company initially reported a cash balance of $687,971, representing approximately 95% of total assets, as of the end of FY 2003 and the end of FY 2004. Respondents' failed to test the cash balance or to search for unrecorded liabilities. In addition, Respondents expressed an unqualified audit opinion on BoysToys FY 2003 and 2004 financial statements even though those financial statements failed to classify the cash as restricted and Respondents knew that the cash was restricted.[27/] In 2006, BoysToys restated both its FY 2003 and 2004 financial statements, reducing its cash balance as of both fiscal year ends by approximately 17% and classifying it as restricted.

27. Respondents also failed with respect to auditing BoysToys' statements of cash flows. In 2003, when it returned artwork to the original artist, BoysToys wrote off its investment in fine art as a charge to the income statement. No cash was exchanged as a result of this transaction. In its FY 2003 statement of cash flows, BoysToys reported $25,320 of positive cash flow from investing activities related to the write off. The return of the fine art represented 100% of BoysToys' cash flows from investing activities and, as a noncash transaction, its classification as an investing activity is inconsistent with GAAP.[28/] As a result of the PCAOB's May 2004 inspection, Respondents became aware of this departure from GAAP. Nevertheless, BoysToys' FY 2003 statement of cash flows, on which the Ibarra Firm expressed an unqualified opinion in a report dated February 8,

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[25/] See AU § 341.12, *An Entity's Ability to Continue as a Going Concern* ("If, after considering identified conditions and events and management's plans, the auditor concludes that substantial doubt about the entity's ability to continue as a going concern for a reasonable period of time remains, the audit report should include an explanatory paragraph (following the opinion paragraph) to reflect that conclusion.").

[26/] The Ibarra Firm in 2006 reissued its audit reports on BoysToys' FY 2003 and 2004 financial statements to include a going concern explanatory paragraph.

[27/] See ARB 43, ch. 3, § A, ¶ 6 (current assets contemplates the exclusion of restricted cash).

[28/] See SFAS 95, *Statement of Cash Flows*.

ORDER

2005, again inappropriately reported this transaction in its cash flows from investing activities.[29/]

C. Respondents Violated PCAOB Rules

28. PCAOB Rule 3100 requires that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards. That requirement encompasses a requirement to comply with the PCAOB's interim auditing standards as described in PCAOB Rule 3200T. Respondents' failure to comply with PCAOB auditing standards, as described above, violated PCAOB Rules 3100 and 3200T.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), Armando C. Ibarra, P.C.'s registration with the Board is revoked;

B. After two (2) years from the date of this Order, Armando C. Ibarra, P.C. may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Armando C. Ibarra, Sr. is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

D. After two (2) years from the date of this Order, Mr. Ibarra, Sr. may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;[30/]

[29/] BoysToys restated its statement of cash flows to correct this error in filings with the Commission in April 2006.

[30/] In considering any such petition, the Board will assess all of the factors described in PCAOB Rule 5302(b) and, among other things, will give weight to whether Mr. Ibarra, Sr. has, in the period after the date of this Order, completed at least 200 hours

ORDER

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Armando C. Ibarra, Jr. is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

F. After two (2) years from the date of this Order, Mr. Ibarra, Jr. may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.[31/]

ISSUED BY THE BOARD,

J. Gordon Seymour
Secretary

December 19, 2006

(Cont'd)
of continuing professional education directly related to the audit of financial statements of issuers.

31/ In considering any such petition, the Board will assess all of the factors described in PCAOB Rule 5302(b) and, among other things, will give weight to whether Mr. Ibarra, Jr. has, in the period after the date of this Order, completed at least 200 hours of continuing professional education directly related to the audit of financial statements of issuers.

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Turner Stone & Company, LLP and Edward Turner, CPA,* *Respondents.*	PCAOB Release No. 2006-010 PCAOB No. 105-2006-002 December 19, 2006

Summary

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Turner, Stone & Company, LLP and barring Edward Turner, CPA, from being an associated person of a registered public accounting firm.[1/] The Board is imposing these sanctions on the basis of its findings concerning Respondents' violations of PCAOB rules and auditing standards in auditing the financial statements of one issuer client during 2004.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Turner, Stone & Company, LLP ("Turner Stone" or "the Firm") and Edward Turner, CPA ("Turner") (collectively, "Respondents").

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Turner Stone and Turner have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted,

[1/] Turner may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

ORDER

the Respondents each consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers and information obtained by the Board in this matter, the Board finds[2/] that:

A. Respondents

1. Turner Stone is a Texas limited liability partnership located in the state of Texas and licensed by the Texas State Board of Public Accountancy (License No. P04607). Turner Stone is registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. Its office is located in Dallas, Texas.

2. Turner, 53, is a certified public accountant licensed by the Texas State Board of Public Accountancy (License No. 018002). He has been a principal owner of Turner Stone at all times relevant to this matter. Turner is an associated person of Turner Stone, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondents Violated PCAOB Auditing Standards

3. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm comply with the Board's auditing standards.[3/] Under those standards, an auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[4/] Among other

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[2/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing against Turner in this Order may be imposed only if Turner's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Turner's conduct described in this Order meets the condition set out in Section 105(c)(5)(A), which provides that such sanctions may be imposed in the event of "intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard."

[3/] *See* PCAOB Rules 3100, 3200T.

[4/] *See* AU § 508.07, *Reports on Audited Financial Statements.*

ORDER

things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[5/] In connection with their audit of the fiscal year ("FY") 2003 financial statements of 21st Century Technologies, Inc. ("21st Century" or the "Company"), Respondents failed to exercise due professional care, failed to exercise professional skepticism, and failed to obtain sufficient competent evidential matter. Specific instances of Respondents' conduct constituting violations of PCAOB auditing standards are described below.

4. 21st Century is a Nevada corporation based in Las Vegas, Nevada. Its common stock is registered with the United States Securities and Exchange Commission ("Commission") under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and is quoted on the OTC Bulletin Board and the Pink Sheets. 21st Century's public filings disclose that it is a business development company that provides long term debt and equity investment capital to support the expansion of companies in a variety of industries. At all relevant times, 21st Century was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. Turner Stone was engaged as 21st Century's independent auditor from 2000 through March 2005. Turner served as the lead engagement partner with ultimate responsibility to ensure that 21st Century's audit was conducted in accordance with PCAOB standards.

6. Turner Stone issued an audit report dated March 18, 2004, included in 21st Century's Form 10-K filed with the Commission on March 30, 2004, and in its Form 10-K/A filed with the Commission on December 3, 2004, in which it expressed an unqualified audit opinion on 21st Century's financial statements for FY 2003. The report stated that the Company's financial statements fairly presented its financial position in all material respects in conformity with U.S. generally accepted accounting principles ("GAAP").[6/] For the audit related to this audit report, Turner served as the lead engagement partner.

[5/] *See* AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; and AU § 326, *Evidential Matter*.

[6/] Turner Stone's audit report for 21st Century stated that its audit was conducted in accordance with generally accepted auditing standards in the United States of America ("GAAS"). Respondents were required to conduct the audit in accordance with the PCAOB's interim auditing standards pursuant to PCAOB Rule 3200T, which took effect on April 25, 2003. However, at the time Turner Stone performed the audit, the PCAOB's interim auditing standards were the same as GAAS

ORDER

1920 Bel Air LLC Transaction

7. 21st Century's consolidated FY 2003 financial statements reported that the Company loaned $1.25 million to an entity named 1920 Bel Air LLC ("1920 Bel Air"). The loan agreement, entered into on December 30, 2003, was for 90 days, with an interest rate of 10 percent per year. According to the documents contained in the audit work papers, 1920 Bel Air agreed to pay 21st Century both a loan origination fee and a mortgage fee, totaling $1 million, which was an amount equal to approximately 80 percent of the loan amount. On December 31, 2003, the last day of 21st Century's 2003 fiscal year, 21st Century recognized as revenue that $1 million, which represented approximately 300 percent of the Company's reported pretax income from continuing operations for fiscal year 2003.

8. At the time of the FY 2003 audit, Turner understood that GAAP required loan origination fees to be deferred and recognized over the life of the loan as an adjustment of yield,[7/] and he included in the work papers a memorandum describing the application of GAAP to the loan fees. During the audit, Turner reviewed the loan agreement. He also discussed the issue with management who, according to Turner's testimony, told him that the fees could be recognized as revenue, rather than deferred. Despite Turner's knowledge of the applicable GAAP, the timing of the transaction, its unusual terms, and its significance to reported income, Respondents merely deferred to management's position that recognizing the fees as revenue was appropriate. In doing so, Respondents failed to address appropriately this departure from GAAP.[8/]

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as it existed on April 16, 2003, and, until PCAOB Auditing Standard No. 1 took effect on May 24, 2004, it remained appropriate for auditors to refer to GAAS in their audit reports. Accordingly, although the reference to GAAS in Turner Stone's report for 21st Century was appropriate at the time, the standards pursuant to which the audit was required to be performed are more appropriately referred to as PCAOB auditing standards (or PCAOB standards), and that is how they are referred to in this Order.

[7/] The issue is addressed in Statement of Financial Accounting Standards 91, ¶ 5, *Accounting for Nonrefundable Fees and Costs Associated with Originating or Acquiring Loans and Initial Direct Costs of Leases.*

[8/] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the

ORDER

9. In addition, Respondents failed to evaluate adequately or address appropriately 21st Century's failure to disclose that the transaction with 1920 Bel Air was a related party transaction. An individual who served as a 21st Century officer and director was named as a Managing Member of 1920 Bel Air as a condition of the agreement, and that same individual signed the loan agreement on 1920 Bel Air's behalf. Turner was aware of these facts and originally determined that the transaction was a related party transaction that should have been disclosed. Eventually, however, Respondents deferred to management's assertion that 1920 Bel Air was not a related party because the individual had no ownership interest in 1920 Bel Air. In so doing, Respondents failed to evaluate properly the application of the GAAP disclosure requirement, which does not depend upon an ownership interest,[9/] and failed to address appropriately the Company's departure from that requirement.

10. Respondents also failed to evaluate adequately management's financial statement assertions concerning the 1920 Bel Air transaction. Respondents obtained from 1920 Bel Air a confirmation related to the outstanding loan amount and the fee receivable, but that confirmation was signed by the 21st Century officer and director who also served as 1920 Bel Air's Managing Member. Because the confirmation was signed by an individual who was a 21st Century officer and director, and because the transaction was an unusual year-end transaction with a material effect on the financial statements, Respondents should have exercised a heightened degree of professional skepticism and should have considered whether there was a sufficient basis to conclude that the confirmation provided meaningful and competent evidence,[10/] but they failed to do so.

TransOne Investment

11. 21st Century's consolidated FY 2003 financial statements reported an investment in the equity securities of TransOne, Inc. ("TransOne") with a fair value of

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Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Commission has considered or made any determination concerning the issuer's compliance with GAAP.

[9/] The relevant principles are set out in Statement of Financial Accounting Standards 57, *Related Party Disclosures*.

[10/] *See* AU § 330.27, *The Confirmation Process*.

ORDER

$930,000 as of December 31, 2003. The consolidated financial statements also reflect that 21st Century recorded an unrealized gain of $805,000 related to this investment on December 31, 2003, which was approximately 240 percent of the reported pre-tax income from continuing operations for the year ended December 31, 2003.[11/] These items related to the conversion of a debt that TransOne owed 21st Century into an equity investment that 21st Century had in TransOne. Respondents failed to perform sufficient procedures related to the items in two significant respects.

12. First, Respondents failed to perform sufficient procedures to evaluate management's representation that the conversion occurred before the end of FY 2003. Documents contained in Turner Stone's audit work papers describe a November 2003 agreement between the Company and TransOne to loan TransOne up to $500,000. The loan was collateralized by TransOne's stock and accrued interest at a rate of 22 percent per year. At December 31, 2003, 21st Century had advanced one fourth of the maximum loan amount to TransOne under the loan agreement. Documents in the work papers evidence a decision by the Company to convert the debt to equity in TransOne, and, on December 31, 2003, the Company recorded a gain related to this conversion. The evidence reviewed by Respondents, however, was insufficient to conclude that the equity conversion occurred earlier than February 2004. A stock certificate and ledger for the TransOne investment, both contained in the audit work papers, indicate that 21st Century received 527,000 shares of TransOne stock on or about February 28, 2004. Turner also reviewed a copy of a January 19, 2004, letter sent by an individual who purported to be TransOne's president to a 21st Century executive, from which it appeared that, as of the date of the letter, the stock transfer had not yet occurred, and TransOne was going to pay off the $125,000 debt by issuing 560,000 shares of common stock to the Company. Turner was also aware that the letter contained conflicting information about the number of shares issued. Despite his knowledge of this information, Turner failed to perform sufficient procedures to evaluate management's assertions about the existence of this transaction at year-end.

13. Second, Respondents failed to perform sufficient procedures related to 21st Century's valuation of the equity investment in TransOne. 21st Century hired a

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[11/] The Company converted to a business development company effective on October 1, 2003. The conversion resulted in certain changes in accounting principles used by the Company, including that the Company began to record changes in the fair value of its investments in its statement of operations. Accordingly, the gain related to this transaction was recorded in income, whereas if it had occurred in the first nine months of 2003, it would not have been.

ORDER

specialist to value the TransOne investment, and the valuation report indicated that the fair value of the equity that the Company obtained in TransOne by converting the $125,000 debt was $930,000. The valuation report also contained revenue growth projections over five years that included 8,817 percent for the first year and 322 percent in the second year. Turner reviewed the valuation report and treated it as evidential matter in evaluating the assertion in the financial statements about the value of the investment in TransOne. In order to use the valuation report for that purpose, Respondents should have obtained an understanding of the methods and assumptions used by the specialist, and should have made appropriate tests of data provided to the specialist.[12/] Respondents failed to perform sufficient procedures to obtain an understanding of the methods and assumptions used by the specialist. They also failed to test the data provided to the specialist by TransOne.

Health Care Investors of America, Inc. Investment

14. 21st Century's consolidated FY 2003 financial statements reported an investment in Health Care Investors of America, Inc. ("HCIA"), a publicly traded issuer, with a fair value of $5.3 million as of December 31, 2003. The HCIA investment represented 39 percent of the total reported assets of 21st Century as of December 31, 2003. Documents in the audit work papers indicate that the reported fair value was based on a valuation report that the Company obtained from a specialist indicating that the fair value of certain HCIA preferred stock owned by the Company was $5.3 million.

15. Respondents failed to perform sufficient procedures related to 21st Century's valuation of the equity investment in HCIA. Respondents failed to obtain an understanding of the methods and assumptions used by the specialist regarding HCIA, in violation of PCAOB Standards.[13/] Respondents also failed to perform any procedures related to the data provided by HCIA to the specialist.

16. In addition, Respondents failed to perform sufficient procedures related to the confirmation of the existence of the HCIA investment. In lieu of sending a confirmation, Turner allowed a 21st Century executive to e-mail confirmation questions to an HCIA official. The e-mail questions did not directly address confirmation of 21st Century's ownership of the preferred stock and, in any event, Turner never received or learned of any response to the e-mail. In light of the non-response, Respondents

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[12/] *See* AU § 336.12, *Using the Work of a Specialist*.

[13/] *See, e.g., id.*

ORDER

should have performed alternative procedures to obtain the necessary evidence.[14/] Respondents, however, failed to perform any alternative procedures to obtain the necessary evidence concerning the investment.

Consideration of Fraud

17. The failures described above constitute departures from the PCAOB auditing standards cited above. In the specific circumstances of Respondents' audit of the Company's FY 2003 financial statements, those failures were compounded by Respondents' failure to respond appropriately to indicators of a risk of material misstatement due to fraud. An auditor's assessment of such risk should "be ongoing throughout the audit,"[15/] and an auditor should consider whether the "nature of auditing procedures performed may need to be changed to obtain evidence that is more reliable or to obtain additional corroborative information."[16/] Respondents not only failed to perform basic procedures adequately, but also failed to reassess the risks after learning about numerous facts that, either standing alone or in the context of other facts learned prior to the audit, warranted heightened scrutiny that should have alerted them to the possible need to extend or modify the audit tests. After being presented with numerous warning signs during the audit, such as the unusual, significant year-end transactions concerning 1920 Bel Air and TransOne, the related party nature of the 1920 Bel Air transaction, questionable confirmations, and conflicting evidential matter concerning the TransOne equity conversion, Respondents should have reassessed whether the nature of auditing procedures performed needed to be changed to obtain additional or more reliable corroborative information concerning 21st Century's revenues, accounts receivable, and investment valuations,[17/] but they failed to do so.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the

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14/ *See* AU § 330.31, *The Confirmation Process.*

15/ *See* § 316.68, *Consideration of Fraud in a Financial Statement Audit*.

16/ *See* AU § 316.52.

17/ *Id*.

ORDER

Board determines it appropriate to impose the sanctions agreed to in the Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Turner, Stone & Company LLP is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Edward Turner is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

C. After two (2) years from the date of this Order, Turner may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

J. Gordon Seymour
Secretary

December 19, 2006

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2007-001
In the Matter of Williams & Webster, P.S., Kevin J. Williams, CPA, and John G. Webster, CPA,	June 12, 2007
Respondents.	

Summary

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Williams & Webster, P.S., barring Kevin J. Williams, CPA from being an associated person of a registered public accounting firm,[1/] and suspending John G. Webster, CPA from being associated with a registered public accounting firm for a period of one (1) year from the date of this Order. The Board is imposing this sanction on the basis of its findings concerning the respondents' violations of PCAOB rules and standards in connection with an audit of the financial statements of one issuer client during 2004.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Williams & Webster, P.S. ("W&W"), Kevin J. Williams, CPA ("Williams"), and John G. Webster, CPA ("Webster") (collectively, "Respondents").

[1/] Williams may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

ORDER

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers and information obtained by the Board in this matter, the Board finds[2/] that:

A. Respondents

1. W&W is an accounting firm incorporated in the state of Washington and licensed by the State of Washington Board of Accountancy (license no. 3552). W&W is registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. Its office is located in Spokane, WA.

2. Williams, 59, of Spokane, WA, is a certified public accountant licensed by the State of Washington Board of Accountancy (license no. 13648). He is the founding shareholder of W&W and at all times relevant to this matter was the principal shareholder of W&W and an associated person of W&W, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Williams was the lead engagement partner on the audit that is the subject of this Order.

[2/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing on Williams and on Webster in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Williams's conduct and Webster's conduct described in this Order meet the condition set out in Section 105(c)(5)(A), which provides that such sanctions may be imposed in the event of "intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard."

ORDER

3. Webster, 50, of Spokane, WA, is a certified public accountant licensed by the State of Washington Board of Accountancy (license no. 11301). He was a shareholder of W&W from 1996 until 2006 and at all times relevant to this matter was an associated person of W&W, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Webster was the concurring review partner on the audit that is the subject of this Order.

B. Respondents Violated PCAOB Auditing Standards in Auditing the 2003 Financial Statements of Diatect International Corporation

Summary of Violations

4. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards.[3/] Under the Board's auditing standards, an auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[4/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[5/] In connection with the audit of the fiscal year ("FY") 2003 financial statements of Diatect International Corporation ("Diatect"), Respondents failed to exercise due professional care, failed to exercise professional skepticism, and failed to obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.

5. In particular, Williams failed to perform adequate audit procedures and failed to exercise due care and professional skepticism in the evaluation of evidential matter related to (1) Diatect's reported gain on the sale of mining rights; and (2) its reported revenue with respect to products for which a right of return existed. Webster failed to exercise due professional care and objectivity in the performance of his concurring partner review of the audit. Specifically, during the audit Webster raised issues about apparent departures from U.S. generally accepting accounting principles

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[3/] See PCAOB Rules 3100, 3200T.

[4/] See AU § 508.07, Reports on Audited Financial Statements.

[5/] See AU § 150.02, Generally Accepted Auditing Standards; § 230, Due Professional Care in the Performance of Work; and § 326, Evidential Matter.

ORDER

("GAAP") and documented his concerns in a memorandum to Williams one month before the audit report date, but then he concurred with W&W's decision to issue its unqualified audit report even though those issues remained inadequately addressed.[6/]

The Audit of Diatect's 2003 Financial Statements

6. Diatect is a California corporation based in Heber City, Utah. Its common stock is registered with the United States Securities and Exchange Commission ("Commission") under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and is quoted on the Pink Sheets. Diatect's public filings disclose that, at all times relevant to this matter, it was in the business of producing a variety of insecticide products. At all relevant times, Diatect was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

7. W&W was engaged as Diatect's independent auditor from 2000 through November 2004. W&W issued an audit report dated April 14, 2004, that was included in Diatect's Form 10-KSB/A filed with the Commission on April 29, 2004 and May 17, 2004, in which W&W expressed an unqualified audit opinion on Diatect's consolidated financial statements for FY 2003 and 2002. The report stated that the Company's financial statements present fairly, in all material respects, the Company's financial position, results of operations, and cash flows in conformity with GAAP.

Diatect's Sale of Mining Claims

8. According to minutes of a meeting of Diatect's board of directors, in 2001, four members of Diatect's management and their spouses acquired four unpatented mining claims from the U.S. Bureau of Land Management ("BLM Claims"). The minutes reflect that the BLM Claims covered 640 acres of land in Oregon that contained diatomaceous earth, a naturally occurring substance used in insecticide products that Diatect marketed and sold. The minutes also reflect that the Company intended to prepare the "appropriate quitclaim deeds" to transfer ownership of the BLM Claims to Diatect. Diatect recorded the BLM Claims on its FY 2001 balance sheet at the acquisition cost of $540.

6/ Before W&W issued the audit report, Webster concluded that, among other things, no matters had come to his attention that would cause him to believe that the financial statements were not in conformity with GAAP or that the audit was not performed in accordance with PCAOB standards. Based on this conclusion, he approved W&W's issuance of its audit report. In this Order, that conduct is described as Webster concurring with W&W's decision to issue its audit report.

ORDER

9. Two years later in July 2003, Diatect submitted second quarter financial information to W&W for review in which management had marked up the value of the BLM Claims to $34,584,000 based on a 1991 geologist's report ("1991 Geologist Report"). In response, Respondents told Diatect that in order to record a gain on the asset, it needed to sell the BLM Claims. A few days later, Diatect entered into a transaction to sell 90% of its BLM Claims for $31,125,600, or 90% of the marked up value. The buyer was a newly formed shell company called Diatomaceous Earth Deposits of Virginia, LLC ("DEDV") owned by Michael P. McQuade ("McQuade"), an outside director and shareholder of Diatect. Because McQuade was a Diatect director and sole owner of DEDV, the sale of the BLM Claims was a related party transaction.[7/]

10. DEDV paid no cash at the time of the transaction. Instead, Diatect accepted an 18-year promissory note ("Note") for the full purchase price. No payments under the Note were due until 2005. Diatect recorded a gain of $15,562,800, or 50% of the sale price, in its financial statements for the quarter ending September 30, 2003.[8/] The Company reduced the gain to $12 million in its FY 2003 financial statements.[9/] At year end, the Note represented 74% of the Company's reported assets and the gain was equal to 159% of its reported income before taxes.

11. During the FY 2003 audit, Williams became aware of significant facts indicating that Diatect's accounting for the BLM Claims transaction may have departed from GAAP. Specifically, Williams became aware of information indicating (1) that there may not have been a sale because the incidents of ownership of the BLM Claims may not, in substance, have been transferred to the buyer;[10/] and (2) that even if the

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[7/] See Statement of Financial Accounting Standards ("SFAS") No. 57, *Related Party Disclosures*, at ¶ 1 and Appendix B.

[8/] Prior to the transaction, the BLM Claims were recorded on Diatect's balance sheet at $940, reflecting the 2001 acquisition cost and annual fees Diatect had paid since 2001 to maintain the claims.

[9/] The $12 million gain was based on Respondents' calculation of the present value of the Note using a 20% discount rate.

[10/] Determining whether a nonperforming asset has been transferred in substance involves an assessment as to whether "the risks and rewards of ownership have been transferred." Codification of Commission Staff Accounting Bulletins ("SAB") Topic 5.V, Question 1 (relating specifically to certain transfers of nonperforming assets by financial institutions). Circumstances that may indicate that the incidents of

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incidents of ownership had, in substance, transferred to the buyer, collection of the sale price may not have been reasonably assured. Either way, the information raised the possibility that Diatect should not have recognized a gain on the purported sale.[11/] The audit work papers reflect Williams's understanding that DEDV had no financial investment in the BLM Claims, having made no down payment. Williams also concluded that DEDV did not have the financial means to pay the Note because it was a newly formed shell company with no operations or assets, and payment of the Note was not guaranteed by McQuade or others. As Williams described in the work papers, "[b]uyer is newly formed entity, with no operating history, no financial statements and no experience in minerals extraction. This represents substantial risk of nonperformance on note."

12. Williams also was aware of facts indicating that there was substantial doubt as to whether DEDV could generate sufficient income from the BLM Claims to pay the Note. The work papers reflect Williams's conclusion that Diatect had never mined the property or otherwise generated any revenue from the BLM Claims. In an e-mail dated one month before W&W's audit report, one of Diatect's outside directors reported that DEDV "has not presented a business plan, financials, or an operation plan for the mine—no schedule for investment or ramping up." The e-mail requested that W&W prepare a letter to Diatect management setting forth any concerns the auditors' had related to, among other things, the BLM Claims transaction. In a letter to Diatect the following day, Williams questioned whether it is "realistic to expect that a minerals site—as yet not producing—can actually generate 7 million in cash in only 18 months in order to make the first note payment to Diatect?"

13. Williams failed to properly address these issues during the audit. No procedures were performed to determine whether Diatect owned the BLM Claims, even though Board meeting minutes reflect that four members of Diatect's management and their spouses acquired the BLM Claims, not Diatect. No inquiries were made of DEDV

(Continued)
ownership, in substance, have not been transferred to the buyer, include (1) the absence of a significant financial investment by the buyer; and (2) that repayment of the debt that constitutes the principal consideration in the transaction is dependent on future successful operations of the business. See id. (incorporating factors described in SAB Topic 5.E, relating to divestiture of business operations).

11/ Profit is deemed to be realized when a sale is effected, unless the circumstances are such that the collection of the sale price is not reasonably assured. See Accounting Research Bulletin No. 43, Ch. 1A at ¶ 1.

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or McQuade concerning the transaction, DEDV's apparent lack of investment in the BLM Claims, DEDV's ability to repay the Note, or DEDV's ability to successfully mine the BLM Claims. Instead, Williams relied on Diatect's management's representations concerning DEDV's operational and financial plans. Under the circumstances, including the related party nature of the transaction, such reliance on management representations was insufficient to support the audit opinion.[12/] Although Williams informed Diatect in writing that he wanted to review the due diligence documentation "in order to objectively evaluate the collectibility of this enormous receivable," Williams neither received nor reviewed such documentation. Moreover, W&W received a confirmation reply, stating that the original amount of the Note was $15,562,800, which was only 50 percent of the Note's stated value. Although the reply contradicted Diatect's management's representations, Williams failed to address this inconsistency. Finally, Williams failed to obtain or review the 1991 Geologist Report, even though it was incorporated into the BLM Claims sale agreement and he was urged to review the report by one of Diatect's directors who described it to Williams in November 2003 as the "'maximus opus' on the mine." In the audit work papers, Williams identified the 1991 Geologist Report and a 1996 unsigned letter by a second geologist ("1996 Letter") concerning the BLM Claims as supporting the value of the Note's collateral.[13/] Williams, however, made no effort to contact either geologist or to otherwise determine whether the 8 and 13 year-old reports accurately reflected the current value of the BLM Claims.

[12/] See AU § 334.07 & .09, *Related Parties* ("The auditor should place emphasis on testing material transactions with parties he knows are related to the reporting entity." "The procedures should be directed toward obtaining and evaluating sufficient competent evidential matter and should extend beyond inquiry of management."); AU § 9334.18 ("The risk associated with management's assertions about related party transactions is often assessed as higher than for many other types of transactions because of the possibility that the parties to the transactions are motivated by reasons other than those that exist for most business transactions.").

[13/] Despite using the conclusions of both the 1991 Geologist Report and the 1996 Letter as evidential matter concerning the value of the BLM Claims, Williams did not perform procedures to ascertain the qualifications of the geologists, the geologists' relationships to Diatect, or the methods or assumptions used by the geologists. PCAOB standards required Williams to perform such procedures in order to use the geologists' conclusions as evidential matter. See AU § 336, *Using the Work of a Specialist*. Williams also failed to identify and analyze the circumstances giving rise to the 1996 Letter, why the 1996 Letter was not signed, or whether the 1996 Letter covered the same mining claims Diatect purportedly sold in 2003.

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14. Webster, as the concurring partner reviewer, was aware of significant questions relating to Diatect's accounting for the BLM Claims transaction. In September 2003 and February 2004, the Commission staff issued comments on an SB-2 registration statement Diatect had filed ("SB-2 Comments").[14/] The SB-2 Comments raised questions concerning the BLM Claims transaction, which Webster addressed in a W&W internal memorandum to Williams dated March 18, 2004 ("Webster Memo"). The Webster Memo noted that DEDV was "thinly capitalized and may not be able to finish the development [of the mine] within two years to generate an income stream."[15/] The Webster Memo also noted that any gain could be "deemed not to be recognized until cash or a close substitute is received." Webster, however, concurred with W&W's decision to issue its audit report even though these issues were not properly addressed.[16/]

Diatect's Revenue Recognition and Accounting for Product Returns

15. According to Diatect's public filings, it recognized revenue when it shipped product to its customers, and its customers could return product at any time and receive a credit for the full amount. Respondents became aware of evidence suggesting that Diatect's revenue recognition practices may not have complied with GAAP, including evidence that (1) certain transactions recorded as sales may in fact have been consignments; (2) Diatect may have lacked the ability to make a reasonable estimate of future returns, thus making it inappropriate to recognize revenue upon shipment; (3) Diatect failed to establish any reserve for estimated future returns; and (4) Diatect failed to reduce revenue for product returns.

[14/] Respondents received the SB-2 Comments from Diatect before W&W's April 14, 2004 audit report was issued.

[15/] SAB Topic 5.U describes considerations that may cause the SEC staff to question gain recognition on a sale to a highly leveraged business (relating specifically to sale of a business or operating assets), including considerations that were present in Diatect's sale of the BLM Claims to DEDV. This accounting guidance was included in W&W's work papers.

[16/] In 2005, Diatect restated its FY 2003 financial statements, reversing the $12 million gain, explaining that it "considered the agreement to be non-substantive as the buyer is thinly capitalized and has only made minimal investments in the property." See Diatect's 2004 10-KSB/A filed with the Commission on May 6, 2005.

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16. During the FY 2003 audit, Williams became aware of evidence that transactions Diatect recorded as sales were in fact consignments.[17/] Diatect promoted its products to various high school chapters of the Future Farmers of America ("FFA") under its "Got Bugs" fundraising program. Diatect's reported sales to various FFA chapters represented approximately 35% of total sales in FY 2002 and 12% in FY 2003. During the FY 2003 audit, Williams obtained copies of Diatect's marketing materials, contracts, and remittance forms for the "Got Bugs" program. The marketing materials describe the program as "Risk Free—Free shipping. No out of pocket expense. Pay only for what you've sold." The contracts permitted the FFA chapters to remit the purchase price "weekly as product is sold," and the remittance forms were consistent with consignment payment terms. In addition, W&W documented the results of conversations with Diatect's customers evidencing that at least 50% of the accounts receivable selected for confirmation were the result of consignment arrangements, not sales.[18/] The confirmation results were sent to Diatect, and Williams documented the consignment issue in a letter to Diatect's management: "Many audit items which we have endeavored to confirm are either not coming back to us or not as expected. Many more are coming back with problems (e.g., consignments rather than sales) and need your firm's attention to satisfactorily resolve."

17. In addition, even to the extent that Diatect's transactions were sales, Williams was aware of evidence that Diatect's practices may not have complied with GAAP concerning product sales where a right of return exists. First, revenue from such sales can be recognized at the time of the shipment (Diatect's practice) only if, among other things, the company has the ability to make a reasonable estimate of future returns.[19/] Williams was aware of the presence of factors that GAAP identifies as tending to impair the ability to make such estimates, but he performed no evaluation to determine whether Diatect had that ability.[20/] Second, if revenue is recognized at the

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[17/] Products shipped pursuant to a consignment arrangement "are not sales and do not qualify for revenue recognition until a sale occurs." SAB Topic 13.A.2, Question 2.

[18/] W&W also received accounts receivable confirmation replies from some customers that expressly indicated a consignment arrangement during the FY 2002 audit.

[19/] See SFAS 48, *Revenue Recognition When Right of Return Exists,* at ¶ 6(f); SAB Topic 13.A.4(b), Question 5.

[20/] For example, in audited financial statements for FY 2002 and 2001, Diatect disclosed that it lacked a sufficient sales history to be able to establish an

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time of shipment, the company must establish a reserve for estimated future returns.[21/] Williams was aware that Diatect did not establish a reserve for estimated future returns as of December 31, 2003, even though it had a history of receiving significant product returns.[22/]

18. Finally, Williams was aware that Diatect's accounting for actual product returns was inconsistent with comments Diatect had received from the Commission staff. In its September 2003 SB-2 Comments, the Commission staff questioned Diatect's revenue recognition policy and, among other things, suggested that Diatect record product returns as a reduction of revenue. In response, Diatect added a footnote disclosure to its FY 2002 and 2001 financial statements that sales credits were treated as a reduction of revenues, but then reclassified its FY 2001 product returns as an increase to cost of sales in the financial statements included in its Form SB-2/A filed with the Commission on January 22, 2004. In its February 2004 SB-2 Comments, the Commission staff commented that Diatect should record product returns as a decrease to revenue, not an increase in cost of sales. Despite the Commission staff's SB-2 Comments, Diatect classified its FY 2003 returns – which totaled 28% of reported sales – as bad debt expense. Even though Williams was aware of the views expressed by the Commission staff on the proper accounting for the product returns, he performed no analysis to assess the appropriateness of the different accounting that Diatect used.

19. As part of his concurring review, Webster became aware of each of these revenue recognition issues, two of which he addressed in the Webster Memo. Aware of the Commission's SB-2 Comments, Webster informed Williams that the "S.E.C. is going to be adamant that [the 2001 and 2003 product returns] are treated as sales returns." Webster also noted that Diatect's return policy may be an obstacle to recognizing

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(Continued)
estimate for returns and allowances. See Diatect's Form SB-2/A filed with the Commission on January 22, 2004. Diatect's 2003 financial statements include no such disclosure, but Williams failed to assess whether circumstances had changed such that Diatect did, in 2003, have an ability to establish such an estimate. Williams was also aware, as described below, that Diatect had not, in fact, established any allowance for returns.

21/ See SFAS 48 at ¶ 7.

22/ Williams was aware, for example, that Diatect's product returns in 2003 totaled approximately $211,000 or 28% of reported sales.

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revenue on sales at the time of shipment. Webster, however, concurred with W&W's decision to issue its report even though those issues remained inadequately addressed.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Williams & Webster, P.S. is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Kevin J. Williams is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

C. After two (2) years from the date of this Order, Williams may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), John G. Webster is suspended for one (1) year from the date of this Order from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i)

ISSUED BY THE BOARD.

J. Gordon Seymour
Secretary

June 12, 2007

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Thomas Benson and Thomas Benson, CPA* *Respondents.*	PCAOB Release No. 105-2007-002 June 29, 2007

Summary

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Thomas Benson, and barring its owner, Thomas Benson, CPA, from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings concerning the respondents' violations of PCAOB rules and auditing standards in connection with an audit of the financial statements of one issuer client during 2006.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against the registered firm, Thomas Benson ("the Firm") and Thomas Benson, CPA ("Benson") (collectively, "Respondents").

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents each consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

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III.

On the basis of Respondents' Offers and information obtained by the Board in this matter, the Board finds[1/] that:

A. Respondents

1. The firm Thomas Benson is a sole proprietorship located in the state of Michigan and is registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. Its office is located in Okemos, Michigan.

2. Benson, 48, of Okemos, Michigan, is a certified public accountant licensed by the Michigan State Board of Accountancy (License No. 1101017000). He is the Chief Operating Officer of the Firm and at all times relevant to this matter was an associated person of the Firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Prior to performing the audit described in this Order, Benson had never audited the financial statements of an issuer. Up until the time of the conduct described in this Order, Benson spent most of his professional career working for the state of Michigan in various internal auditing positions.

B. Respondents Violated PCAOB Auditing Standards in the Fiscal Year 2006 Audit of Conversion Solutions Holding Corp.

Summary of Violations

3. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply

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[1/] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing against Respondents in this Order may be imposed only if conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5)(A), which provides that such sanctions may be imposed in the event of "intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard."

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with the Board's auditing standards.[2/] Under the Board's auditing standards, an auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[3/] Among other things, those standards require that an auditor exercise due care and professional skepticism, obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements, and respond appropriately to indicators of a risk of material misstatement due to fraud.[4/] In connection with the Firm's audit of the fiscal year ("FY") 2006 financial statements of Conversion Solutions Holdings Corp. ("Conversion Solutions" or "the Company"), Respondents failed to exercise due professional care, failed to exercise professional skepticism, and failed to obtain sufficient competent evidence.

4. Specifically, Respondents failed to perform adequate audit procedures, and failed to exercise due care and professional skepticism related to: (1) financial statement assertions that the Company had rights to $500 million in Venezuelan bonds and approximately $19.9 million in related interest; (2) financial statement assertions about the existence and valuation of a $310 million note; and (3) the inclusion of certain non-monetary exchanges involving the aforementioned assets in the Company's statement of cash flows.

Background

5. Conversion Solutions is a Delaware corporation based in Kennesaw, Georgia. Its common stock is registered with the United States Securities and Exchange Commission ("SEC" or "Commission") under Section 12(g) of the Securities Exchange Act of 1934. Conversion Solutions' public filings disclose that, at all times relevant to this Order, it was a diversified holdings company that was "formed to originate, fund and source funding for asset-based transactions in the private market." At all relevant times,

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2/ *See* PCAOB Rules 3100, 3200T.

3/ *See* AU § 508.07, *Reports on Audited Financial Statements.*

4/ *See* AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 326, *Evidential Matter,* and AU § 316, *Consideration of Fraud in a Financial Statement Audit.*

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Conversions Solutions was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).[5/]

6. In April 2006, Conversion Solutions' Chief Financial Officer, a colleague of Benson's for over 20 years, asked Benson if he would be interested in auditing the Company's FY 2006 financial statements.[6/] Benson's engagement as the new auditor of record was in anticipation of a reverse merger transaction with Fronthaul Group, Inc., where Conversion Solutions would become an issuer and be required to file financial statements with the Commission.

7. On July 8, 2006, Conversion Solutions executed the reverse merger transaction and became an issuer. Around this time, Benson agreed to audit the Company's FY 2006 financial statements. After being advised by Conversion Solutions' CFO of the legal requirement that the Company's auditor be registered with the PCAOB, Benson submitted an application for registration, which the Board approved.

8. On September 28, 2006, the Firm issued its audit report on Conversion Solutions' FY 2006 financial statements, which was included in the Company's Form 8-K filed with the Commission on September 29, 2006, in the Company's Form 10-K filed with the Commission on October 16, 2006, and in two Forms 10-K/A filed with the Commission on October 17, 2006, and October 19, 2006, respectively. In the audit report, the Firm expressed an unqualified audit opinion on Conversion Solutions' financial statements for FY 2006. The report stated that the Company's financial statements presented fairly, in all material respects, the financial position of the

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5/ On October 24, 2006, the Commission summarily suspended the trading of Conversion Solutions' common stock through November 6, 2006, because it appeared to the Commission that there was a lack of current and accurate information concerning the Company's securities, including information related to the $500 million of Venezuelan Bonds discussed in this Order. On October 25, 2006, the Commission's Division of Enforcement filed a complaint in the United States District Court for the Northern District of Georgia against Conversion Solutions and its Chief Executive Officer, Rufus Paul Harris. As of the date of this Order, the Commission's litigation is pending.

6/ Conversions Solutions' FY 2006 began on July 1, 2005, and ended June 30, 2006.

ORDER

Company as of June 30, 2006 and the results of its operations and its cash flows for the year ended June 30, 2006 in conformity with accounting principles generally accepted in the Unites States of America. In addition, the report stated that the audit was conducted in accordance with the auditing standards of the Public Company Accounting Oversight Board.[7/]

The Audit of Conversion Solutions' FY 2006 Financial Statements

$500 Million of Venezuelan Bonds

9. In its FY 2006 financial statements, Conversion Solutions disclosed that on March 15, 2006, it acquired from the Republic of Venezuela full ownership of bonds with a principal amount of $500 million, and the Company's statement of cash flows disclosed a $500 million payment. The Company recorded the bonds as a $500 million asset on its balance sheet. The bonds represented 60 percent of the total reported assets of Conversion Solutions as of June 30, 2006.

10. Conversion Solutions also disclosed that it was due to receive its first interest payment on the bonds on August 8, 2006. Accordingly, the Company accrued approximately $19.9 million of interest and reported that amount as a receivable on its balance sheet. Inconsistently with that, the Company's statement of cash flows treated that interest as having been received. Moreover, the Company reported the interest receivable as interest revenue on the statement of operations, which represented 100 percent of the Company's total reported revenue for the fiscal year ended June 30, 2006.

11. Respondents failed to perform sufficient procedures to evaluate the financial statement assertions concerning the $500 million in Venezuelan bonds and approximately $19.9 million of accrued interest. Other than management representations and documents provided by management, Respondents obtained no

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7/ In confining that statement to "auditing standards" of the PCAOB, the report was inconsistent with the requirements of PCAOB Auditing Standard No. 1, *References in Auditors' Reports to the Standards of the Public Company Accounting Oversight Board,* which requires a representation that the audit was conducted in accordance with "the standards" of the PCAOB, which include both auditing standards and related professional practice standards.

audit evidence relevant to evaluating the assertions, and Respondents failed to follow up on evidence that cast doubt on the assertions. For example, Respondents obtained no evidence that the Company had in fact made a $500 million cash payment as described in the statement of cash flows. Moreover, despite making repeated requests to management for an opportunity to physically inspect the bond certificates, Respondents were never given that opportunity and never saw any such certificates. In addition, despite the Company's assertion that it was entitled to an interest payment of approximately $19.9 million on August 8, 2006, Respondents understood at the time of the September 28, 2006 audit report that the Company had received no interest payment.[8/] Finally, although the Company asserted that it acquired the bonds on March 15, 2006, the documents that Respondents obtained from management suggested that the bonds had been issued and sold to other investors during 1998.[9/]

$310 Million UCC Security Note

12. In its FY 2006 financial statements, Conversion Solutions disclosed that it had acquired what it called a UCC Security Note ("Note") when it merged with Waatle Holdings Corp. ("Waatle"). According to the Company's disclosures, the Note had previously been assigned to Waatle for $40 million, neither the Company nor Waatle had paid any of the $40 million, and the Note was to be returned to the assignor in 2009. Respondents accepted management's assertion that the Note entitled the holder to the recovery on a legal judgment issued by a Washington State court, and that the obligation reflected in the Note was secured by liens on real estate owned by, among others, various Washington State judges and attorneys ("the purported lien debtors"). The Company reported the Note in its financial statements as an asset valued at approximately $310 million – $172 million in principal and $138 million in accrued interest. The Note represented 37 percent of the total reported assets of Conversion Solutions as of June 30, 2006. The Company's statement of cash flows also reported a cash payment of approximately $310 million related to the Note.

[8/] Respondents also failed to take any steps to address or resolve the apparent inconsistencies in the Company's financial statements concerning whether the interest payment was a receivable or had been received.

[9/] Those documents also included the bonds' CUSIP information, which Respondents could have used to obtain independent information as to the bonds' current owners, but Respondents made no attempt to do so.

ORDER

13. Respondents failed to perform sufficient procedures to evaluate the financial statement assertions about the existence of the obligation described in the Note and the Company's rights relative to that obligation. Again, other than management representations and documents provided by management, – documents that Respondents acknowledge that they did not sufficiently understand – Respondents obtained no audit evidence relevant to evaluating the existence of the obligation or whether the Company had any related rights. Respondents took no steps to attempt to clarify the nature and meaning of the documents that they did not understand, or to determine whether a Washington State court actually had issued a judgment related to the purported lien debtors, or to determine whether there were any liens on the purported lien debtors' property. Moreover, Respondents' obtained no evidence of a $310 million payment as described in the Company's statement of cash flows.

14. Respondents also failed to perform sufficient procedures to evaluate the valuation of the Note. Respondents obtained representations and documents from management, had a telephone conversation with a party that Respondents understood to be the original holder of the Note, and obtained a list of real estate holdings that Respondents understood to be the property that secured the obligation in the Note. Respondents took no other steps to evaluate the Company's $310 million valuation even though (1) Respondents' list of the real estate holdings indicated that the properties were worth only approximately $60 million; (2) Respondents identified uncertainty about whether some of those properties were even within the Washington State court's jurisdiction; (3) Respondents understood that the $40 million that Waatle had purportedly agreed to pay for the Note had never been paid; (4) Respondents understood that the Company was only an assignee of the Note for a five-year period; and (5) Respondents understood that the Company had never received any of the $138 million of interest that had purportedly accrued on the Note.

Non-Cash Activities in Statement of Cash Flows

15. Conversion Solutions' reported several non-cash activities in the financing activities section of its statement of cash flows, which is contrary to GAAP.[10/] Non-cash activities reported in the statement of cash flows included approximately $771 million in

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10/ *See SFAS No. 95, paragraph 32.*

accumulated other comprehensive income and $36 million in an entry titled, "Long-Term Note." Respondents failed to identify and appropriately address this GAAP departure.[11/]

Consideration of Fraud

16. Respondents' failures also involved failures to comply with PCAOB auditing standards concerning responding appropriately to indicators of a risk of material misstatement due to fraud. An auditor's assessment of such risk should "be ongoing throughout the audit,"[12/] and an auditor should consider whether the "nature of auditing procedures performed may need to be changed to obtain evidence that is more reliable or to obtain additional corroborative information."[13/] Respondents not only failed to perform basic procedures adequately, but also failed to reassess the risks after learning about numerous facts that, either standing alone or in the context of other facts learned prior to the audit, warranted heightened scrutiny that should have alerted them to the possible need to extend or modify the audit tests. After being presented with numerous warning signs during the audit, such as the failure to inspect either the Venezuelan bond certificates or the judgment supporting the Note, the Company's failure to receive any interest contractually due on the Venezuelan Bonds, and the Company's failure to pay any consideration for either of the two assets, Respondents should have reassessed whether the nature of auditing procedures performed needed to be changed to obtain additional or more reliable corroborative information concerning Conversion Solutions' assets and revenues.[14/] They failed to do so.

[11/] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB Standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Commission has considered or made any determination concerning the issuer's compliance with GAAP.

[12/] *See* § 316.68, *Consideration of Fraud in a Financial Statement Audit.*

[13/] *See* AU § 316.52.

[14/] *Id.*

ORDER

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Thomas Benson is revoked; and

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Thomas Benson, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

J. Gordon Seymour
Secretary

June 29, 2007

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Susan E. Birkert* *Respondent.*	PCAOB Release No. 105-2007-003 November 14, 2007

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is barring Susan E. Birkert from being an associated person of a registered public accounting firm.[1/] The Board is imposing this sanction on the basis of its findings concerning Birkert's violations of PCAOB rules and standards relating to independence in connection with an audit of the financial statements of one issuer client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Susan E. Birkert ("Birkert" or "Respondent").

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and

[1/] Birkert may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

PCAOB
Public Company Accounting Oversight Board

ORDER

without admitting or denying the findings herein, except as to the Board's jurisdiction over her and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer and information obtained by the Board in this matter, the Board finds[2/] that:

A. Respondent

1. Birkert, 27, of Levittown, New York, joined KPMG LLP ("KPMG") in November 2002. From May 2004 until November 28, 2006, she was a member of KPMG's Comtech Telecommunications Corp. ("Comtech") audit engagement team, first as an Associate and then as a Lead Senior on KPMG's fiscal year ("FY") 2004, FY2005 and FY2006 year-end audits of Comtech and on KPMG's quarterly Comtech reviews. Respondent is not a CPA, but, at all times relevant to this matter, Respondent was an associated person of a registered public accounting firm (KPMG), as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary of Violations

2. PCAOB rules and standards require associated persons of registered public accounting firms to comply with certain independence restrictions, including

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[2/] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing on Respondent in this Order may be imposed only if Respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A), which provides that such sanctions may be imposed in the event of "intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard."

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Public Company Accounting Oversight Board

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restrictions against committing to acquire a financial interest in an audit client[3/] Respondent violated these requirements by directing $5,000 toward the purchase of Comtech stock while she was a member of the KPMG Comtech audit engagement team.

C. Discussion

3. Comtech is a Delaware corporation headquartered in Melville, New York. Its common stock is registered with the United States Securities and Exchange Commission ("Commission") under Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act"). Comtech's public filings disclose that it was, at all times relevant to this matter, in the business of communications products, systems and services, including telecommunications transmission, mobile data communications and RF microwave amplifiers. At all relevant times, Comtech was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. Respondent was a member of the KPMG audit engagement team that audited and reviewed Comtech's financial statements for the fiscal year ended July 31, 2006. During that audit, she served as the Lead Senior conducting audit and review work.

5. In November 2005, during a period when Respondent was participating in KPMG's Comtech review work for the quarter ended October 31, 2005, Respondent, in conversation with an acquaintance from Respondent's previous employer, mentioned that Comtech was the largest public audit client that she was working on. The acquaintance asked whether Respondent thought that Comtech was a good company in which to invest, and Respondent said that it was. The acquaintance then asked whether Respondent wanted him to purchase any Comtech stock for Respondent. Respondent replied affirmatively and said that she would give the acquaintance $5,000 to buy Comtech stock for her.

[3/] See PCAOB Rules 3100, 3200T (incorporating requirements of certain AICPA auditing standards as in existence on April 16, 2003, including AU § 220, *Independence*), and 3600T (incorporating requirements of certain AICPA independence standards as in existence on April 16, 2003, including ET § 101 and interpretations thereunder).

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6. Shortly after that discussion, the acquaintance told Respondent that he had purchased the Comtech stock for her. On or about December 12, 2005, Respondent delivered to the acquaintance a $5,000 check, payable to the acquaintance, for the Comtech stock purchase.[4/] Respondent understood at the time she gave the acquaintance the $5,000 check that owning stock in an audit client was a violation of independence rules.

7. Subsequent to delivery of the $5,000 check, Respondent continued to work on KPMG's audit and reviews of Comtech. Respondent performed work on KPMG's reviews of Comtech's financial statements for the second and third quarters ended January 31, 2006 and April 30, 2006; KPMG's audit of Comtech's financial statements for the fiscal year ended July 31, 2006; and KPMG's review of Comtech's financial statements for the first quarter ended October 31, 2006.[5/]

8. As an associated person of KPMG, Respondent was required to comply with the Board's interim auditing standards and interim independence standards in connection with the Comtech audit.[6/] Those standards required that Respondent maintain independence from Comtech,[7/] and provided, among other things, that her independence would be considered impaired if she "committed to acquire any direct . . .

[4/] Although Respondent understood that the acquaintance deposited the $5,000 check, she never obtained or saw any documentation that the acquaintance had purchased Comtech stock.

[5/] In May of 2006, Respondent falsely acknowledged to KPMG that she was in compliance with KPMG independence policies and PCAOB independence requirements for the period April 1, 2005 through March 31, 2006. Later in 2006, following a KPMG internal investigation prompted by an anonymous tip, Respondent admitted to providing the $5,000 check for the purchase of Comtech stock, and KPMG terminated her employment. Comtech disclosed in its Form 10-Q for its FY2007 first quarter ended October 31, 2006, filed with the Commission on December 4, 2006, that KPMG advised Comtech in November 2006 that it believed that a KPMG accountant who worked on the engagement to audit Comtech's financial statements made an investment in its common stock.

[6/] See PCAOB Rules 3200T and 3600T.

[7/] See ET § 101.01; AU § 220.

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financial interest" in Comtech during the period of the professional engagement.[8/] The steps she took to acquire such an interest, through her acquaintance, violated the standards requiring that she remain independent.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Susan E. Birkert is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

B. After one year from the date of this Order, Birkert may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

J. Gordon Seymour
Secretary

November 14, 2007

[8/] See ET § 101.02. ET § 101.02 discusses independence restrictions relating to a "covered member." As ET § 101.02 existed on April 16, 2003, "covered member" was a term defined (in ET § 92.06) to encompass, among other things, any individual on the attest engagement team. Accordingly, the ET 101.02 restrictions applied to Respondent.

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of Timothy L. Steers, CPA, LLC, and Timothy L. Steers, CPA,

Respondents.

PCAOB Release No. 105-2007-004

November 14, 2007

Summary

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Timothy L. Steers, CPA, LLC and barring the Firm's sole owner, Timothy L. Steers, from being an associated person of a registered public accounting firm.[1/] The Board is imposing these sanctions on the basis of its findings concerning the respondents' violations of PCAOB rules and auditing standards in connection with audits of the financial statements of two issuer clients during 2004.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Timothy L. Steers, CPA, LLC (the "Firm") and Timothy L. Steers ("Steers") (collectively, "Respondents").

[1/] The Firm may reapply for registration after two (2) years from the date of this Order. Steers may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers and information obtained by the Board in this matter, the Board finds[2/] that:

A. Respondents

1. Timothy L. Steers, CPA, LLC, a limited liability company licensed in Oregon (license no. 1113), is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Its office is located in Portland, Oregon.

2. Timothy L. Steers ("Steers") is a certified public accountant licensed in the State of Oregon (license no. 4939). He is the Managing Executive and sole owner of the Firm. At all times relevant to this matter, he was an associated person of the Firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

[2/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing in this Order may be imposed only if a Respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5)(A), which provides that such sanctions may be imposed in the event of "intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard."

PCAOB
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B. Respondents Violated PCAOB Auditing Standards in Auditing the 2003 Financial Statements of CyberAds, Inc. and Nova Communications Ltd.

Summary of Violations

3. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards.[3/] Under the Board's auditing standards, an auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[4/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[5/] In connection with the audits of the fiscal year ("FY") 2003 financial statements of CyberAds, Inc. ("CyberAds") and Nova Communications Ltd. ("Nova"), Respondents failed to exercise due professional care, failed to exercise professional skepticism, and failed to obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.

4. In particular, Respondents failed to adhere to PCAOB standards in connection with CyberAds' financial statement assertions concerning ownership rights to, and valuation and disclosure of, a material asset. In addition, Respondents subsequently issued a consent allowing CyberAds to incorporate by reference into a Form S-8 the Firm's audit report on CyberAds' 2003 financial statements even though Respondents knew that CyberAds had announced that it intended to restate those financial statements to eliminate the only significant reported asset.

5. Furthermore, Respondents failed to exercise due professional care and professional skepticism and failed to obtain sufficient competent evidence related to Nova's financial statement assertions regarding certain "advances receivable," an obligation to a third party, and a "payable to related parties."

[3/] See PCAOB Rules 3100, 3200T.

[4/] See AU § 508.07, *Reports on Audited Financial Statements*.

[5/] See AU § 150.02, *Generally Accepted Auditing Standards*; § 230, *Due Professional Care in the Performance of Work*; § 326, *Evidential Matter*.

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2003 Audit of CyberAds, Inc.

6. CyberAds, Inc. (n/k/a Rhino Outdoor International, Inc.) is a Nevada corporation headquartered in Henderson, Nevada. Its common stock is registered with the Securities and Exchange Commission ("Commission") under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and is dually quoted on the Pink Sheets and OTC Bulletin Board. CyberAds' 2003 Form 10KSB/A filed on April 22, 2004 disclosed that its business involved using member lists compiled through its website to market cellular phone services. At all relevant times, CyberAds was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

7. The Firm was engaged as CyberAds' independent auditor beginning in 2003 and issued an audit report dated April 6, 2004, that was included in CyberAds' Form 10KSB/A filed with the Commission on April 22, 2004, in which the Firm expressed an unqualified audit opinion on CyberAds' consolidated financial statements for 2003.[6/] The report stated that CyberAds' financial statements presented fairly, in all material respects, CyberAds' financial position, results of operations, and cash flows in conformity with generally accepted accounting principles ("GAAP").

Ownership Rights in a Material Asset

8. CyberAds' 2003 financial statements reported a $10.7 million asset that was disclosed as "a 22% interest in a limited liability company that owns real estate." That asset, which represented approximately one hundred percent of the company's assets, resulted from a purported assignment to CyberAds' wholly-owned subsidiary from a related party.

9. Respondents failed to perform adequate audit procedures to evaluate whether the assignment was consummated in 2003, despite being aware of significant evidence suggesting that it was not consummated in 2003. Despite that evidence, Respondents relied on management's representations and an unsigned assignment agreement as the only evidence that the transaction resulted in a CyberAds' asset as of December 31, 2003.[7/]

[6/] The audit report included an explanatory paragraph expressing substantial doubt as to CyberAds' ability to continue as a going concern.

[7/] In a Form 10-KSB/A filed on April 15, 2005, CyberAds restated its 2003 financial statements to remove the $10.7 million investment. CyberAds initially announced its intention to restate its 2003 financial statements in a Form 8-K filed on January 31, 2005.

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10. Respondents were aware of evidence suggesting that CyberAds did not acquire rights to the asset during 2003. For example, CyberAds filed a Form 8-K/A on January 26, 2004 stating that the assignment of the interest in the LLC had not yet been consummated as of December 31, 2003. Indeed, it stated that CyberAds' Board of Directors and the transferor had not yet agreed on the number of CyberAds shares to be issued to the transferor as consideration for the assignment. The Form 8-K/A further stated that "[i]n the unlikely event that the Board of Directors and [the transferor] cannot agree, the assignment will be rescinded. A subsequent report will be filed *upon consummation of the assignment* with respect to the consideration to be received by [the transferor]." (Emphasis added).[8/] Additionally, a March 2004 handwritten note in Respondents' work papers stated that "the actual number of shares [of CyberAds' stock to be issued in exchange for the interest in the LLC] is still being negotiated." Respondents failed to address this audit evidence and improperly relied on management's representations that the asset was acquired in 2003.[9/]

Valuation of the Reported Asset

11. Respondents also failed to adequately evaluate the $10.7 million value management assigned to the reported asset. Respondents purported to have used the work of a specialist retained by management to appraise the reported investment. The appraisal, however, was of a different asset than that which CyberAds was to acquire in that the appraisal valued the underlying real estate owned by the LLC, but did not appraise the value of the LLC. Moreover, the appraisal reported a significantly higher value for the appraised property than the value that CyberAds assigned to the asset. Notwithstanding these discrepancies, Respondents failed to obtain the financial statements of the LLC or to perform any other procedures to test CyberAds' valuation of the asset.[10/]

[8/] CyberAds first filed a Form 8-K announcing the agreement on January 23, 2004. That Form 8-K did not attach a copy of the assignment agreement, because it was "not available" as of that date. See Form 8-K/A filed on Jan. 26, 2004.

[9/] PCAOB standards state that if "a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made." See AU § 333.04, *Management Representations*.

[10/] PCAOB standards state that "[i]f there is a material difference between the specialist's findings and the assertions in the financial statements [the auditor] should apply additional procedures." AU § 336.13, *Using the Work of a Specialist*.

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12. Furthermore, in using the conclusions of the appraisal as evidential matter concerning the value of the reported asset, Respondents failed to perform procedures to evaluate the professional qualifications of the appraiser. Respondents made no inquiries regarding the appraiser's professional certification, reputation, or experience. Respondents also failed to obtain an understanding of the nature of the work performed by the appraiser and failed to evaluate the appraiser's relationship to CyberAds.[11/]

Disclosures

13. Although GAAP requires disclosure of material related party transactions,[12/] CyberAds failed to disclose the assignment as a related party transaction. Respondents knew that the purported assignment was from CyberAds' majority shareholder, but Respondents failed to identify and appropriately address CyberAds' departure from the GAAP disclosure requirement.[13/]

14. In addition, CyberAds' disclosures included representations that were contrary to information that Respondents had. Specifically, CyberAds' disclosures included representations that it had already issued a specific number of shares in exchange for the interest in the LLC.[14/] Although Respondents were aware of information to the contrary, Respondents failed to follow up on or resolve the discrepancy between that information and the disclosures.

[11/] See AU § 336.08-11.

[12/] Statement of Financial Accounting Standards 57, *Related Party Disclosures*, states that "[f]inancial statements shall include disclosures of material related party transactions, other than compensation arrangements, expense allowances, and other similar items in the ordinary course of business."

[13/] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Securities and Exchange Commission ("Commission") has considered or made any determination concerning the issuer's compliance with GAAP.

[14/] See CyberAds' 2003 Form 10 KSB/A filed on April 22, 2004 at F-17.

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Consent to Reissuance of Prior Unqualified Audit Opinion

15. On February 14, 2005 — two weeks after CyberAds announced that it would restate its 2003 financial statements to remove the asset — Respondents consented to the incorporation by reference, in a registration statement filed by CyberAds on Form S-8 filed with the Commission on February 16, 2005, of the Firm's April 2004 audit report on CyberAds' 2003 financial statements.[15/] Before issuing that consent to the Firm's original unqualified audit opinion, Respondents knew that CyberAds had announced its intention to restate its 2003 financial statements to remove the asset. By consenting to the incorporation by reference of the prior unqualified opinion, Respondents violated PCAOB standards.[16/]

2003 Audit of Nova Communications Ltd.

16. Nova (n/k/a Encompass Holdings, Inc.), is a Nevada Corporation headquartered in Reno, Nevada. Its common stock is registered with the Commission under Section 12(g) of the Exchange Act and is dually quoted on the Pink Sheets and the OTC Bulletin Board. Nova's 2003 financial statements disclosed that it was in the business of acquiring ownership interests in developing companies in a wide range of industries and providing financing and managerial assistance to those companies. At all relevant times, Nova was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

17. The Firm was engaged as Nova's independent auditor beginning for fiscal year 1999. The Firm issued an audit report dated April 10, 2004, that was included in Nova's 2003 Form 10-KSB filed with the Commission on May 14, 2004, in which the

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15/ In issuing an audit report in connection with a Form S-8, an auditor has the same responsibilities to follow PCAOB standards as in connection with issuing an audit report included in an issuer's annual report. See AU § 711.02 ("When an independent accountant's report is included in registration statements, proxy statements, or periodic reports filed under the federal securities statutes, the accountant's responsibility, generally, is in substance no different from that involved in other types of reporting.").

16/ PCAOB standards state that "[w]hen financial statements are materially affected by a departure from generally accepted accounting principles and the auditor has audited the statements in accordance with generally accepted auditing standards, he or she should express a qualified or an adverse opinion." See AU § 508.35.

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Firm expressed an unqualified opinion on Nova's financial statements for 2003.[17/] This audit report stated that Nova's financial statements presented fairly, in all material respects, Nova's financial position, results of operations, and cash flows in conformity with GAAP.

Advances Receivable

18. Nova's 2003 balance sheet included an asset titled "advances receivable" of $513,506, which represented more than 85% of Nova's total assets. Nova disclosed that the receivable resulted from it advancing funds to another party for cash flow purposes and that the advances were unsecured, non-interest bearing, and payable on demand. Nova reported the full value of the advances as a receivable and did not accrue any loss or disclose any contingency related to the collectibility of the receivable.

19. Respondents failed to perform any procedures to determine whether Nova's disclosures concerning the advanced funds were accurate and adequate. In addition, Respondents failed to perform sufficient procedures to evaluate the collectibility of the receivable.[18/] Respondents' procedures were limited to obtaining uncorroborated representations from management and reviewing an interim balance sheet of the other party, which reflected cash of $2,174, current assets of $48,191, current liabilities of $1,508,915, and a $203,875 line item titled "Out-Of-Balance." This audit evidence was insufficient to support an opinion that the $513,506 was properly reported as a receivable.

Reclassification of Liability

20. Nova's 2002 financial statements reflected a liability of $736,427 described as a note payable and accrued interest due to another party. Nova's 2003 financial statements reclassified this obligation, now valued at $753,927, as equity. Specifically, Nova's consolidated statement of changes in stockholders' deficit reflected

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[17/] The audit report included an explanatory paragraph expressing substantial doubt as to Nova's ability to continue as a going concern.

[18/] GAAP requires accrual of a loss where information available prior to issuance of the financial statements indicates that collection of a receivable is not "probable" and the amount uncollectible can be "reasonably estimated." In situations where an accrual is not recorded, but there is at least a reasonable possibility that the receivable will not be collected, disclosure is required. See SFAS No. 5.

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the obligation as "common stock to be issued in exchange for long-term debt and interest."[19/]

21. Respondents failed to perform sufficient procedures to be able to evaluate whether this reclassification complied with GAAP.[20/] Respondents were aware of evidence, including a board resolution, indicating that before the other party would release Nova from its obligation, it required consideration in addition to the issuance of Nova's common stock, and it also required satisfaction of certain conditions. Other than uncorroborated management representations, however, Respondents had no basis for concluding that the conditions to extinguish the liability had been satisfied as of December 31, 2003. Respondents, therefore, had an inadequate basis for an audit opinion that the reclassification of the liability complied with GAAP.

Payable to Related Party

22. Nova's 2003 financial statements reported a related party payable in the amount of $760,905, or approximately 43 percent of total reported liabilities. The financial statement footnotes described the payable as "due to a company related to the president of the Company. The advances are unsecured, non-interest bearing, and due on demand however, this company has agreed not to demand repayment before April 2005."[21/]

23. Respondents failed to exercise due professional care and professional skepticism, and obtain sufficient competent evidential matter related to the nature of the reported related party payable. Nova's 2003 Form 10-KSB disclosed the existence of

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[19/] Had Nova continued to classify the obligation as a liability in its 2003 financial statements, it would have equaled approximately 43 percent of Nova's reported liabilities.

[20/] FAS No. 140 ¶16 states: "A debtor shall derecognize a liability if and only if it has been extinguished. A liability has been extinguished if either of the following conditions is met: a. The debtor pays the creditor and is relieved of its obligation for the liability. Paying the creditor includes delivery of cash, other financial assets, goods, or services or reacquisition by the debtor of its outstanding debt securities whether the securities are canceled or held as so-called treasury bonds. b. The debtor is legally released from being the primary obligor under the liability, either judicially or by the creditor."

[21/] Nova's 2003 Form 10-KSB filed on May 14, 2004 at F-3, F-12.

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approximately $490,000 in convertible notes payable to parties unrelated to Nova.[22/] Respondents' work papers indicated that Nova had included that $490,000 as part of the $760,905 related party payable balance. Respondents failed to recognize and address that the discussion in the Form 10-KSB was inconsistent with evidence in the work papers and the financial statement assertions concerning the payable to a related party.[23/]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), Timothy L. Steers, CPA, LLC's registration with the Board is revoked;

B. After two (2) years from the date of this Order, Timothy L. Steers, CPA, LLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Timothy L. Steers is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

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22/ Nova's 2003 Form 10-KSB filed on May 14, 2004 at 9.

23/ In April 2005, and again in March 2006, Nova restated its 2003 financial statements to identify separately the convertible notes, to reclassify them as a current liability, to disclose accurately the payment terms of the notes, and to account for the notes' beneficial conversion features. See Nova's 2004 Form 10-KSB filed on April 14, 2005 at F-18 and Nova's 2003 Form 10-KSB/A filed on March 6, 2006 at F-14.

ORDER

D. After two (2) years from the date of this Order, Steers may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

J. Gordon Seymour
Secretary

November 14, 2007

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Deloitte & Touche LLP,* *Respondent.*	PCAOB Release No.105-2007-005 December 10, 2007

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Deloitte & Touche LLP ("Deloitte," or "Respondent"), imposing a civil money penalty in the amount of $1,000,000, and requiring Respondent to undertake certain actions. The Board is imposing these sanctions on the basis of its findings concerning Respondent's violations of PCAOB rules and auditing standards in auditing the 2003 financial statements of one issuer client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.

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III.

On the basis of Respondent's Offer and information obtained by the Board in this matter, the Board finds[1/] that:

A. Respondent

1. Deloitte is a public accounting firm organized as a limited liability partnership under the laws of the State of Delaware and headquartered in New York City. Respondent has offices in multiple locations, including San Diego, California, and is licensed by, among others, the California Board of Accountancy (license no. 6515). Respondent is registered with the Board under Section 102 of the Act and PCAOB Rules. Its public company audit practice includes over 800 audit partners and more than 8,000 other audit professionals.

B. Summary

2. This matter concerns Deloitte's violations of certain PCAOB rules and auditing standards in auditing the financial statements of Ligand Pharmaceuticals Incorporated ("Ligand" or "the Company") for 2003 and the improper issuance by Deloitte of a standard report expressing the opinion that these financial statements presented fairly, in all material respects, Ligand's financial position in conformity with U.S. generally accepted accounting principles ("GAAP"). Deloitte assigned final responsibility for its Ligand audit engagements to the same partner (the "Engagement Partner") beginning with its review for the third quarter of 2000 through its review for the first quarter of 2004. Beginning in the summer of 2003 and continuing into 2004, certain members of Deloitte's management became aware of facts and circumstances that raised serious questions about the Engagement Partner's competence and proficiency as an auditor. Various Deloitte partners, including partners at the practice office level, at the regional management level, at Deloitte's national office and within its quality assurance group each were aware of certain of these facts and circumstances before Deloitte issued its report on Ligand's financial statements for 2003. During this period, Deloitte determined that the Engagement Partner should not be assigned to public company audit engagements and that he should resign from the firm. Despite these determinations and, as discussed below, the assessment that the 2003 Ligand audit

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[1/] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

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presented "greater than normal" risk, Deloitte left the Engagement Partner in charge of the engagement without taking appropriate and timely steps under the circumstances to assure that the audit was performed in accordance with applicable PCAOB rules and professional standards.

3. As discussed in more detail below, Deloitte failed to exercise due professional care in the performance of the audit and failed to obtain sufficient competent evidential matter to support the opinion expressed in the audit report. Deloitte failed to perform appropriate and adequate audit procedures related to the revenue reported by Ligand for sales of products for which a right of return existed. Deloitte failed to perform procedures that adequately took into account the existence of various factors documented in the audit work papers that indicated Ligand's ability to make reasonable estimates of product returns may have been impaired. These factors included Ligand's limited historical return experience, Ligand's limited visibility into its distribution channels, and periodic significant increases in, or excess levels of product in, Ligand's distribution channels. Moreover, in evaluating the reasonableness of Ligand's estimates of future returns, Deloitte failed to perform procedures that adequately took into account the extent to which the audit evidence indicated Ligand had consistently and substantially underestimated its product returns. Deloitte failed to perform or failed to perform adequately certain relevant planned procedures that were required by PCAOB auditing standards and incorporated into Deloitte's written audit plan. Deloitte also failed to identify and appropriately address a material departure from GAAP resulting from Ligand's policy of excluding certain types of returns from its estimates of future returns and the omission from Ligand's financial statements of any disclosure of this accounting policy.[2/]

[2/] More than a year after the 2003 Ligand audit, Ligand announced that it would restate its financial statements for 2003 and other periods because its recognition of revenue from product sales upon shipment was not in accordance with GAAP. See Ligand's Form 8-K, filed May 20, 2005, at Exhibit 99.1. In restating for 2003, Ligand recognized approximately $59 million less in revenues from product sales than originally recognized in that year (a decrease of approximately 52 percent), and reported a net loss more than 2.5 times the net loss originally reported. See Ligand's Form 10-K for the year ending December 31, 2004, filed November 18, 2005, which reflects adjustments for earlier periods. At the same time, Ligand restated the revenues and net loss reported in its 2002 financial statements, which Deloitte had also audited, and in quarterly reports in 2003 and 2004, which Deloitte had reviewed.

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C. Deloitte Failed to Comply With Certain PCAOB Auditing Standards

4. Ligand is a corporation organized under the laws of the State of Delaware with headquarters in San Diego. Its common stock is registered with the Securities and Exchange Commission ("Commission") under Section 12(b) of the Securities Exchange Act of 1934 and is listed on the NASDAQ Stock Market LLC. Ligand's public filings disclose that, at all times relevant to this matter, it was in the business of discovering, developing, and marketing pharmaceutical drugs. At all relevant times, Ligand was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). As of June 30, 2004, the end of the last reporting period for which Deloitte served as its auditor, Ligand disclosed that its market capitalization was approximately $1.27 billion.

5. Deloitte was Ligand's independent auditor from October 31, 2000, until its resignation effective August 5, 2004. In an audit report dated March 10, 2004, Deloitte expressed an unqualified opinion on Ligand's consolidated balance sheets as of December 31, 2003 and 2002, and the related consolidated statements of operations, stockholders' equity (deficit), and cash flows for each of the three years in the period ended December 31, 2003. Deloitte's audit report stated that, in the firm's opinion, the Company's financial statements presented fairly, in all material respects, the Company's financial position in conformity with GAAP.

6. Deloitte's audit engagements for Ligand were performed by personnel located in its San Diego office. Deloitte's audit personnel included the Engagement Partner, a concurring review partner, an advisory partner, an audit manager, an audit senior and other staff auditors, each of whom was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i) at all relevant times. Deloitte's San Diego office audit practice was under the supervision of a Managing Partner for Audit and Enterprise Risk Services (the "San Diego Audit Managing Partner"), who reported to the Regional Managing Partner for Audit and Enterprise Risk Services for Deloitte's Pacific Southwest Region ("Regional Audit Managing Partner"), located in Los Angeles, California, and who in turn reported to the National Managing Partner of Audit and Enterprise Risk Services ("National Audit Managing Partner"), located in New York City. In addition, Deloitte's Professional Practice Director for its San Diego office ("San Diego Office PPD") was responsible for concurring in the assignment of engagement partners and for monitoring compliance with Deloitte's audit policies and procedures.

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Deloitte Failed to Staff the 2003 Ligand Audit Engagement Appropriately

7. PCAOB rules require that registered public accounting firms and their associated persons comply with the Board's auditing and related professional practice standards.[3/] Among other things, PCAOB auditing standards require that auditors "be assigned to tasks and supervised commensurate with their level of knowledge, skill and ability so that they can evaluate the audit evidence they are examining."[4/] The auditor with final responsibility for the audit should know, at a minimum, the relevant professional accounting and auditing standards and should be knowledgeable about the client.[5/] Deloitte failed to staff the 2003 Ligand audit engagement in accordance with these requirements.

8. Deloitte assigned responsibility for the conduct of all audit professional services for each of its audits and reviews for Ligand through the quarter ended March 31, 2004, to the Engagement Partner, whom Deloitte designated as its "Lead Client Service Partner," or "Engagement Partner." The responsibilities Deloitte assigned to the Engagement Partner in this role were set forth in Deloitte's Accounting and Auditing Practice Manual Series (the "AAPMS") which stated, among other things, that:

> It is the responsibility of the Engagement Partner to form the audit opinion, or to disclaim an opinion, on the financial statements. The Firm delegates to the Engagement Partner the necessary authority to fulfill that role….
>
> The Engagement Partner has the final responsibility for the planning and performance of the audit engagement, including the assignment, on-the-job training, and audit work of professional staff, and the implementation of decisions concerning matters that have been the subject of consultation.…
>
> The knowledge and skills of an Engagement Partner should be matched with the needs and characteristics of the engagement.

The Engagement Partner led Deloitte's audit engagement team, had final responsibility for the audit as that phrase is used in AU § 311, *Planning and Supervision,* and authorized the issuance of the March 10, 2004, audit report.

3/ See PCAOB Rules 3100, 3200T.

4/ AU § 230.06, *Due Professional Care in the Performance of Work*.

5/ Id.

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9. Deloitte's policies and procedures further provided that, particularly where audit engagement risk is assessed as greater than normal, the firm needed to ensure that the partners assigned to the audit engagement possessed the requisite skills and experience. Deloitte assessed the engagement risk for its 2002 and 2003 Ligand audit engagements as greater than normal.

10. Months before Deloitte issued its audit report for the 2003 Ligand audit engagement, certain members of Deloitte's management became aware of facts and circumstances that began to raise serious questions about the Engagement Partner's competence and proficiency as an auditor. These developments led certain members of Deloitte's management first to conclude that the Engagement Partner should be removed from public company audit engagements and ultimately to seek the Engagement Partner's resignation from the firm.

11. During the summer of 2003, Deloitte conducted an internal practice office review that included its San Diego practice office and selected one of the Engagement Partner's public company audits for review ("Engagement A"). Deloitte's personnel who conducted this review were critical of the Engagement Partner's work and relayed their concerns to the San Diego Office PPD, the Regional Audit Managing Partner and Deloitte's national office. Also in the summer of 2003, another of Deloitte's issuer audit clients that was assigned to the Engagement Partner ("Engagement B") was placed into Deloitte's Risk Management Program, which was administered by Deloitte's National Office Quality Assurance Group in Wilton, Connecticut.

12. By the fall of 2003, certain members of Deloitte's management were suggesting that the Engagement Partner be removed from his public company audit engagements. In a meeting in or around October 2003, the San Diego Audit Managing Partner informed the Engagement Partner of the concerns about his work. Nevertheless, Deloitte allowed the Engagement Partner to remain in charge of the Ligand engagement until May 2004, without any significant additional supervision or resources.

13. In February 2004, a partner responsible for Deloitte's risk management program (the "Risk Management Partner") communicated certain concerns about the Engagement Partner's work on Engagement B directly to the Regional Audit Managing Partner. Shortly after this communication, the Regional Audit Managing Partner reported the Risk Management Partner's concerns to the National Audit Managing Partner. The Regional Audit Managing Partner also communicated these concerns to the San Diego Audit Managing Partner, who in turn informed the Engagement Partner

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that he was perceived as a quality risk and counseled the Engagement Partner to resign from the firm.

14. On March 5, 2004, the San Diego Audit Managing Partner and the Regional Audit Managing Partner met with the Engagement Partner. The Regional Audit Managing Partner drafted an e-mail message to the National Audit Managing Partner summarizing the discussion at the meeting and efforts underway to counsel the Engagement Partner to resign from the firm and the reasons for doing so. Among the reasons given were the views of certain members of Deloitte's management that the Engagement Partner did not have the skills to adequately supervise public company engagements and other engagements with above-average risk profiles, and that the Engagement Partner was not suited to handling complex or risky engagements. The Regional Audit Managing Partner recommended that the National Audit Managing Partner consider an arrangement under which the firm would immediately begin to transition the Engagement Partner's clients and the Engagement Partner would resign from the firm.

15. PCAOB quality control standards emphasize the "significant responsibilities" of individuals who are responsible for supervising audit engagements and signing or authorizing the issuance of audit reports.[6/] PCAOB quality control standards further require firms to establish policies and procedures that "provide reasonable assurance that a practitioner-in-charge of an engagement possesses the competencies necessary to fulfill his or her engagement responsibilities."[7/] Deloitte's

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[6/] QC § 40.03, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement* (in light of such "significant responsibilities," firm's policies and procedures "should be designed to provide a firm with reasonable assurance that such individuals possess the kinds of competencies that are appropriate given the circumstances of individual client engagements"); see also QC § 40.08 ("such skills would typically include the ability to exercise professional skepticism and identify areas requiring special consideration including, for example, the evaluation of the reasonableness of estimates and representations made by management and the determination of the kind of report necessary in the circumstances.")

[7/] QC § 40.06; see also QC § 20.13, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* (policies and procedures should provide "reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances.")

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quality control system did not function effectively to cause the 2003 Ligand audit to be appropriately staffed and led by a practitioner-in-charge with the necessary competencies. As a result, despite the conclusions reached by Deloitte's management personnel about the Engagement Partner's competence and proficiency as an auditor, Deloitte left the Engagement Partner in charge of the 2003 Ligand audit without taking appropriate steps to assure that the audit was performed in accordance with applicable PCAOB rules and professional standards.[8/]

Deloitte Failed to Comply With PCAOB Auditing Standards in Performing the Audit of Ligand's Financial Statements for 2003

16. Under PCAOB auditing standards, an auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[9/] Among other things, these standards require that an auditor exercise due professional care, exercise professional skepticism, obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements and evaluate subsequent events.[10/] Deloitte failed to comply with these standards in connection with the 2003 Ligand audit.[11/]

17. Ligand's public filings disclosed that, at times relevant to this matter, the Company sold most of its products to three large wholesalers, who in turn sold the

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[8/] Deloitte performed a concurring partner review of the 2003 Ligand audit. But this concurring partner review was not sufficient under the circumstances to provide the firm with reasonable assurance that its personnel complied with PCAOB standards.

[9/] See AU § 508.07, *Reports on Audited Financial Statements*.

[10/] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 326, *Evidential Matter*; AU § 560, *Subsequent Events*; AU § 561, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*.

[11/] See *In the Matter of James L. Fazio, CPA*, PCAOB Release No. 105-2007-006 (December 10, 2007) for related findings concerning failures to comply with PCAOB standards in connection with the 2003 Ligand audit.

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product to their customers, including retail outlets such as pharmacies and prescribing facilities such as hospitals. In its 2003 financial statements, Ligand disclosed that it recognized revenue upon product delivery, net of allowances for, among other things, product returns. To evaluate whether Ligand's recognition of revenue upon product delivery complied with GAAP, Deloitte was required to assess, among other things, whether Ligand had the ability to make reasonable estimates of future product returns. Without this ability, companies that sell products with a right of return cannot, consistent with GAAP, recognize revenue from these sales until the right of return substantially expires or a reasonable estimate of the returns can be made.[12/]

18. As documented in the audit work papers, Deloitte assessed the engagement risk for the 2003 Ligand audit as greater than normal "due to events related to product sales and sales returns."[13/] Deloitte's audit personnel planned to perform "focused procedures" and to increase their professional skepticism to address this risk. As described below, Deloitte's audit personnel either failed to perform certain of the planned procedures or performed them without the due care and professional skepticism required by PCAOB standards.

19. Various factors, such as the newness of a product, lack of actual return history, limited visibility into distribution channels, and significant increases in or excess levels of inventory in a distribution channel, may impair an issuer's ability to make reasonable estimates of future product returns.[14/] In Ligand's case, Deloitte's audit personnel documented the existence of each of these factors but did not adequately analyze whether they impaired Ligand's ability to make reasonable estimates of returns.

20. In addition, Deloitte's audit personnel failed adequately to evaluate the reasonableness of Ligand's product return estimates.[15/] Certain procedures planned to

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[12/] See Statement of Financial Accounting Standards ("SFAS") No. 48, *Revenue Recognition When Right of Return Exists* ¶ 6; Codification of SEC Staff Accounting Bulletins ("SAB"), Topic 13.A.4(b), Question 5.

[13/] Deloitte's written policies and procedures required engagement risk to be assessed annually as "Normal," "Greater than normal," or "Much greater than normal."

[14/] See SFAS No. 48 at ¶ 8; SAB Topic 13.A.4(b) Question 1, 4.

[15/] See AU § 342.04, *Auditing Accounting Estimates*.

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evaluate the reasonableness of Ligand's estimates of future returns were not performed, were not performed with the due care and professional skepticism required by PCAOB standards, or generated audit evidence suggesting that Ligand's estimates of future returns were not reasonable. Deloitte's audit personnel did not adequately address the significant disparities between historical actual returns and Ligand's estimate of future returns. They also failed to compare Ligand's prior return estimates with subsequent results,[16/] even though this procedure was part of the audit plan and the audit work papers showed that Ligand had consistently and substantially underestimated its product returns. The audit plan provided for the evaluation of subsequent events to be performed before the audit report was issued. But the evaluation performed by Deloitte's audit personnel failed adequately to consider returns through completion of the audit.[17/]

21. According to the audit work papers, when Ligand learned in 2002 that one of its wholesalers was holding product nearing expiration and intended to make substantial returns, Ligand agreed to replace the returned product with new product at no additional charge. The work papers reflect that similar incidents occurred during 2003 and that Ligand's position was that it would replace product held by wholesalers that was approaching expiration with new product having a later expiration date (Ligand's "Replacement Policy"). According to the work papers, returns from such transactions during 2002 and 2003 totaled more than $17 million, or ten percent of the net product sales revenue Ligand originally reported during the same period. Deloitte's audit personnel understood that Ligand that did not treat such transactions as returns in

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[16/] See AU § 316.64, *Consideration of Fraud in a Financial Statement Audit (*auditor "should perform a retrospective review of significant accounting estimates reflected in the financial statements of the prior year to determine whether management judgments and assumptions relating to the estimates indicate possible bias…."); AU § 342.09 ("The auditor normally should consider the historical experience of the entity in making past estimates…."); AU § 342.06e ("Comparison of prior accounting estimates with subsequent results to assess the reliability of the process used to develop estimates" is a relevant aspect of internal control).

[17/] If events occurring after the balance sheet date, but prior to the issuance of the financial statements, provide additional evidence about conditions that existed at the balance sheet date and affect the estimates inherent in the process of preparing the financial statements, an auditor must evaluate the information. See AU § 560.02-.03, *Subsequent Events*.

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accordance with SFAS No. 48[18/] and did not reduce revenue recognized at the time of sale by an estimate of future returns from such transactions.[19/] Deloitte's audit personnel failed to identify and appropriately address this apparent departure from GAAP.[20/]

22. GAAP provides that "all significant accounting policies of the reporting entity should be included as an integral part of the financial statements."[21/] In particular "the disclosure should encompass important judgments as to appropriateness of principles relating to recognition of revenue," those principles "peculiar to the industry," and "unusual or innovative applications of [GAAP]."[22/] Ligand did not disclose its Replacement Policy in its financial statements. Even if Deloitte's audit personnel had properly concluded that Ligand's Replacement Policy and related accounting was consistent with GAAP, PCAOB standards required them to consider whether Ligand was required to disclose the policy in its financial statements, which they failed to do.[23/]

23. In April 2004, during Deloitte's interim review of Ligand's financial statements for the first quarter of 2004, Deloitte's audit personnel were informed that

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[18/] With certain exceptions not relevant here, SFAS No. 48 applies to, among other things, sales in which a product may be returned in exchange for other products. See SFAS No. 48 at ¶ 3.

[19/] See SFAS No. 48 at ¶ 7.

[20/] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Commission has considered or made any determination concerning the issuer's compliance with GAAP.

[21/] APB No. 22, *Disclosure of Accounting Policies*, at ¶ 8.

[22/] Id. at ¶ 12.

[23/] See AU § 431, *Adequacy of Disclosure in Financial Statements*.

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Ligand had experienced significant, unexpected product returns during the period and that one or more wholesalers were returning a significant amount of product that was not included in the distribution channel data relied upon during the audit. PCAOB standards required Deloitte to consider whether this information would have affected the audit report had Deloitte known about it at the report date and whether persons currently relying or likely to rely on the financial statements would attach importance to the information.[24/] Deloitte's audit personnel did not address this issue adequately, relying on an analysis that was known to be incomplete, and inappropriately relying on management representations to conclude that Ligand's failure to make reasonable estimates of product returns did not cause Ligand's 2003 financial statements to be materially misstated.

IV.

24. Deloitte has represented to the Board that, since the events described in this Order, it has established and implemented the following changes to its quality control policies and procedures for identifying and addressing potential audit quality concerns regarding the performance and deployment of audit partners and directors:

a. Deloitte has established a Leadership Oversight Committee, consisting of senior members of its audit practice and firm leadership to address at the national office level deployment and supervision issues relating to audit partners and directors about whom quality or other audit performance concerns have been identified through Deloitte's quality control procedures or otherwise. This Committee has the responsibility and the authority to subject personnel to special oversight of their audit work, to refer individuals for counseling or additional training, to restrict individuals from serving audit clients in specific capacities (including, if necessary, to restrict the individual from performing any audits), or to seek an individual's separation from the Firm.

b. Deloitte also has changed its policies and procedures for initially identifying audit performance issues with audit partners and directors in an effort to better assure that potential audit quality issues will be brought to

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[24/] See AU § 561.05, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*. If, after considering these two factors, an auditor concludes that action should be taken to prevent future reliance on the audit report, the auditor should take certain additional steps. See AU § 561.06-.09.

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the attention of the leadership of its audit practice and the Leadership Oversight Committee on a timely basis. Among other things Deloitte has made changes to its quality ratings system for audit partners and directors and has taken steps to further centralize its internal inspection program at the national office level.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Deloitte is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000,000 is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Deloitte shall pay this civil money penalty within 10 days of the issuance of this Order by (a) United States postal money order, certified check, bank cashier's check or bank money order; (b) made payable to the Public Company Accounting Oversight Board; (c) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (d) submitted under a cover letter which identifies Deloitte & Touche LLP as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: J. Gordon Seymour, General Counsel and Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Deloitte shall maintain records in sufficient detail to describe its quality control policies and procedures for identifying and addressing potential audit quality concerns with regard to the performance and deployment of its audit partners and directors as described in paragraph 24 above and to

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evidence the application of such policies and procedures and the results thereof, including the nature of such concerns, the actions taken to address such concerns and the names of the affected individuals (which records will be available to the Board in response to any request made pursuant to the Board's authority under Section 104 or Section 105 of the Act).

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

_____

J. Gordon Seymour
Secretary

December 10, 2007

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Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of James L. Fazio, CPA,* *Respondent.*	PCAOB Release No.105-2007-006 December 10, 2007

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is barring James L. Fazio ("Respondent") from being an associated person of a registered public accounting firm.[1/] The Board is imposing this sanction on the basis of its findings concerning Respondent's violations of PCAOB rules and auditing standards in auditing the 2003 financial statements of one issuer client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

[1/] Fazio may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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III.

On the basis of Respondent's Offer and information obtained by the Board in this matter, the Board finds[2/] that:

A. Respondent

1. Fazio, 46, of San Diego, California, is a certified public accountant licensed by the California Board of Accountancy (Certificate No. CPA 51182). At all relevant times, he was a partner in the San Diego, California office of the registered public accounting firm of Deloitte & Touche LLP ("Deloitte") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondent Failed to Comply with Certain PCAOB Auditing Standards in Auditing the Financial Statements of Ligand Pharmaceuticals Incorporated for 2003

Summary

2. This matter concerns Respondent's failure to perform appropriate and adequate audit procedures related to the revenue reported by Ligand Pharmaceuticals Incorporated ("Ligand" or "the Company") with respect to sales of products for which a right of return existed, and his failure to supervise others adequately to ensure the performance of such procedures. Respondent neither performed nor ensured the performance of procedures that adequately took into account the existence of various factors indicating that Ligand's ability to make reasonable estimates of product returns may have been impaired, such as Ligand's limited historical return experience, Ligand's limited visibility into its distribution channels, and periodic significant increases in, or

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[2/] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in these or any other proceedings. The sanction that the Board is imposing in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A), which provides that such sanctions may be imposed in the event of "intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard."

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excess levels of product in, Ligand's distribution channels. Moreover, in evaluating the reasonableness of Ligand's estimates of future returns, Respondent neither performed nor ensured the performance of procedures that adequately took into account the extent to which Ligand had consistently and substantially underestimated its product returns. In auditing Ligand's reported revenue, Respondent failed to evaluate these factors with the due care and professional skepticism required under the circumstances. He also did not identify and appropriately address issues concerning Ligand's policy of excluding certain types of returns from its estimates of future returns and the adequacy of Ligand's disclosure of this accounting policy.[3/]

The 2003 Ligand Audit

3. Ligand is a Delaware corporation based in San Diego. Its common stock is registered with the Securities and Exchange Commission ("Commission") under Section 12(b) of the Securities Exchange Act of 1934 and is listed on the NASDAQ Stock Market LLC. Ligand's public filings disclose that, at all times relevant to this matter, it was in the business of discovering, developing, and marketing pharmaceutical drugs. At all relevant times, Ligand was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. Deloitte was Ligand's independent auditor from October 31, 2000, until it resigned effective August 5, 2004. Respondent was the engagement partner for each of Deloitte's audits and reviews of Ligand's financial statements through the quarter ended March 31, 2004. In an audit report dated March 10, 2004, Deloitte expressed an unqualified opinion on Ligand's consolidated balance sheets as of December 31, 2003 and 2002, and the related consolidated statements of operations, stockholders' equity

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[3/] More than a year after the 2003 Ligand audit, Ligand announced that it would restate its financial statements for 2003 and other periods because its recognition of revenue from product sales upon shipment was not in accordance with GAAP. See Ligand's Form 8-K, filed May 20, 2005, at Exhibit 99.1. In restating for 2003, Ligand recognized approximately $59 million less in revenues from product sales than originally reported (a decrease of approximately 52 percent), and reported a net loss more than 2.5 times the net loss originally recognized in that year. See Ligand's Form 10-K for the year ending December 31, 2004, filed November 18, 2005, which reflects adjustments for earlier periods. At the same time, Ligand restated the revenues and net loss reported in its 2002 financial statements, which Respondent had also audited, and in quarterly reports in 2003 and 2004, which Respondent had reviewed.

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(deficit), and cash flows for each of the three years in the period ended December 31, 2003. Deloitte's audit report stated that the Company's financial statements presented fairly, in all material respects, the Company's financial position in conformity with U.S. generally accepted accounting principles ("GAAP"). Respondent led Deloitte's audit engagement team, had final responsibility for the audit as that phrase is used in AU § 311, *Planning and Supervision,* and authorized the issuance of the March 10, 2004, audit report.

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with the Board's auditing standards.[4/] Under these standards, an auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[5/] Among other things, these standards require that an auditor exercise due professional care, exercise professional skepticism, obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements, evaluate subsequent events, and supervise assistants.[6/] Respondent failed to comply with these standards in connection with the audit on which the March 10, 2004, audit report was based (the "2003 Ligand audit").

6. At the time of the 2003 Ligand audit, Deloitte's written policies and procedures required engagement risk to be assessed annually as normal, greater than normal, or much greater than normal. The engagement team assessed the engagement risk for the 2003 Ligand audit as greater than normal. As documented in the audit work papers, the elevated risk assessment was "due to events related to product sales and sales returns." Among other things, the engagement team noted that in some instances management's estimates regarding sales returns and reserves had not been sufficient to cover the actual returns that were processed. In response to the elevated risk, the written audit plan called for the engagement team to perform "focused

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[4/] See PCAOB Rules 3100, 3200T.

[5/] See AU § 508.07, *Reports on Audited Financial Statements*.

[6/] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 311, *Planning and Supervision*; AU § 326, *Evidential Matter*; AU § 560, *Subsequent Events*; AU § 561, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*.

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procedures" and increase their professional skepticism to address the specifically identified risk associated with Ligand's estimates of future returns. In several respects, however, Respondent failed to perform necessary audit procedures adequately or to ensure that they were adequately performed by others under his supervision.

Respondent Did Not Adequately Assess Whether Ligand Had the Ability to Reasonably Estimate Future Product Returns

7. According to Ligand's public filings, in 1999 and 2000 Ligand began selling four oncology products: ONTAK, Panretin Gel ("P-Gel"), Targretin Capsules ("T-Caps"), and Targretin Gel ("T-Gel"). Ligand began selling a fifth product, a pain medication called AVINZA, in the second quarter of 2002. Ligand sold most of its products to three large wholesalers, who in turn sold the product to hospitals, pharmacies, and other retailers. Ligand's 2003 financial statements disclosed that it recognized revenue upon product delivery, net of allowances for, among other things, product returns.

8. To evaluate whether Ligand's recognition of revenue upon product delivery complied with GAAP, Respondent needed to assess, among other things, whether Ligand had the ability to make reasonable estimates of future product returns. Without this ability, companies that sell products with a right of return cannot, consistent with GAAP, recognize revenue from these sales until the right of return substantially expires or a reasonable estimate of the returns can be made.[7/] Various factors, such as the newness of a product, lack of actual return history, limited visibility into distribution channels, and significant increases in or excess levels of inventory in a distribution channel, may impair an issuer's ability to make reasonable estimates of future product returns.[8/] In Ligand's case, Respondent was aware of the existence of each of these factors but did not adequately analyze whether they impaired Ligand's ability to make reasonable estimates of returns. Consequently, Respondent did not have a sufficient basis to support the conclusion that Ligand's recognition of revenue upon product delivery was appropriate.

[7/] See Statement of Financial Accounting Standards ("SFAS") No. 48, *Revenue Recognition When Right of Return Exists* ¶ 6; Codification of SEC Staff Accounting Bulletins ("SAB"), Topic 13.A.4(b), Question 5.

[8/] See SFAS No. 48 at ¶ 8; SAB Topic 13.A.4(b) Question 1, 4.

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9. First, Respondent knew Ligand had little historical experience upon which to base estimates of future returns. For example, Ligand did not begin receiving returns on its 2002 initial AVINZA shipments until the third quarter of 2003, and these AVINZA lots[9/] were not closed to returns until April 2004. Ligand also had limited historical return data for its oncology products. As of December 31, 2003, Ligand had complete return data for only a small number of closed lots for each oncology product.[10/]

10. Second, Respondent knew that Ligand had limited visibility into its distribution channels at all times relevant to the 2003 Ligand audit. For example, according to the audit work papers, Ligand experienced episodes of significant unexpected product returns in 2002 and 2003. Ligand attributed its failure to have anticipated those returns to incomplete or inaccurate data about the quantity and expiration dates of product not yet sold to end users and therefore remaining in its distribution channels.[11/]

11. Third, Respondent was aware of periodic significant increases in, and excess levels of product in, Ligand's distribution channels. Ligand regularly announced price increases in advance and offered wholesalers payment and other incentives before these increases took effect. This practice resulted in significant increases of product levels in Ligand's distribution channels at the end of Ligand's quarterly financial reporting periods. For example, the audit work papers show that during the fourth quarter of 2003, Ligand recorded gross product sales of $1.1 million, $3.3 million, and $43.4 million for the months of October, November, and December, respectively. Similar patterns were evident from prior period work papers. In addition, according to

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9/ Ligand manufactured its products in lots, with each lot constituting product that was manufactured at the same time and that shared the same expiration date.

10/ Ligand generally shipped its products at least 12 months before expiration. Ligand generally permitted returns during a period beginning three or six months before the expiration date, depending on the product, and ending six months after the expiration date. As used in this Order, the term "closed lot" refers to a lot for which the return period had ended.

11/ As early as 2002, a Deloitte partner assigned to the Ligand audits in an advisory role informed Respondent and others that an analysis of the expiration date(s) of wholesalers' inventories was essential for Ligand to make a reasonable estimate of future product returns.

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the audit work papers, Ligand's policy was to maintain a six month's supply of inventory in its distribution channels. But Respondent had available to him information indicating that in many instances Ligand's distributors had more than six months' supply of product on hand, and in some instances, more than one year's supply.[12/] Respondent requested and received from Ligand explanations for Ligand's excess levels of channel inventory, but he improperly relied on these explanations without performing other audit procedures sufficient to evaluate them.[13/]

Respondent Did Not Adequately Evaluate the Reasonableness of Ligand's Estimates of Future Returns

12. Even if Ligand's policy of recognizing revenue upon product delivery had been consistent with GAAP, Respondent still needed to evaluate the appropriateness of the amount of revenue that Ligand recognized. When Ligand recognized the revenue on these transactions, GAAP required Ligand to accrue costs or losses that it expected in connection with returns and to reduce reported sales revenue and cost of sales to reflect the estimated returns.[14/] Accordingly, Respondent needed to evaluate the reasonableness of Ligand's return estimates, among other things, to assess the appropriateness of Ligand's reported revenue.[15/]

13. Under PCAOB standards, an auditor is responsible for, among other things, evaluating the reasonableness of accounting estimates made by management in the context of the financial statements taken as a whole,[16/] which normally should

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[12/] In fact, the amount of product in Ligand's distribution channels was significantly more than that reflected in the information Ligand's management made available to Respondent at the time of the 2003 Ligand audit. See ¶ 18 below.

[13/] PCAOB standards provide that "representations from management are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit." AU § 333.02, *Management Representations.*

[14/] See SFAS No. 48, at ¶ 7.

[15/] See AU § 342.04, *Auditing Accounting Estimates*.

[16/] See id.

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include consideration of the issuer's historical experience in making past estimates.[17/] Respondent planned audit procedures to evaluate the reasonableness of Ligand's return estimates. Respondent failed to assure, however, that these procedures were performed with the due care and professional skepticism required by PCAOB standards, and he failed to assure that certain procedures were performed at all. The procedures that were performed generated audit evidence suggesting that Ligand's estimates of future returns were not reasonable, but, as described below, Respondent did not adequately analyze or follow up on that evidence.

14. The audit work papers indicate that in 2003, Ligand's estimates of future returns for its products at the time of sale ranged from 1.5 percent to five percent of gross sales, but the work papers also indicate that Ligand in fact experienced significantly higher actual return rates. For example, as of December 31, 2003, Ligand had experienced a 12 percent overall return rate on closed lots of T-Caps (with returns for individual closed lots ranging from three percent to 41 percent) and a 25 percent overall return rate on closed lots of T-Gel (with returns for individual closed lots ranging from seven percent to 54 percent). As of December 31, 2003, no AVINZA lots were yet closed to returns, but the audit work papers reflected that Ligand had already experienced a 13 percent overall return rate on AVINZA (with returns for one lot exceeding 20 percent), well above Ligand's initial 2.5 percent estimate of future returns. Despite this historical experience, in the fourth quarter of 2003 Ligand reduced its returns estimates for recently sold lots of AVINZA from 2.5 percent to 1.5 percent[18/] and reduced its estimate of future returns for one of its three open T-Gel lots from 16 percent to three percent.[19/]

[17/] See AU § 342.09 ("The auditor normally should consider the historical experience of the entity in making past estimates…."); AU § 342.06e ("Comparison of prior accounting estimates with subsequent results to assess the reliability of the process used to develop estimates" is a relevant aspect of internal control).

[18/] This change, standing alone, resulted in a reduction of Ligand's returns reserve equal to approximately 11 percent of Ligand's originally reported net income for the fourth quarter of 2003.

[19/] This change, standing alone, resulted in a reduction of Ligand's returns reserve equal to approximately 10 percent of Ligand's originally reported net income for the fourth quarter of 2003.

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15. On various occasions the engagement team requested and received from Ligand explanations for why actual return rates on certain lots were so much higher than estimates of future returns. Some of these explanations were documented in the work papers, in some cases along with other contradictory audit evidence. Respondent improperly relied on these explanations without adequate investigation.[20/]

16. Although Respondent's audit plan for the 2003 Ligand audit provided for the performance of a "retrospective review" of prior period estimates, the engagement team did not perform this procedure.[21/] Respondent did not adequately address whether Ligand's estimates of future returns were reasonable in light of the actual product returns experienced. Respondent also failed to address incomplete and contradictory data about product returns that appeared in the audit work papers. For example, the audit work papers include an analysis by Ligand of the balance accrued for future returns as of December 31, 2003, that reflected December sales of AVINZA but did not reflect any December returns of the product. In addition, the audit work papers include a lot-by-lot analysis by Ligand of its December 2003 return reserve that reflected significantly lower actual returns (through November 2003) for three AVINZA lots than the supporting data contained in the audit work papers.

17. In addition, Respondent failed to evaluate adequately certain events that occurred after the December 31, 2003, balance sheet date, but before the issuance of the audit report, that provided additional evidence concerning the estimates of future

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[20/] PCAOB standards provide, "If a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made. Based on the circumstances, the auditor should consider whether his or her reliance on management's representations relating to other aspects of the financial statement is appropriate and justified." AU § 333.04, *Management Representations.* See also AU § 333.02, supra note 13.

[21/] AU § 316.64, *Considerations of Fraud in a Financial Statement Audit*, states that an auditor "should perform a retrospective review of significant accounting estimates reflected in the financial statements of the prior year to determine whether management judgments and assumptions relating to the estimates indicate a possible bias…."

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returns.[22/] Ligand's actual returns data for January and February 2004, which were available before the March 10, 2004, issuance of the audit report, showed that by the end of February 2004 Ligand had already exceeded the December 31, 2003, accruals for future returns from 20 of 26 lots that were open for returns at year-end.[23/] Respondent, however, failed to assure that appropriate procedures to evaluate subsequent events were performed before the audit report was issued, even though the written audit plan specifically called for the performance of such procedures.

Respondent Did Not Adequately Address the Subsequent Discovery of Facts Existing at the Date of the Auditor's Report

18. In April 2004, during Deloitte's interim review of Ligand's financial statements for the first quarter of 2004, Respondent had available to him information about the significant January and February 2004 product returns described above. He also learned that one or more wholesalers were returning a significant amount of AVINZA that was not included in the distribution channel data relied upon during the audit. PCAOB standards required Respondent to consider whether this information would have affected the audit report had Respondent known about it at the report date and whether persons currently relying or likely to rely on the financial statements would attach importance to the information.[24/] As described below, Respondent did not address this issue adequately.

[22/] If events occurring after the balance sheet date provide additional evidence about conditions that existed at the balance sheet date and affect the estimates inherent in the process of preparing the financial statements, an auditor must evaluate the information. See AU § 560.02-.03, *Subsequent Events*.

[23/] In January and February alone, returns of each of the initial 2002 lots of AVINZA exceeded the initial 2.5 percent estimate, and for one lot, were as high as nine percent. January and February returns of a single T-Gel lot, which were estimated at 3 percent as of December 31, 2003, totaled 21 percent.

[24/] See AU § 561.05, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*. If, after considering these two factors, an auditor concludes that action should be taken to prevent future reliance on the audit report, the auditor should take certain additional steps. See AU § 561.06-.09.

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19. During Deloitte's interim review of Ligand's financial statements for the first quarter of 2004, the engagement team performed a retrospective review to assess the adequacy of the December 31, 2003, returns reserve. According to the work papers documenting this procedure, the engagement team "compared the sum of total returns as of 12/31/03 and estimated future returns as of 12/31/03, by product, to total returns [actually received] as of 3/31/04 for lots without any shipments in Q1." Based on this retrospective review, Respondent concluded that Ligand was under-reserved for product returns by $520,190, comprised of an under-reserve of $1,376,716 for AVINZA and an over-reserve of $856,526 for the oncology products. This analysis, however, was significantly flawed.

20. According to the audit work papers, the engagement team's retrospective review assumed Ligand would receive no additional returns after March 31, 2004, for the lots reviewed, even though other audit work papers reflected that Ligand was, at the time of the retrospective review, projecting $1,381,245 in post-March 31 returns for these same lots. Although the work papers acknowledged the impact of this assumption on the retrospective review, Respondent inappropriately relied on this assumption in reaching his conclusions. The work papers also reflect, without explanation, that the retrospective review excluded available information about certain product lots for which Ligand received significant returns during the first quarter of 2004. The returns received from the excluded lots and the post-March 31 returns Ligand was then projecting appeared elsewhere in the work papers. Had the retrospective review reflected this information, it would have shown that Ligand's returns reserve as of December 31, 2003, was understated not by $520,190 but rather by more than $3.1 million. The larger amount was equal to 66 percent of Ligand's returns reserve as of December 31, 2003. It equaled approximately 53 percent of Ligand's originally reported net income for the fourth quarter of 2003 and approximately 8.5 percent of its originally reported net loss for the year.

21. Moreover, even with respect to Respondent's inadequately supported conclusion that the extent of Ligand's under-reserve for product returns was $520,190, Respondent did not take appropriate further steps. Instead, Respondent relied on Ligand's representations that it had approximately $500,000 in other unused reserves that largely offset the under-reserve for product returns. On this basis, Respondent concluded that the under-reserve for product returns did not cause Ligand's 2003 financial statements to be materially misstated.

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Respondent Did Not Identify and Appropriately Address Issues Concerning Ligand's Exclusion of Certain Types of Returns from its Estimates of Future Returns

22. According to the audit work papers, when Ligand learned in 2002 that one of its wholesalers intended to make substantial returns, Ligand agreed to replace the returned product with new product at no additional charge. The work papers reflect that similar incidents occurred during 2003 and that Ligand's position was that it would replace product held by wholesalers that was approaching expiration with new product having a later expiration date. Returns from such transactions during 2002 and 2003 combined totaled more than $17 million, or ten percent of the net product sales revenue Ligand originally reported during the same period. Ligand did not treat such transactions as returns in accordance with SFAS No. 48[25/] and did not reduce revenue recognized at the time of sale by an estimate of future returns from such transactions.[26/] Respondent failed to identify and appropriately address this apparent departure from GAAP.[27/]

23. In addition, Ligand did not disclose its accounting policy concerning such transactions in its financial statements. GAAP provides that "all significant accounting policies of the reporting entity should be included as an integral part of the financial statements."[28/] In particular "the disclosure should encompass important judgments as

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[25/] With certain exceptions not relevant here, SFAS No. 48 applies to, among other things, sales in which a product may be returned in exchange for other products. See SFAS No. 48 at ¶ 3.

[26/] See SFAS No. 48 at ¶ 7.

[27/] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Commission has considered or made any determination concerning the issuer's compliance with GAAP.

[28/] APB No. 22, *Disclosure of Accounting Policies*, at ¶ 8.

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to appropriateness of principles relating to recognition of revenue," those principles "peculiar to the industry," and "[u]nusual or innovative applications of [GAAP]."[29/] Even if Respondent had properly concluded that Ligand's replacement policy and related accounting was consistent with GAAP, PCAOB standards required Respondent to consider whether Ligand was required to disclose the policy in its financial statements.[30/] Respondent failed to do so.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), James L. Fazio is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

B. After two years from the date of this Order, Mr. Fazio may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

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J. Gordon Seymour
Secretary

December 10, 2007

29/ Id. at ¶ 12.

30/ See AU § 431, *Adequacy of Disclosure in Financial Statements*.

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Ann Marie Fitzpatrick, CPA,* *Respondent.*	PCAOB Release No. 105-2007-007 December 14, 2007

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Ann Marie Fitzpatrick, CPA. The Board is imposing this sanction on the basis of its findings concerning Respondent's violations of PCAOB rules and standards in connection with alterations of audit documentation relating to one audit.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Ann Marie Fitzpatrick ("Fitzpatrick" or "Respondent").

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over her and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

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III.

On the basis of Respondent's Offer and information obtained by the Board in this matter, the Board finds[1/] that:

A. Respondent

1. Fitzpatrick, 36, of Vorhees, New Jersey, is a certified public accountant licensed by the Pennsylvania State Board of Accountancy (license no. CA034382L). At all times relevant to these proceedings, Fitzpatrick was an audit manager in the Philadelphia, Pennsylvania office of BDO Seidman, LLP ("BDO"), a registered public accounting firm, and an associated person of BDO, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). She voluntarily resigned from BDO in February 2006.

B. Respondent Violated PCAOB Auditing Standard No. 3

2. In the late fall of 2004, Fitzpatrick was assigned as the manager for BDO's audit of the financial statements of Hemispherx Biopharma, Inc. ("Hemispherx") for the fiscal year ("FY") ended December 31, 2004. At all times relevant to these proceedings, Hemispherx, a Delaware corporation whose common stock is registered with the United States Securities and Exchange Commission ("Commission") under Section 12(b) of the Securities Exchange Act of 1934, was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

3. Fitzpatrick was assigned to the Hemispherx FY 2004 audit by the BDO partner in charge of that engagement (the "Engagement Partner"). At all times relevant to these proceedings, the Engagement Partner was a partner in BDO's Philadelphia office, where he also served as the Practice Office Assurance Director. In the latter role, the Engagement Partner was responsible for, among other things, providing technical guidance to other partners and managers on audit engagements, coordinating the office's quality control activities, and overseeing the scheduling and assignment of audit personnel to audit engagements. At all times relevant to these proceedings, the Engagement Partner also directly supervised most of the audit managers and senior

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[1/] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

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managers in the Philadelphia office, including Fitzpatrick. He also influenced promotion decisions affecting managers and other Philadelphia office audit personnel.

4. After Fitzpatrick completed the planning phase of the Hemispherx FY 2004 audit, the Engagement Partner directed her to cease all work on that audit so that she could concentrate her efforts on another larger engagement also supervised by the Engagement Partner. Following the Engagement Partner's direction, Fitzpatrick stopped all work on the Hemispherx audit. After Fitzpatrick ceased working on the engagement, she neither supervised nor reviewed any of the work performed by more junior members of the engagement team. The field work on the Hemispherx audit was completed by an audit senior without the supervision of an audit manager.

5. In the absence of an audit manager on the engagement, the work performed by the audit senior and other BDO staff was never subjected to a detailed review as required by BDO policy. For public audit engagements, BDO's Assurance Manual and Quality Control ("QC") Manual required, among other things, that a detailed review be completed before the audit report is released. The detailed review, which was required to include a review of all work papers, was intended to, among other things, ensure compliance with PCAOB auditing standards, generally accepted accounting principles, and BDO policies. The detailed review was required to be performed by either the engagement partner or manager provided that he or she does not review work that is primarily his or her own.

6. The Engagement Partner authorized issuance of BDO's audit report on Hemispherx's FY 2004 financial statements on March 16, 2005, and that report was included with the company's Form 10-K filed that day with the Commission. Thereafter, the audit senior on the engagement assembled a final set of audit documentation for retention and caused the audit documentation to be archived on or about May 1, 2005. At the time the audit senior completed the archiving, however, neither Fitzpatrick, nor the Engagement Partner, nor anyone else had done the detailed review required by BDO's policy, nor had Fitzpatrick initialed or signed the work papers to indicate that a detailed review had occurred.

7. BDO's Philadelphia office was scheduled for a weeklong internal inspection of selected audit engagements beginning on Monday, August 15, 2005. The inspection was pursuant to BDO QC policies and procedures requiring formal inspections ("QC Inspections") of local office audit practices on a rotating basis The QC Inspections were conducted by a review team ("QC reviewers") consisting of BDO

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partners from other offices of the firm. The purposes of the QC Inspections were, among other things, to determine the quality of work performed, to assess compliance with PCAOB auditing standards, generally accepted accounting principles, and BDO policy, to correct any identified deviations, and to provide recommendations for improvement. This was accomplished by reviewing, on a sample basis, the work papers and reports of selected audit and other engagements.

8. On Thursday, August 11, 2005, the Engagement Partner learned that the Hemispherx FY 2004 financial statement audit was among the engagements selected for the QC Inspection. Fitzpatrick, who had been on vacation the previous week, returned to the office the morning of Monday, August 15, 2005, the first day of the QC Inspection. Soon after Fitzpatrick arrived, the Engagement Partner entered her office and directed her to initial and sign the Hemispherx FY 2004 financial statement audit work papers to indicate that she had performed a timely detailed review. Fitzpatrick at first protested that she could not sign off as the detailed reviewer because she did not perform the work and could not address questions and issues that might be raised by the QC reviewers. Ultimately, however, Fitzpatrick acceded to the Engagement Partner's direction and affixed her initials and signatures to the Hemispherx audit work papers, which had been tabbed to indicate where initials and signatures were missing. She backdated her initials and signatures to dates preceding the March 16, 2005 issuance of BDO's audit report.

PCAOB Auditing Standard No. 3

9. BDO's audit of Hemispherx's FY 2004 financial statements was subject to PCAOB Auditing Standard No. 3, *Audit Documentation* ("AS No. 3"). AS No. 3 requires auditors to "document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions."[2/] Audit documentation must clearly demonstrate that the work was in fact performed.[3/] Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and to

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[2/] AS No. 3, ¶ 6.

[3/] Id.

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determine who performed the work and the date such work was completed, as well as the person who reviewed the work and the date of such review.[4/]

10. AS No. 3 additionally provides that a complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (i.e., the "documentation completion date").[5/] In circumstances that may require additions to audit documentation after the report release date, "[a]udit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[6/]

11. In August 2005, three months after the Hemispherx FY 2004 audit work papers had been finalized for retention, Fitzpatrick, at the Engagement Partner's direction, altered the work papers by entering initials and signatures to falsely indicate that she had performed a timely detailed review. Fitzpatrick backdated her initials and signatures to dates preceding issuance of the audit report on March 16, 2005, failed to indicate that her initials and signatures were added in August 2005, and failed to explain why her initials and signatures were added in August 2005. This had the purpose and effect of leaving an experienced auditor, having no previous connection with the engagement (in this case, the BDO QC reviewer who reviewed the work papers in the course of a QC Inspection) with a false understanding of the nature, timing, and extent of the review procedures employed in the audit, and a false impression that Fitzpatrick had completed a timely detailed review of the work performed by more junior members of the engagement team. As a result of the foregoing, Fitzpatrick violated AS No. 3.

[4/] Id., ¶ 6.

[5/] Id., ¶ 15.

[6/] Id., ¶ 16.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanction agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that, pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Ann Marie Fitzpatrick, CPA is censured.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

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J. Gordon Seymour
Secretary

December 14, 2007

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Kantor, Geisler & Oppenheimer, P.A., Steven M. Kantor, CPA, and Thomas E. Sewell,* *Respondents.*	PCAOB Release No. 105-2007-009 December 14, 2007

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Kantor, Geisler & Oppenheimer, P.A. (formerly known as Kantor, Sewell & Oppenheimer, P.A.) and barring Thomas E. Sewell and Steven M. Kantor, CPA, from being associated persons of a registered public accounting firm.[1/] The Board is imposing these sanctions on the basis of its findings concerning the respondents' violations of PCAOB rules, PCAOB auditing standards and independence standards, and federal securities laws in connection with the audits of the financial statements of two issuer clients from 2003 to 2005.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Kantor, Geisler & Oppenheimer, P.A. (the "Firm" or "KGO"), Steven M. Kantor, CPA ("Kantor"), and Thomas E. Sewell ("Sewell") (collectively, "Respondents").

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party,

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[1/] Kantor may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers and information obtained by the Board in this matter, the Board finds[2/] that:

A. Respondents

1. Kantor, Geisler & Oppenheimer, P.A. (formerly known as Kantor, Sewell & Oppenheimer, P.A.) is a public accounting firm located in Hollywood, Florida. At all relevant times, KGO was licensed under the laws of the state of Florida to engage in the practice of public accounting (License No. AD63278).[3/] KGO is registered with the Board pursuant to Section 102 of the Act and Board rules.

2. Sewell, 63, was a partner in KGO with a 47.5 percent ownership interest at all relevant times. He was licensed under the laws of the state of Florida as a certified public accountant (License No. AC0003739) until September 2005 when his license was revoked.[4/] At all relevant times, he was an associated person of KGO as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

[2/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5)(A), which provides that such sanctions may be imposed in the event of "intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard."

[3/] KGO's license expired as of December 31, 2005.

[4/] In 2004, Sewell was convicted of conspiracy to commit mail fraud and for filing false tax returns. As a result of his involvement in a scheme leading to his conviction, which is unrelated to the findings of this Order, Sewell's CPA license was

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3. Kantor, 54, licensed under the laws of the state of Florida as a certified public accountant (License No. AC0016410), was, at all relevant times, a partner in KGO with a 47.5 percent ownership interest and an associated person of KGO as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Kantor served as KGO's managing partner during the relevant period.

B. Summary

4. This matter involves violations of the Board's independence and auditing standards as well as certain violations of the Exchange Act. Specifically, in connection with audits of the financial statements of IWT Tesoro Corporation, KGO and Sewell failed to comply with independence requirements (relating to investments), failed to perform or reasonably to ensure the performance of sufficient audit procedures related to reported fixed assets, and failed to identify or appropriately address a departure from generally accepted accounting principles ("GAAP") related to accounting for stock options issued to employees, and Kantor prepared false audit documentation. In connection with one audit of the financial statements of GeneThera, Inc., KGO and Sewell failed to comply with independence requirements (relating to prohibited activities) and failed to perform or reasonably to ensure the performance of sufficient audit procedures related to the client's reported fixed assets and its accounting for the forgiveness of a liability. KGO also violated Section 10A(b) of the Securities Exchange Act of 1934 ("Exchange Act")[5/] and PCAOB standards by failing to take certain steps when it became aware of information indicating that an illegal act by GeneThera may have occurred.

C. Respondents Violated PCAOB Rules and Professional Standards

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards, including independence standards.[6/] Under the Board's auditing standards, an auditor may

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suspended by the Florida Board of Accountancy on March 11, 2004 and revoked on September 30, 2005.

[5/] 15 U.S.C. § 78j-1.

[6/] See PCAOB Rules 3100, 3200T, 3600T.

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express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[7/] Among other things, those standards require that an auditor maintain independence from its clients, exercise due professional care, exercise professional skepticism, obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements, and prepare appropriate audit documentation.[8/] Section 10A(g) of the Exchange Act prohibits a registered public accounting firm from providing certain bookkeeping services for an audit client. Finally, Section 10A(b) of the Exchange Act and PCAOB standards require such a firm to take certain steps when it detects or otherwise becomes aware of information indicating that an illegal act may have occurred. As described below, each Respondent violated one or more of these requirements.

Audit of IWT Tesoro Corporation's Initial 2003 Financial Statements

6. IWT Tesoro Corporation ("IWT") is a Nevada corporation with business operations in Florida and elsewhere and executive offices in Connecticut. Its common stock is registered with the United States Securities and Exchange Commission ("Commission") under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and is dually quoted on the Pink Sheets and the OTC Bulletin Board. IWT's public filings disclose that its primary business is as a wholesale distributor of building materials, specifically ceramic tiles used for floor and wall coverings. At all relevant times, IWT was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

7. KGO was engaged as IWT's auditor beginning in December 2003. KGO issued an audit report dated January 23, 2004 that was included in IWT's Form 10-KSB filed with the Commission on March 30, 2004. The report indicated it was issued by an independent auditor, and it expressed an unqualified audit opinion on IWT's consolidated financial statements for 2003 and 2002. The report stated that IWT's

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7/ See AU § 508.07, *Reports on Audited Financial Statements*.

8/ See ET § 101.01, *Independence*; AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 326, *Evidential Matter*; AU § 339, *Audit Documentation* (applicable to the audits discussed in this Order, but subsequently superseded).

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financial statements presented fairly, in all material respects, IWT's financial position, results of operations, and cash flows in conformity with GAAP. In addition, the report stated that the audit was conducted in accordance with generally accepted auditing standards ("GAAS").[9/] Sewell was the engagement partner who had final responsibility for the audit.

Independence

8. PCAOB rules require registered public accounting firms and associated persons to comply with the Board's interim auditing standards and interim independence standards in connection with an audit, including standards that require independence from an audit client.[10/] Those standards provide, among other things, that independence is impaired when an individual participating on the engagement team has knowledge that a close relative, including a parent, has a financial interest in the client that is material to that relative.[11/]

[9/] Respondents were required to conduct the audit in accordance with the PCAOB's interim auditing standards pursuant to PCAOB Rule 3200T, which took effect on April 25, 2003. However, at the time Respondents performed the audit, the PCAOB's interim auditing standards were the same as GAAS as it existed on April 16, 2003, and, until PCAOB Auditing Standard No. 1 ("AS No. 1") took effect on May 24, 2004, it remained appropriate for auditors to refer to GAAS in their audit reports. Accordingly, although the reference to GAAS in KGO's audit report for IWT Tesoro Corporation was appropriate at the time, the standards pursuant to which the audit was required to be performed were PCAOB standards, and that is how they are referred to in this Order.

[10/] See PCAOB Rules 3100, 3200T (incorporating requirements of certain AICPA auditing standards as in existence on April 16, 2003, including AU § 220, *Independence*), and 3600T (incorporating requirements of certain AICPA independence standards as in existence on April 16, 2003, including ET § 101.01, *Independence*, and interpretations thereunder).

[11/] ET § 101.02 (Interpretation 101-1), *Application of the Independence Rules to Close Relatives*. As ET § 101.02 existed on April 16, 2003, "close relative" was a term defined (in ET § 92.04) to encompass, among other things, a parent.

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9. At the time of KGO's audit of IWT's 2003 financial statements, Sewell's mother owned IWT common stock and warrants to purchase IWT's common stock. Sewell knew of his mother's IWT holdings and that they were material to her. Sewell exercised administrative control over the purchase of the IWT securities before the commencement of the 2003 audit and over the ultimate disposition of the securities, which occurred after the issuance of the audit report. Therefore, KGO and Sewell failed to maintain the required independence with respect to IWT.

Audit Procedures Concerning Property and Equipment

10. KGO and Sewell failed to perform appropriate audit procedures to test the existence and the valuation of $3,128,750 in "sample boards" and $1,098,199 in "display boards" (collectively, the "boards") included in IWT's balance sheet as property and equipment. IWT stated in its public filings that the boards were used to market IWT products to end-user customers. KGO and Sewell were informed that IWT's accounting policy was to capitalize the cost of materials, labor, and overhead associated with making sample boards (ten-year depreciation period) and display boards (five-year depreciation period). The boards, in the aggregate, accounted for more than 15 percent of IWT's total assets at December 31, 2003.

11. During the planning phase of the audit, KGO and Sewell identified IWT's accounting for the boards as an aspect of the financial statements involving a significant risk of material misstatement due to fraud because of the potential for IWT to defer expenses and overstate assets by using lengthy depreciation periods for the boards. Despite identifying that fraud risk factor and having concerns in the audit planning stage about the lengthy depreciation period for the boards, KGO and Sewell performed no audit procedures to test the initial costs allocated to any of the boards, the existence of the boards, whether any boards had become obsolete, been abandoned, destroyed, stolen, transferred, or otherwise impaired, or to assess the appropriateness of IWT's accounting policy and assigned depreciation period. Instead, KGO and Sewell inappropriately relied on management's representations without performing additional testing.

Audit Procedures Concerning Stock Options Issued to Employees

12. IWT's 2003 financial statements included a disclosure concerning a November 23, 2002 stock option compensation plan granting options to IWT officers, which explained that certain percentages of the options vested upon the occurrence of

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three separate performance conditions. The disclosure further stated that "[a]t December 31, 2003, the options were 66% vested."

13. IWT was required under GAAP to recognize certain amounts as a compensation expense when the options vested because of the performance conditions set forth in the plan.[12/] IWT departed from GAAP because it did not recognize any such compensation expense.[13/] KGO and Sewell had evidence of this GAAP departure available to them, but they failed to identify and appropriately address it.[14/]

Audit Documentation

14. PCAOB audit documentation standards applicable to KGO's audit of IWT's 2003 financial statements stated that "[a]udit documentation is the principal record of auditing procedures applied, evidence obtained, and conclusions reached by the auditor in the engagement."[15/] The documentation standards further provide that audit working

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[12/] See Accounting Principles Board Opinion No. 25, *Accounting for Stock Issued to Employees*. APB No. 25 has been superseded by Statement of Financial Accounting Standards No. 123(R), *Share-Based Payment.*

[13/] IWT subsequently restated its financial statements to recognize the vesting of these options as a compensation expense. The effect of this restatement adjustment was a reduction of previously reported net income by approximately $631,000 or 144 percent.

[14/] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Securities and Exchange Commission ("Commission") has considered or made any determination concerning the issuer's compliance with GAAP.

[15/] AU § 339.01, *Audit Documentation* (AU § 339 applies to audits of financial statements for fiscal years ending before November 15, 2004).

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papers must be sufficient to show, among other things, that the work has been adequately supervised and that sufficient competent evidential matter has been obtained through the auditing procedures applied to afford a reasonable basis for an opinion.[16/] Inherent in the requirement to prepare and maintain audit documentation is the requirement that such documentation be accurate. The creation of audit work papers reflecting procedures that were not, in fact, performed is a violation of these audit documentation standards.

15. After KGO issued its report on the audit of IWT's initial financial statements for 2003, Kantor, at Sewell's request, signed an audit working paper that represented that Kantor had performed certain supervisory duties, reviewed audit work papers, and approved audit procedures and working papers. Specifically, the working paper stated, among other things, that Kantor "reviewed all working papers prepared by personnel in [his] charge," "reviewed sufficient additional working papers to be satisfied with the adequacy of the audit," "reviewed completed audit programs," "reviewed the financial statements and [was] satisfied that they . . . ha[d] been prepared in conformity with [GAAP]," "reviewed the auditor's report and [was] satisfied it properly expresse[d] [KGO's] opinion in accordance with [GAAS]," and "reviewed documentation related to significant audit findings." However, Kantor performed no such procedures and had no significant role in the audit. Kantor signed the working paper at Sewell's request, believing Sewell could not sign the working paper as a result of his suspended CPA license. Kantor knowingly created a working paper reflecting that he performed certain audit procedures that he did not, in fact, perform in violation of PCAOB auditing standards.

Audit of IWT's Restated 2003 Financial Statements

16. In May 2004, as a result of a PCAOB inspection of KGO's 2003 audit of IWT's 2003 financial statements, KGO was notified in writing of apparent audit deficiencies related to, among other things, its audit procedures in connection with IWT's fixed asset assertions. Subsequently, IWT determined to restate its financial statements by, among other things, reducing the value of its fixed assets by less than $100,000 to account for obsolete boards. KGO issued an audit report dated August 12, 2004, with respect to the restated financial statements that was included in IWT's Form 10-KSB/A filed with the Commission on September 23, 2004. The report expressed an

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[16/] AU § 339.04.

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unqualified opinion on IWT's consolidated financial statements for 2003 and 2002. The report stated that IWT's restated financial statements presented fairly, in all material respects, IWT's financial position, results of operations, and cash flows in conformity with GAAP and that the audit was conducted in accordance with GAAS.[17/]

17. KGO's audit work on IWT's restated 2003 financial statements, less than six months after the PCAOB inspection, suffered from the same deficiencies as its audit work on IWT's initial 2003 financial statements with respect to IWT's sample boards and display boards. Specifically, in performing its audit of IWT's restated financial statements, KGO again failed to obtain sufficient competent evidential matter concerning the boards and relied on management's representations without performing any testing of the existence, valuation, and financial statement presentation of the boards.

Audit of GeneThera, Inc.'s 2003 Financial Statements

18. GeneThera, Inc. ("GeneThera") is a Florida corporation with its principal place of business in Colorado. Its common stock is registered with the Commission under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. During the relevant period, GeneThera's public filings disclosed that it was a development stage biotechnology company that was developing non-invasive techniques to test the blood of live animals for chronic diseases, such as mad cow disease. At all relevant times, GeneThera was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KGO was engaged as GeneThera's auditor beginning with the audit of GeneThera's 2003 financial statements until the Firm resigned on March 4, 2006.

19. KGO issued an audit report dated February 15, 2004, that was included in GeneThera's Form 10-KSB filed with the Commission on April 14, 2004. The report expressed an unqualified opinion on GeneThera's consolidated financial statements for 2003 and 2002. The report stated that GeneThera's financial statements presented fairly, in all material respects, GeneThera's financial position, results of operations, and

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[17/] The audit was required to be conducted in accordance with PCAOB standards and, because the audit report was issued after AS No. 1 took effect on May 24, 2004, the audit report should have referred to PCAOB standards rather than to GAAS. See supra note 9.

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cash flows in conformity with GAAP. In addition, the report stated that the audit was conducted in accordance with GAAS.[18/] Sewell was the engagement partner who had final responsibility for the audit.

20. In connection with their audit of GeneThera's 2003 financial statements, KGO and Sewell failed to exercise due professional care, obtain sufficient competent evidential matter, and exercise professional skepticism concerning: (1) the valuation and existence of certain fixed assets and (2) the forgiveness of a liability. KGO also violated Section 10A of the Exchange Act by performing certain prohibited services.

Audit Procedures Concerning Property and Equipment

21. GeneThera's 2003 balance sheet included $702,199 in property and equipment, of which more than $525,000 was disclosed as laboratory equipment that GeneThera obtained in 2003. The laboratory equipment accounted for more than 65 percent of GeneThera's 2003 total reported assets. GeneThera double-counted certain assets, including three of its highest valued fixed assets, in determining the value of this laboratory equipment.[19/]

22. In the course of the audit, KGO and Sewell obtained a list of the laboratory equipment prepared by GeneThera's management. KGO and Sewell performed no audit procedures to test that the list was complete and accurate or to test whether the items included therein had been obtained in 2003 or in a previous reporting period. KGO and Sewell relied on management's assigned value for the laboratory equipment without performing any audit procedures to test its value. Lastly, no procedures were performed to determine whether the 10-year depreciation period used by GeneThera was reasonable with respect to any of GeneThera's laboratory equipment.

[18/] This audit was required to be conducted in accordance with PCAOB standards even though the reference to GAAS in the February 15, 2004, audit report was not inappropriate. See supra note 9.

[19/] After the PCAOB inspection notified KGO of deficiencies with KGO's audit procedures with respect to these fixed assets, KGO discovered that GeneThera had double-counted more than $230,000 in assets. In September 2004, GeneThera restated its financial statements to correct the error. See GeneThera's Form 10-KSB/A filed on September 13, 2004.

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Audit Procedures Concerning Liabilities

23. In preparing its 2003 financial statements, GeneThera derecognized a $150,000 liability (approximately 11 percent of total liabilities) to a creditor that had resulted from money received pursuant to a loan agreement. GeneThera reported the $150,000 as "other income" in its 2003 financial statements. KGO and Sewell performed no procedures to determine whether GeneThera had paid the creditor to extinguish the liability. KGO and Sewell also did not perform any procedures to determine whether GeneThera had been released from the liability by the creditor or received a judicial release.[20/] Instead, KGO and Sewell inappropriately relied on management's representation that it did not owe $150,000 to the creditor.

Performance of Prohibited Services

24. Section 10A(g) of the Exchange Act prohibits registered public accounting firms from performing certain non-audit services including "bookkeeping or other services related to the accounting records or financial statements of the audit client."[21/] KGO violated Section 10A(g) of the Exchange Act by, during the course of the audit of GeneThera's 2003 financial statements, keeping GeneThera's books and records. Specifically, KGO, among other things, had direct access to GeneThera's accounting systems, made journal entries directly in the books and records of GeneThera, generated the trial balances for the financial statements, generated the financial statements and footnote disclosures, made accounting decisions for the issuer, computed depreciation for GeneThera's 2003 fixed assets, and performed other services related to keeping GeneThera's books and records.

[20/] Statement of Financial Accounting Standards No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities* ¶16 states that "A debtor shall derecognize a liability if and only if it has been extinguished" either because the debtor has paid the creditor and been relieved of the obligation or because the debtor has been legally released from the liability either judicially or by the creditor.

[21/] 15 U.S.C. § 78j-1(g).

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Failure to Respond to Indications of Illegal Acts

25. Section 10A(b) of the Exchange Act requires that a registered public accounting firm take certain actions if, in the course of an audit, the firm detects or otherwise becomes aware of information indicating that an illegal act has or may have occurred.[22/] Under Section 10A(b)(1) and PCAOB standards, if a firm becomes aware of information indicating that an illegal act has or may have occurred, the firm must, in accordance with PCAOB standards, determine whether it is likely that an illegal act has occurred.[23/] If a firm determines that it is likely that an illegal act has occurred, Section 10A(b) and PCAOB standards impose additional obligations on the firm.

26. KGO violated Section 10A(b) of the Exchange Act and PCAOB standards when, upon learning information indicating that an illegal act may have occurred, KGO failed to address appropriately the threshold question of whether it was likely that an illegal act had occurred. After completion of its 2004 audit of GeneThera and in the course of performing 2005 quarterly review procedures,[24/] KGO discovered payments from GeneThera to a limited liability company and payments out of the limited liability company that appeared to have been used to pay for GeneThera executives' personal expenses. In response to the discovery, KGO made certain inquires of management, but management's responses did not satisfy KGO that no illegal act had occurred. Even so, KGO did not take any other steps to determine whether it was likely that an illegal act had occurred.[25/]

[22/] See 15 U.S.C. § 78j-1(b)(1).

[23/] See 15 U.S.C. § 78j-1(b)(1)(A)(i); AU § 317, *Illegal Acts by Clients*.

[24/] KGO issued an audit report dated February 28, 2005 that was included in GeneThera's Form 10-KSB filed with the Commission on April 14, 2004. The report expressed an unqualified opinion on GeneThera's consolidated financial statements for 2004 and 2003. The report stated that GeneThera's financial statements presented fairly, in all material respects, GeneThera's financial position, results of operations, and cash flows in conformity with GAAP and that the audit was conducted in accordance with PCAOB standards.

[25/] PCAOB standards provide that if management does not provide satisfactory information that there has been no illegal act, the auditor should consult with the client's legal counsel or other specialists about the application of relevant laws

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Kantor, Geisler & Oppenheimer, P.A., is revoked;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Thomas E. Sewell is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Steven M. Kantor is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

D. After one (1) year from the date of this Order, Kantor may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

J. Gordon Seymour
Secretary

December 14, 2007

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and regulations to the circumstances and should apply additional procedures, if necessary, to obtain further understanding of the nature of the acts. See AU § 317.10.

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Stephen J. Nardi, CPA,* *Respondent.*	PCAOB Release No. 105-2007-008 December 14, 2007

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is barring Stephen J. Nardi, CPA, from being an associated person of a registered public accounting firm.[1/] The Board is imposing this sanction on the basis of its findings concerning Respondent's violations of PCAOB rules and standards in connection with alterations of audit documentation relating to one audit.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Stephen J. Nardi, CPA ("Nardi" or "Respondent").

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

[1/] Respondent may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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III.

On the basis of Respondent's Offer and information obtained by the Board in this matter, the Board finds[2/] that:

A. Respondent

1. Nardi, 51, of Erial, New Jersey, is a certified public accountant licensed by the Pennsylvania State Board of Accountancy (license no. CA018378L). At all times relevant to these proceedings, Nardi was a partner in the Philadelphia, Pennsylvania office of BDO Seidman, LLP ("BDO"), a registered public accounting firm, and an associated person of BDO, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[3/] At all times relevant to these proceedings, Nardi was also the Practice Office Assurance Director for BDO's Philadelphia office with responsibility for, among other things, providing technical guidance to other partners and managers on audit engagements, coordinating the office's quality control activities, and overseeing the scheduling and assignment of audit personnel to audit engagements. At all times relevant to these proceedings, Nardi directly supervised most of the audit managers and senior managers in the Philadelphia office. He also influenced promotion decisions affecting managers and other Philadelphia office audit personnel.

[2/] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding. The sanction that the Board is imposing on Respondent in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A), which provides that such sanction may be imposed in the event of "intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard."

[3/] In part as a result of the conduct described in this Order, BDO asked Nardi to resign, and his separation from the firm became effective on March 21, 2006.

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B. Respondent Violated PCAOB Auditing Standard No. 3

2. Nardi was the engagement partner for BDO's audit of the financial statements of Hemispherx Biopharma, Inc. ("Hemispherx") for the fiscal year ("FY") ended December 31, 2004. At all times relevant to these proceedings, Hemispherx, a Delaware corporation whose common stock is registered with the United States Securities and Exchange Commission ("Commission") under Section 12(b) of the Securities Exchange Act of 1934, was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

3. In the late fall of 2004, Nardi assigned an audit manager in BDO's Philadelphia office (the "Manager") to manage the Hemispherx audit engagement. After completing the audit planning phase, Nardi directed the Manager to cease all work on the Hemispherx financial statement audit so that she could concentrate her efforts on another Nardi-supervised audit engagement for a larger issuer client. Following Nardi's direction, the Manager stopped all work on the Hemispherx audit. After the Manager ceased working on the engagement, she neither supervised nor reviewed any of the work performed by more junior members of the engagement team. The field work on the Hemispherx audit was completed by an audit senior without the supervision of an audit manager.

4. In the absence of an audit manager on the engagement, the work performed by the audit senior and other BDO staff was never subjected to a detailed review as required by BDO policy. For public audit engagements, BDO's Assurance Manual and Quality Control ("QC") Manual required, among other things, that a detailed review be completed before the audit report is released. The detailed review, which was required to include a review of all work papers, was intended to, among other things, ensure compliance with PCAOB auditing standards, generally accepted accounting principles, and BDO policies. The detailed review was required to be performed by either the engagement partner or manager provided that he or she does not review work that is primarily his or her own.

5. Nardi authorized issuance of BDO's audit report on Hemispherx's FY 2004 financial statements on March 16, 2005, and that report was included with the company's Form 10-K filed that day with the Commission. Thereafter, the audit senior on the engagement assembled a final set of audit documentation for retention and caused the audit documentation to be archived on or about May 1, 2005. At the time the audit senior completed the archiving, however, neither Nardi, nor the Manager, nor

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anyone else had done the detailed review required by BDO's policy, nor had the Manager initialed or signed the work papers to indicate that a detailed review had occurred.

6. In the late spring of 2005, Nardi was formally notified that BDO would be performing a weeklong internal inspection of selected Philadelphia office audit engagements beginning on Monday, August 15, 2005. The inspection was pursuant to BDO QC policies and procedures requiring formal inspections ("QC Inspections") of local office audit practices on a rotating basis The QC Inspections were conducted by a review team ("QC reviewers") consisting of BDO partners from other offices of the firm. The purposes of the QC Inspections were, among other things, to determine the quality of work performed, to assess compliance with PCAOB auditing standards, generally accepted accounting principles, and BDO policy, to correct any identified deviations, and to provide recommendations for improvement. This was accomplished by reviewing, on a sample basis, the work papers and reports of selected audit and other engagements.

7. Upon learning of the impending QC Inspection, Nardi became concerned that staffing shortages experienced during the FY 2004 "busy season" (i.e., late fall 2004 to early spring 2005) may have resulted in documentation and other deficiencies in audit engagements falling within the inspection's scope.[4/] With this concern in mind, Nardi directed an effort in the Philadelphia office to perform "cold reviews" of work papers for public audit engagements he thought were likely candidates for selection by the QC reviewers. These "cold reviews" entailed reviews of audit work papers by managers not involved in the engagements for the purpose of identifying audit and work paper deficiencies that might be cited by the QC reviewers.

8. On Thursday, August 11, 2005, Nardi learned that the Hemispherx FY 2004 financial statement audit was among the engagements selected for QC Inspection the following week. Over that weekend, Nardi directed a subordinate in the Philadelphia office not previously familiar with the engagement to perform a "cold review" of the Hemispherx FY 2004 audit work papers. The subordinate noted, among other things, the absence of initials and signatures indicating that a detailed review had been performed.

[4/] Nardi was familiar with BDO's QC Inspection process because he had served as a QC reviewer on inspections of other BDO offices.

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9. The Manager, who had been on vacation the previous week, returned to the office the morning of Monday, August 15, 2005, the first day of the QC Inspection. Soon after she arrived, Nardi entered the Manager's office and directed her to initial and sign the Hemispherx FY 2004 financial statement audit work papers to indicate that she had performed a timely detailed review. The Manager at first protested that she could not sign off as the detailed reviewer because she did not perform the work and could not address questions and issues that might be raised by the QC reviewers. Ultimately, however, the Manager acceded to Nardi's direction and affixed her initials and signatures to the Hemispherx audit work papers, which had been tabbed to indicate where initials and signatures were missing. She backdated her initials and signatures to dates preceding the March 16, 2005 issuance of BDO's audit report.

10. When Nardi directed the Manager to initial and sign the Hemispherx FY 2004 work papers as the detailed reviewer, he knew that neither she nor any one else had done a detailed review of the work performed after the Manager ceased working on the engagement. Nardi further knew that such detailed reviews were required by BDO's Assurance and QC Manuals. After the Manager affixed her backdated initials and signatures to the work papers to falsely indicate that she had performed a timely detailed review, Nardi provided those work papers to the QC reviewers. In addition, Nardi initialed certain of the Hemispherx FY 2004 work papers in August 2005 before providing them to the QC reviewers. The initials added by Nardi in August 2005 were backdated to dates preceding the March 16, 2005 issuance of BDO's FY 2004 Hemispherx audit report.

PCAOB Auditing Standard No. 3

11. BDO's audit of Hemispherx's FY 2004 financial statements was subject to PCAOB Auditing Standard No. 3, *Audit Documentation* ("AS No. 3"). AS No. 3 requires auditors to "document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions."[5/] Audit documentation must clearly demonstrate that the work was in fact performed.[6/] Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and to

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[5/] AS No. 3, ¶ 6.

[6/] Id.

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determine who performed the work and the date such work was completed, as well as the person who reviewed the work and the date of such review.[7/]

12. AS No. 3 additionally provides that a complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (i.e., the "documentation completion date").[8/] In circumstances that may require additions to audit documentation after the report release date, "[a]udit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[9/]

13. In August 2005, three months after the Hemispherx FY 2004 audit work papers had been finalized for retention, Nardi directed the Manager to alter the work papers by entering initials and signatures to falsely indicate that she had performed a timely detailed review. As Nardi was aware at the time, the initials and signatures affixed by the Manager were backdated to dates preceding issuance of the audit report on March 16, 2005, there was no indication that her initials and signatures were added in August 2005, and there was no explanation of why her initials and signatures were added in August 2005. This had the purpose and effect of leaving an experienced auditor, having no previous connection with the engagement (in this case, the BDO QC reviewer who reviewed the work papers in the course of a QC Inspection) with a false understanding of the nature, timing, and extent of the review procedures employed in the audit, and a false impression that the Manager had completed a timely detailed review of the work performed by more junior members of the engagement team. As a result of the foregoing, Nardi violated AS No. 3. Nardi also violated AS No. 3 when, in August 2005, he added and backdated his own initials to certain Hemispherx FY 2004 audit work papers and failed to document any reason for the addition.

[7/] Id., ¶ 6.

[8/] Id., ¶ 15.

[9/] Id., ¶ 16.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanction agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Stephen J. Nardi is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

B. After one (1) year from the date of this Order, Respondent may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

_____

J. Gordon Seymour
Secretary

December 14, 2007

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Wieseneck, Andres & Company, P.A. and Thomas B. Andres, CPA* *Respondents.*	PCAOB Release No. 105-2008-001 April 22, 2008

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Wieseneck, Andres & Company, P.A. and barring Thomas B. Andres, CPA, from being an associated person of a registered public accounting firm.[1/] The Board is imposing this sanction on the basis of its findings concerning the respondents' violations of PCAOB rules and standards in connection with audits of the financial statements of one issuer client for fiscal years ending May 31, 2004 ("FY 2004") and May 31, 2005 ("FY 2005").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Wieseneck, Andres & Company, P.A. (the "Firm" or "Wieseneck, Andres") and Thomas B. Andres, CPA ("Andres") (collectively, "Respondents").

[1/] Wieseneck, Andres & Company, P.A. may reapply for registration after two (2) years from the date of this Order. Andres may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers and information obtained by the Board in this matter, the Board finds[2/] that:

A. Respondents

1. Wieseneck, Andres & Company, P.A. is an accounting firm incorporated in the state of Florida and is licensed under the laws of the state of Florida (Florida Board of Accountancy License No. AD0016885). Wieseneck, Andres is registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. Its office is located in North Palm Beach, Florida.

2. Andres, 64, of North Palm Beach, Florida, is a certified public accountant licensed under the laws of the state of Florida (License No. AC0006827). He is the

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[2/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a Respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5)(A), which provides that such sanctions may be imposed in the event of "intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard."

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Firm's "Audit Principal" and, at all times relevant to this matter, was an associated person of the Firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter involves violations of the Board's auditing standards. In particular, in auditing the FY 2004 financial statements of American Capital Holdings, Inc. ("ACHI"), Respondents failed to perform, or reasonably ensure the performance of, sufficient audit procedures to evaluate the existence and valuation of recorded goodwill, marketable securities, and intangible assets – totaling more than 97% of ACHI's reported assets – and to evaluate ACHI's determination not to consolidate the financial statements of an entity in which it disclosed having a 90% interest. In addition, in auditing ACHI's FY 2005 financial statements, Respondents failed to identify or appropriately address departures from Generally Accepted Accounting Principles ("GAAP") relating to (1) recording the correction of an error in one period without recording it in the period in which the error occurred and (2) the misclassification of the value of certain declared dividends as an asset.[3/]

C. Respondents Violated PCAOB Auditing Standards in Auditing the 2004 and 2005 Financial Statements of American Capital Holdings, Inc.

4. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards.[4/] Under the Board's auditing standards, an auditor

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[3/] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Securities and Exchange Commission has considered or made any determination concerning the issuer's compliance with GAAP.

[4/] See PCAOB Rules 3100, 3200T.

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may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[5/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[6/] In connection with the audits of the financial statements of ACHI for FY 2004 and FY 2005, Respondents failed to do so, as described in more detail below.

5. ACHI is a Florida corporation headquartered in Palm Beach Gardens, Florida. Its common stock is registered with the United States Securities and Exchange Commission ("Commission") under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act"). ACHI's public filings disclose that it has been primarily in the business of developing and selling insurance-related financial products. At all relevant times, ACHI was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

2004 Audit

6. The Firm was engaged as ACHI's independent auditor in June 2004. The Firm issued an audit report dated November 10, 2004, that was included in ACHI's Form 10-KSB filed with the Commission on February 1, 2005 and ACHI's Form 10-KSB/As filed with the Commission on April 29, 2005 and September 15, 2005. In the audit report, the Firm expressed an unqualified audit opinion on ACHI's consolidated financial statements for FY 2004. The report stated that ACHI's financial statements presented fairly, in all material respects, ACHI's financial position, results of operations, and cash flows in conformity with GAAP. In addition, the report stated that the audit was conducted in accordance with the auditing standards of the Public Company Accounting Oversight Board. Andres was the engagement partner who had final responsibility for the audit.

5/ See AU § 508.07, *Reports on Audited Financial Statements.*

6/ See AU § 150.02, *Generally Accepted Auditing Standards*; § 230, *Due Professional Care in the Performance of Work*; and § 326, *Evidential Matter*.

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Goodwill

7. ACHI's FY 2004 financial statements reported goodwill of $8.21 million as of May 31, 2004, representing approximately 57% of ACHI's reported assets. According to ACHI disclosures, $7.2 million of this reported goodwill was acquired as part of a February 29, 2004 transaction in which ACHI "acquired [various specified assets], goodwill of $7.2 million and assumed $1,005,000 in debt for the issuance of [common stock]."[7/]

8. Those ACHI disclosures strongly suggested the possibility that the transaction described by ACHI involved a "business combination" for GAAP purposes.[8/] Under the circumstances, the specific nature of the transaction was significant because of its bearing on the appropriateness of ACHI recognizing the "acquired" goodwill and its bearing on the adequacy of ACHI's disclosures.[9/] Respondents understood that the $7.2 million in goodwill that ACHI disclosed as having acquired in the transaction was goodwill that had previously been recorded as goodwill by the other entity. Respondents, however, failed to evaluate the nature of the transaction, the appropriateness of recognizing the acquired goodwill, or the adequacy of the disclosures.[10/]

[7/] See ACHI May 31, 2004 Form 10-KSB, filed Feb. 1, 2005, at F-7.

[8/] For purposes of Statement of Financial Accounting Standards ("SFAS") No. 141, *Business Combinations*, "a business combination occurs when an entity acquires net assets that constitute a business or acquires equity interests of one or more other entities and obtains control over that entity or entities." SFAS No. 141, ¶ 9. (This Order's references to SFAS No. 141 refer to that standard as it existed at all times relevant to the conduct described here, and not to the standard as revised in 2007.)

[9/] If the transaction involved ACHI's acquisition of the net assets of another business, accounting for the goodwill would be governed by SFAS No. 141, *Business Combinations,* ¶ 38 (in a business combination, "an acquiring entity shall not recognize the goodwill previously recorded by an acquired entity"). Alternatively, if the transaction involved a reverse merger (albeit an inadequately disclosed reverse merger), continued recognition of the pre-existing goodwill might have been appropriate.

[10/] In a Form 10-KSB/A filed on December 2, 2005, ACHI included restated financial statements for FY 2004 ("2004 Restatement") and FY 2005 ("2005

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9. In addition, Respondents failed in a separate and distinct way to perform sufficient procedures as to all of ACHI's reported goodwill. Specifically, Respondents' procedures to test the existence and valuation of goodwill were limited to obtaining representations from management. Those representations alone were not sufficient audit evidence,[11/] and Respondents failed to perform any other procedures to test the existence and valuation of goodwill.[12/]

Investments

10. ACHI's FY 2004 financial statements reported "marketable securities" valued at $2.96 million as of May 31, 2004, representing approximately 20% of ACHI's reported assets. ACHI disclosed that over 90% of the value of these marketable securities related to "equity ownership positions" in ten development stage companies that had no quoted market price and in which ACHI had no controlling interest.[13/] Respondents reviewed a brokerage statement obtained from management with respect to approximately 10% of the stated total marketable securities balance, but they failed to perform any other procedures to test the existence and valuation of the reported

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Restatement"). Among other things, ACHI disclosed that it had determined that, for the year ended May 31, 2004, the $7.2 million in goodwill acquired on February 29, 2004, was impaired and that it was recognizing an impairment loss in that amount. See ACHI Form 10-KSB/A, filed December 2, 2005, at F-14.

[11/] PCAOB auditing standards provide that "representations from management are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those audit procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit." AU § 333.02, *Management Representations*.

[12/] In its 2004 Restatement, in addition to recognizing an impairment loss on $7.2 million of the goodwill as described above, ACHI reclassified $980,000 of the goodwill as "Insurance Licenses." See ACHI Form 10-KSB/A, filed Dec. 2, 2005, at F-14.

[13/] See ACHI FY 2004 Form 10-KSB, filed February 1, 2005, at 5 and F-11.

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marketable securities.[14/] Respondents also failed to evaluate management's determination not to recognize an impairment loss on the stated marketable securities balance.[15/]

Intangible Assets

11. ACHI's FY 2004 financial statements reported intangible assets of $2.96 million as of May 31, 2004, representing approximately 20% of ACHI's reported assets. ACHI described 99% of these reported intangible assets as "intellectual property rights" and reported that they were acquired in connection with ACHI's acquisition of a 90% interest in another entity.[16/] Respondents failed to perform procedures to test either the existence or valuation of these reported "intellectual property rights."[17/]

[14/] In connection with its 2004 Restatement, ACHI reported that marketable securities reported in the amount of approximately $2.93 million as of May 31, 2004, had "no value." See ACHI Form 10-KSB/A, filed Dec. 2, 2005, at F-14.

[15/] PCAOB auditing standards provide that an auditor should evaluate management's conclusion about the need to recognize an impairment loss for an other-than-temporary decline in the fair value of such securities below their cost. AU § 332.27, *Auditing Derivative Instruments, Hedging Activities, and Investments in Securities*.

[16/] See ACHI FY 2004 Form 10-KSB, filed February 1, 2005, at F-13. See also ACHI FY 2004 Form 10-KSB/A, filed April 29, 2005, at F-13, in which ACHI reported the 90% interest.

[17/] Subsequently, in ACHI's FY 2004 Form 10-KSB/A, filed April 29, 2005, at F-13, ACHI reclassified the assets originally reported as "intellectual property rights" as marketable securities. ACHI continued to classify the "intellectual property rights" as marketable securities for FY 2004 in ACHI's FY 2005 Form 10-KSB. See ACHI FY 2005 Form 10-KSB, filed August 30, 2005, at F-3 and F-10. For FY 2005, however, ACHI reclassified the "intellectual property rights" as intangible assets, with a value of $434,000. See id. In ACHI's 2005 Restatement, ACHI wrote off this $434,000. See ACHI Form 10-KSB/A, filed Dec. 2, 2005, at F-14.

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Consolidation

12. As described above, ACHI reported in April 2005 that it had obtained a 90% interest in another entity. ACHI, however, did not consolidate that entity's financial results into ACHI's FY 2004 financial statements. Respondents understood that ACHI had obtained this interest at the time of the November 10, 2004 audit report, but failed to evaluate ACHI's determination concerning whether to consolidate that entity's financial results.[18/]

2005 Audit

13. The Firm issued an audit report dated August 26, 2005, that was included in ACHI's Form 10-KSB filed with the Commission on August 30, 2005. In the audit report, the Firm expressed an unqualified audit opinion on ACHI's financial statements for the fiscal year ended May 31, 2005. The report stated that ACHI's financial statements presented fairly, in all material respects, ACHI's financial position, results of operations, and cash flows in conformity with GAAP. In addition, the report stated that the audit was conducted in accordance with the auditing standards of the Public Company Accounting Oversight Board. Andres was the engagement partner who had final responsibility for the audit.

14. In its audit of ACHI's FY 2005 financial statements, Respondents failed to identify and appropriately address two separate departures from GAAP. First, although ACHI substantially reduced its marketable securities and goodwill as of the May 31, 2005 balance sheet date to $81,000 and,$980,000, respectively,[19/] ACHI incorrectly

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[18/] SFAS No. 94, *Consolidation of All Majority-Owned Subsidiaries*, ¶ 2, states that "[t]he usual condition for a controlling financial interest is ownership of a majority voting interest, and, therefore, as a general rule ownership by one company, directly or indirectly, of over fifty per cent of the outstanding voting shares of another company is a condition pointing toward consolidation."

[19/] See ACHI FY 2005 Form 10-KSB, filed August 30, 2005, at F-3 and F-10. The reduction of marketable securities was first recorded as a charge to "accumulated comprehensive loss" in ACHI's FY 2005 financial statements. The reduction was then recorded as a "write down/off of securities" in ACHI's FY 2004 Restatement. See ACHI Form 10-KSB/A, filed Dec. 2, 2005, at F-4 and F-14.

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recorded this reduction in assets during ACHI's 2005 reporting period, resulting in a $7.23 million overstatement of ACHI's 2005 net loss.[20/] By reporting this reduction in assets in its FY 2005 financial statements filed on August 30, 2005 and by not correcting the error with respect to the FY 2004 period, ACHI failed to adhere to GAAP.[21/] Respondents failed to identify or address this departure from GAAP.[22/]

15. Second, ACHI's FY 2005 financial statements reported "Declared Dividends," valued at $1.03 million, as assets (constituting 26% of total reported assets). Under GAAP, however, those declared dividends should not have been

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[20/] The $7.23 million overstatement of ACHI's 2005 net loss does not relate to the reduction in marketable securities valuation due to its prior classification as a charge to "accumulated comprehensive loss." See ACHI FY 2005 Form 10-KSB, filed August 30, 2005, at F-3 and F-10.

[21/] "[C]orrection of an error in the financial statements of a prior period discovered subsequent to their issuance should be reported as a prior period adjustment. . . . The nature of an error in previously issued financial statements and the effect of its correction . . . . should be disclosed in the period in which the error was discovered and corrected." Accounting Principles Board Opinion No. 20, ¶¶ 36-37.

[22/] ACHI's FY 2005 financial statements, filed on August 30, 2005, continued to report goodwill assets of $8.21 million and marketable securities assets of $5.90 million as of May 31, 2004. More than three months later, in its 2004 Restatement and 2005 Restatement, ACHI addressed this issue by writing off the originally reported goodwill and marketable securities in the period in which the error occurred. See ACHI Form 10-KSB/A, filed December 2, 2005, at F-14.

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classified as assets.[23/] Respondents failed to identify and address this departure from GAAP.[24/]

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), Wieseneck, Andres & Company P.A.'s registration with the Board is revoked;

B. After two (2) years from the date of this Order, Wieseneck, Andres & Company P.A. may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Thomas B. Andres is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

[23/] See Financial Accounting Standards Board Concept Statement No. 6, *Elements of Financial Statements*, ¶¶ 25 & 67 (distinguishing between assets, which are "probable future economic benefits obtained or controlled by a particular entity as a result of past transactions or events," and distributions to owners (e.g., dividends), which are "decreases to equity of a particular business enterprise resulting from transferring assets, rendering services, or incurring liabilities by the enterprise to owners").

[24/] In its 2005 Restatement, ACHI reclassified the $1.03 million to "Retained Earnings" as a "Dividend Paid." ACHI disclosed that the $1.03 million had been "inadvertently recorded as a 'Declared Dividend' in the current asset section of the May 31, 2005 balance sheet." See ACHI Form 10-KSB/A, filed December 2, 2005, at F-14.

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D. After two (2) years from the date of this Order, Andres may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

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J. Gordon Seymour
Secretary

April 22, 2008

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Jaspers + Hall, PC, Thomas M. Jaspers, CPA, and Patrick A. Hall, CPA,* *Respondents.*	PCAOB Release No. 105-2008-002 October 21, 2008

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Jaspers + Hall, PC and barring its two partners, Thomas M. Jaspers, CPA and Patrick A. Hall, CPA, from being associated persons of a registered public accounting firm.[1/] The Board is imposing these sanctions on the basis of its findings concerning respondents' violations of PCAOB rules and auditing standards in auditing the financial statements of four issuer clients from 2005 to 2007.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Jaspers + Hall, PC ("J+H"), Thomas M. Jaspers, CPA ("Jaspers") and Patrick A. Hall, CPA ("Hall"), (collectively, "Respondents").

[1/] J+H may reapply for registration after five (5) years from the date of this Order. Jaspers and Hall each may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers and information obtained by the Board in this matter, the Board finds[2/] that:

A. Respondents

1. Jaspers + Hall, PC is a public accounting firm with offices in Colorado Springs, Colorado and Denver, Colorado. Jaspers and Hall formed J+H in October 2003 and are its only partners. At all relevant times, J+H was licensed under the laws of the State of Colorado to engage in the practice of public accounting (license no. FRM-12673). J+H is registered with the Board pursuant to Section 102 of the Act and Board rules.

2. Jaspers, 54, of Denver, Colorado, is a certified public accountant licensed under the laws of the state of Colorado (license no. CPA-21617). At all relevant times,

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[2/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of "(A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard."

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he was a partner in J+H and was an associated person of J+H as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. Hall, 43, of Castle Rock, Colorado, is a certified public accountant licensed under the laws of the state of Colorado (license no. CPA-20449). At all relevant times, he was a partner in J+H and was an associated person of J+H as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

4. This matter involves numerous and repeated violations of PCAOB auditing standards by Respondents in the audits of the financial statements of four issuer clients from 2005 through 2007. As detailed below, during the course of these audits Respondents consistently failed to perform the most basic functions and procedures required to evaluate the financial statements of their issuer clients. Among other things, Respondents failed (1) to perform adequate, or sometimes any, audit procedures in areas such as cash, deferred revenue, business acquisition accounting, equity, income taxes, related party transactions, and using the work of specialists; (2) to plan the audits, prepare audit programs, and prepare audit completion documents; (3) to identify and appropriately address departures from Generally Accepted Accounting Principles ("GAAP") concerning contingencies; and (4) to retain audit documentation for the required period of time.

C. Respondents Violated PCAOB Auditing Standards

5. In connection with the preparation or issuance of an audit report, PCAOB Rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[3/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[4/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the

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[3/] See PCAOB Rules 3100, 3200T.

[4/] See AU § 508.07, Reports on Audited Financial Statements.

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financial statements, and prepare and maintain appropriate audit documentation.[5/] As detailed below, Respondents failed to meet these standards.

(1) Audits of Fiscal Year 2004, 2005, and 2006 Financial Statements of Force Protection, Inc.

6. Force Protection, Inc. ("Force Protection") is a Nevada corporation with principal offices in Ladson, South Carolina. At all relevant times, its common stock was registered under Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act") and was listed on the NASDAQ Stock Market. Force Protection's public filings disclose that it is a manufacturer of ballistic and blast protected vehicles. At all relevant times, Force Protection was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

7. J+H was engaged as Force Protection's independent auditor from 2005 to 2007.[6/] During that time, J+H issued several audit reports on Force Protection's financial statements. Each report stated that the audit was conducted in accordance with PCAOB standards, expressed an unqualified audit opinion, and stated that, in J+H's opinion, the company's financial statements were fairly presented in all material respects in conformity with U.S. GAAP. The audit reports were dated April 8, 2005 (included in Force Protection's Form 10-KSB filed with the Securities and Exchange Commission ("Commission") on April 14, 2005), March 17, 2006 (included in Force Protection's Form 10-K filed with the Commission on April 13, 2006), March 2, 2007 (included in Force Protection's Form 10-K filed with the Commission on March 16, 2007), April 16, 2007 (a dual-dated reissue of the March 17, 2006 report, included in Force Protection's Form 10-K/A for FY 2005 filed with the Commission on June 27, 2007), and June 5, 2007 (a dual-dated reissue of the March 2, 2007 report, included in Force Protection's Form 10-K/A filed with the Commission on June 11, 2007). The financial statements opined on included financial statements, and restated financial

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[5/] See AU § 150.02, Generally Accepted Auditing Standards; AU § 230, Due Professional Care in the Performance of Work; AU § 326, Evidential Matter; Auditing Standard No. 3, Audit Documentation ("AS No. 3").

[6/] On November 10, 2006, Force Protection dismissed J+H as its auditor effective upon the completion of the audit of Force Protection's FY 2006 financial statements.

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statements, for fiscal years (ending December 31) 2003,[7/] 2004, 2005, and 2006. For each of the audits, Hall was the engagement partner who had final responsibility for the audit, and Jaspers served as the concurring review partner.

Audit of FY 2006 Financial Statements

8. J+H and Hall's audit of Force Protection's FY 2006 financial statements was deficient in several respects. First, they failed to perform sufficient procedures to verify the existence of approximately $155 million of cash, which represented 57 percent of Force Protection's reported assets. J+H's work papers include copies of Force Protection bank statements accounting for approximately two-thirds of the reported cash, but when J+H received no reply to a confirmation request sent to the bank, J+H and Hall failed to perform alternative procedures to verify that Force Protection had the cash. They also failed to perform any procedures or obtain any audit evidence concerning the other one-third of the reported cash.

9. J+H and Hall also failed to perform procedures to evaluate whether reported deferred revenue, which represented 22.7 percent of Force Protection's total liabilities, included all appropriate amounts, was appropriately classified as deferred revenue, and was reported in the appropriate period. J+H and Hall failed to perform such procedures even though that same failure in an earlier Force Protection audit had been brought to their attention, as an auditing deficiency, by PCAOB inspectors.

10. In addition, J+H and Hall failed to perform any procedures or gather any audit evidence concerning a reported deferred tax benefit that represented 67.7 percent of Force Protection's net earnings, and Hall has acknowledged that he did not understand the accounting for the deferred tax benefit.[8/]

[7/] With regard to Force Protection's restated financial statements for the year ended December 31, 2003, J+H's audit report covered only the adjustments that Force Protection had made to its original financial statements. J+H opined that those adjustments were "appropriate" and "properly applied."

[8/] PCAOB standards provide that "[t]he auditor with final responsibility for the engagement should know, at a minimum, the relevant professional accounting and auditing standards and should be knowledgeable about the client." AU § 230.06.

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11. The audit was deficient in various other respects as well. Specifically, J+H and Hall failed to comply with PCAOB standards that require an auditor (1) to obtain written representations from management concerning certain matters, including a representation concerning management's belief that the financial statements are fairly presented in conformity with GAAP;[9/] (2) to establish and document an understanding with the client regarding the services to be performed for each engagement;[10/] and (3) to prepare an engagement completion document identifying all significant findings or issues.[11/]

Audits of FY 2005, 2004, and 2003 Restated Financial Statements

12. J+H and Hall's audit of Force Protection's restated FY 2005, 2004, and 2003 financial statements also failed to comply with PCAOB standards. In particular, J+H and Hall used the work of a valuation specialist in performing that audit but, in violation of PCAOB standards (1) failed to evaluate the professional qualifications of the specialist, to determine whether he had the necessary skill or knowledge to perform the valuations in question; (2) failed to test in any respect the data provided to the specialist by Force Protection; and (3) failed to obtain an understanding of the assumptions used by the specialist in its valuations.[12/]

Audits of FY 2005 and 2004 Financial Statements and Retention of Certain Work Papers

13. J+H and Hall also violated PCAOB audit documentation retention requirements with respect to documentation for the FY 2005 and 2004 audits of Force Protection's financial statements. PCAOB standards require an auditor to "retain audit documentation for seven years from the date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements

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9/ See AU § 333.05-.06, Management Representations.

10/ See AU § 310.05, Appointment of the Independent Auditor.

11/ See AS No. 3, ¶ 13.

12/ These procedures are required by AU § 336, *Using the Work of a Specialist*, paragraphs .08 and .12.

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(report release date), unless a longer period of time is required by law."[13/] J+H and Hall, however, failed to retain significant portions of their documentation for the required period (having transmitted the documentation to Force Protection, without retaining a copy, in connection with Force Protection's work on the restatement), and were unable to provide the documentation in response to demands made in a PCAOB investigation.

(2) Audit of FY 2005 Financial Statements of Bio-Warm Corporation (f/k/a Rapid Bio Tests Corp.)

14. Bio-Warm Corporation (f/k/a Rapid Bio Tests Corp.) ("Bio-Warm") was a Nevada corporation with principal offices in Huntington Beach, California. At all times relevant to this Order, Bio-Warm's common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. Bio-Warm's public filings disclose that it was a development stage company pursuing the manufacturing and marketing of infrared conductive textile products. At all times relevant to this Order, Bio-Warm was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

15. J+H was engaged as Bio-Warm's independent auditor in 2005 and issued an audit report dated July 11, 2005 that was included in Bio-Warm's Form 10-KSB filed with the Commission on July 18, 2005. The report expressed an unqualified audit opinion on Bio-Warm's financial statements for the year ended February 28, 2005, and stated that, in J+H's opinion, the company's financial statements were fairly presented in all material respects in conformity with U.S. GAAP. The audit report also stated that J+H's audit was conducted in accordance with PCAOB standards. For the audit related to that audit report, Jaspers was the engagement partner, and Hall served as the concurring review partner.

16. In its FY 2005 financial statements, Bio-Warm reported that, during FY 2005, it had acquired another entity, Mirae Tech, Ltd. ("Mirae Tech"), pursuant to a stock purchase agreement and accounted for the acquisition under the purchase method. According to Bio-Warm's FY 2005 financial statements, the tangible assets acquired in the transaction represented 99.9 percent of Bio-Warm's total assets at the end of FY 2005. Bio-Warm initially recorded $1,293,028 of goodwill in the Mirae Tech transaction. Three months later, however, Bio-Warm management determined to write

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[13/] AS No. 3, ¶ 14.

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off the goodwill, an expense that represented approximately 18 percent of Bio-Warm's net loss for 2005.

17. Other than obtaining a copy of the stock purchase agreement, J+H and Jaspers failed to perform any audit procedures with respect to the Mirae Tech transaction. Among other failures, J+H and Jaspers (1) failed to perform any procedures to test the values Bio-Warm assigned to the tangible assets acquired and the liabilities assumed in the business combination; (2) failed to perform any procedures concerning Bio-Warm's reported acquisition expenses, which accounted for 74.9 percent of Bio-Warm's net loss for FY 2005; (3) failed to resolve a material inconsistency between the number of shares that the stock purchase agreement stated Bio-Warm would issue in the transaction and the number of shares Bio-Warm actually reported issuing; and (4) failed to test in any way management's representation that Bio-Warm was the acquiring entity in the business combination.

18. J+H and Jaspers also failed to perform any audit procedures with respect to the goodwill that Bio-Warm initially recorded, upon consummating the business combination, but then completely wrote off only three months later. In particular, J+H and Jaspers did not review any impairment test on the goodwill prepared by Bio-Warm management, were not aware of any events or changes in circumstances that led Bio-Warm to write off the goodwill three months after recording it, and failed to perform any procedures to test management's conclusion that the goodwill should be written off.

(3) Audits of FY 2005 and 2006 Financial Statements of Siena Technologies, Inc. (f/k/a Network Installation Corp.)

19. Siena Technologies, Inc. (f/k/a Network Installation Corp.) ("Siena") is a Nevada corporation with principal offices in Las Vegas, Nevada. Its common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. Siena's public filings disclose that it specializes in the design, development, and integration of automated system networks for the gaming, entertainment, and luxury residential markets. At all relevant times, Siena was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

20. J+H was engaged as Siena's independent auditor in 2005.[14/] J+H issued an audit report dated April 12, 2006 that was included in Siena's Form 10-KSB filed with

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[14/] On July 10, 2008, Siena dismissed J+H as its auditor.

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the Commission on April 18, 2006. The report expressed an unqualified audit opinion on Siena's financial statements for the year ended December 31, 2005. J+H also issued an audit report dated May 15, 2007 that was included in Siena's Form 10-KSB filed with the Commission on May 18, 2007, which also included restated financial statements for the year ended December 31, 2005. The report expressed an unqualified audit opinion on Siena's financial statements for the years ended December 31, 2006 and 2005 (as restated). The reports stated that, in J+H's opinion, the company's financial statements were fairly presented in all material respects in conformity with U.S. GAAP. Those audit reports also stated that J+H's audits were conducted in accordance with PCAOB standards. For the audits related to those audit reports, Hall was the engagement partner, and Jaspers served as the concurring review partner.

21. J+H and Hall's audit of Siena's FY 2005 financial statements exhibited many of the same deficiencies that existed in the audit of Bio-Warm's FY 2005 financial statements. This occurred even though similar deficiencies in the Bio-Warm audit had been brought to the attention of Respondents by PCAOB inspectors before J+H and Hall began the Siena FY 2005 audit.

22. Specifically, J+H and Hall failed during the FY 2005 Siena audit to perform any procedures to test the values assigned to the assets acquired and the liabilities assumed in a significant business combination that Siena had undertaken in FY 2005.[15/] In addition, J+H and Hall failed to evaluate the appropriateness of Siena's almost immediate write-off of $3.8 million of the $11.1 million of goodwill Siena initially recorded in connection with the business combination.[16/]

23. During the FY 2006 Siena audit, J+H and Hall again failed to perform procedures concerning goodwill. As of the end of FY 2006, the goodwill remaining on Siena's balance sheet accounted for more than 67 percent of Siena's assets. Siena did not write off any additional goodwill during FY 2006. According to an analysis J+H had obtained from Siena during FY 2005, part of the reason Siena wrote off $3.8 million of

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15/ Siena disclosed that it acquired net assets of $10.2 million in the business combination, nearly ten times the total assets Siena had reported at the end of the prior fiscal year.

16/ The goodwill write-off accounted for approximately 24.5 percent of the net loss that Siena reported in its initially-filed FY 2005 financial statements.

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goodwill in FY 2005 was a decline in Siena's stock price. Although Siena's stock price continued to decline during FY 2006, and Siena did not write off any additional goodwill, J+H and Hall failed to perform any procedures or obtain any audit evidence concerning the value of Siena's goodwill during the FY 2006 audit.

24. J+H and Hall's audit of Siena's restated FY 2005 financial statements also failed to comply with PCAOB standards. As they had in the audit of Force Protection's restated financial statements, J+H and Hall used the work of a valuation specialist in performing the audit of Siena's restated FY 2005 financial statements. In performing that Siena audit, J+H and Hall again failed to test, in any respect, the data upon which the specialist's valuations were based and again failed to obtain an understanding of either the specialist's methodology or the assumptions used in the specialist's valuations.[17/]

(4) Audits of FY 2005 and 2006 Financial Statements of GeneThera, Inc.

25. GeneThera, Inc. ("GeneThera") is a Florida corporation with principal offices in Wheat Ridge, Colorado. Its common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. GeneThera's public filings disclose that it is a development stage company engaged in the ongoing development of technology to detect the presence of infectious disease from the blood of live animals. At all relevant times, GeneThera was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

26. J+H was engaged as GeneThera's independent auditor on or about March 15, 2006. J+H issued an audit report dated May 22, 2006 that was included in an amended Form 10-KSB that GeneThera filed with the Commission on August 1, 2006. The report expressed an unqualified audit opinion on GeneThera's financial statements for the year ended December 31, 2005. J+H subsequently issued an audit report dated April 18, 2007 that was included in an amended Form 10-KSB GeneThera filed with the Commission on May 2, 2007. The report expressed an unqualified audit opinion on GeneThera's financial statements for the years ended December 31, 2006 and 2005. The reports stated that, in J+H's opinion, the company's financial statements were fairly presented in all material respects in conformity with U.S. GAAP. Those reports also

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[17/] These procedures are required by AU § 336.12.

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stated that J+H's audits were conducted in accordance with PCAOB standards. For the audits related to those audit reports, Jaspers was the engagement partner.

27. J+H and Jaspers' audits of GeneThera's FY 2005 and 2006 financial statements were also deficient in numerous respects. First, in violation of PCAOB standards,[18/] J+H and Jaspers did not perform any planning procedures for either audit – indeed, they did not even prepare a written audit program.

28. Second, J+H and Jaspers failed to adequately evaluate GeneThera's reporting of a $101,000 "contingency liability" (representing approximately 7 percent of GeneThera's total liabilities) as of December 31, 2006 and GeneThera's simultaneous disclosure that it was "confident that the amount is currently not owed."[19/] Under GAAP, the reported liability and the disclosure could not both be appropriate.[20/] J+H and Jaspers failed to identify and appropriately address this inconsistency.[21/] Moreover,

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[18/] PCAOB standards require that audit field work "be adequately planned." AU § 311.01, *Planning and Supervision*. In planning an audit, "the auditor should consider the nature, extent, and timing of work to be performed and should prepare a written audit program (or set of written audit programs) for every audit." AU § 311.05.

[19/] See GeneThera December 31, 2006 Form 10-KSB/A, filed May 2, 2007, at F-13.

[20/] Under GAAP, an estimated loss from a contingency should be recorded only if "[i]nformation available prior to issuance of the financial statements indicates that it is probable that . . . a liability had been incurred at the date of the financial statements" and "the amount of loss can be reasonably estimated." See Statement of Financial Accounting Standards ("SFAS") No. 5, ¶ 8, *Accounting For Contingencies* (emphasis added).

[21/] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the

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other than obtaining representations from management, J+H and Jaspers did nothing to evaluate either GeneThera's contention that the "contingency liability" was "not owed" or the reasonableness of GeneThera's estimate as to the amount of the "contingency liability."

29. Third, J+H and Jaspers failed to obtain any audit evidence concerning at least 30 equity transactions into which GeneThera represented that it had entered during FY 2006. J+H and Jaspers failed to perform any audit procedures concerning those transactions even though (1) the transactions accounted for at least 30 percent of GeneThera's reported net loss for FY 2006; and (2) there were indications in J+H's work papers that one of the transactions was a material, undisclosed, related-party transaction.[22/]

30. Finally, during the FY 2005 audit of GeneThera's financial statements, J+H and Jaspers failed to adequately consider the risk of fraud. PCAOB standards concerning fraud risk require an auditor to "gain an understanding of the business rationale" for "transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment."[23/] In violation of those standards, J+H and Jaspers failed to ascertain the business purpose of several unusual expenses reflected on GeneThera's FY 2005 credit card statements, including $9,000 in expenses GeneThera incurred at an art gallery, $1,000 in expenses GeneThera incurred for diamond earrings, and expenses GeneThera incurred for the purchase of what appear to be household groceries.[24/] In addition, J+H and Jaspers failed to evaluate whether those unusual expenses were individually, or in the aggregate, qualitatively material to GeneThera's financial statements.

Commission has considered or made any determination concerning the issuer's compliance with GAAP.

[22/] GAAP provides that "[f]inancial statements shall include disclosures of material related party transactions . . . ." SFAS No. 57, ¶ 2, *Related Party Disclosures*.

[23/] AU § 316.66, Consideration of Fraud in a Financial Statement Audit.

[24/] Jaspers acknowledged that he reviewed the relevant credit card statements during the FY 2005 GeneThera audit.

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(5) Jaspers' Violations of AS No. 3

31. AS No. 3 provides, in part, that "Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement: . . . To determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review."[25/] In violation of this requirement and despite PCAOB inspectors having previously informed Jaspers of deficiencies in his audit documentation, Jaspers made it his practice, until at least May 21, 2007, not to sign, date, or initial work papers he prepared or reviewed in performing audits for issuer clients, including in the audits of Bio-Warm and GeneThera.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Jaspers + Hall, PC is revoked;

B. After five (5) years from the date of this Order, Jaspers + Hall, PC may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Thomas M. Jaspers is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(1);

[25/] AS No. 3, ¶ 6.b.

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D. After five (5) years from the date of this Order, Jaspers may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;[26/]

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Patrick A. Hall is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(1);

F. After five (5) years from the date of this Order, Hall may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.[27/]

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

_____
J. Gordon Seymour
Secretary

October 21, 2008

[26/] In considering any such petition, the Board will assess all of the factors described in PCAOB Rule 5302(b) and, among other things, will give weight to whether Jaspers has, in the period after the date of this Order, completed at least 300 hours of continuing professional education directly related to the audit of financial statements of issuers.

[27/] In considering any such petition, the Board will assess all of the factors described in PCAOB Rule 5302(b) and, among other things, will give weight to whether Hall has, in the period after the date of this Order, completed at least 300 hours of continuing professional education directly related to the audit of financial statements of issuers.

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Christopher E. Anderson, CPA,* *Respondent.*	PCAOB Release No. 105-2008-003 October 31, 2008

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) suspending Christopher E. Anderson, CPA, from being associated with a registered public accounting firm for a period of one year from the date of this Order; (2) restricting him to the role of "assistant," as that term is used in the Board's interim auditing standards, AU § 311.02(a), for an additional period of one year following expiration of his suspension; and (3) imposing a civil money penalty in the amount of $25,000 against him. The Board is imposing these sanctions on the basis of its findings concerning Respondent's violations of PCAOB rules and auditing standards in auditing the 2003 financial statements of one issuer client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

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Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer and information obtained by the Board in this matter, the Board finds[1/] that:

A. Respondent

1. Anderson, 46, of Lake Forest, Illinois, is a certified public accountant licensed in Illinois (license no. 065027203), Iowa (license no. R04739), Wisconsin (license no. 20478-1), Michigan (license no. 1101029802), and Washington (license no. 15285). At all relevant times, he was a partner in the Chicago, Illinois office of the registered public accounting firm of Deloitte & Touche, LLP ("Deloitte") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Respondent's violations of PCAOB rules and auditing standards in auditing the fiscal year ("FY") 2003 financial statements of Navistar Financial Corporation ("NFC"). Respondent's failures occurred in the context of NFC's discovery – shortly before NFC and its parent, Navistar International Corporation ("NIC"), planned to file their Forms 10-K – of approximately $19.7 million in

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[1/] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105 (c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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apparent errors resulting in an overstatement of NFC's assets, revenues, and earnings (the "overstatement"). Upon discovery of the overstatement, NIC faced the prospect of having to report fourth-quarter earnings below those announced to analysts and investors two weeks before.

3. Faced with management's interest in avoiding a retraction of that announcement and in meeting the companies' internal target date for filing their Forms 10-K, Respondent violated PCAOB standards in auditing NFC's FY 2003 financial statements and authorizing an unqualified audit opinion. After discovery of the overstatement, Respondent (1) accepted a decision, made at Deloitte's NIC engagement team level, that the quantitative materiality threshold for the NFC audit should be increased by 50 percent, even though Respondent believed that the original threshold remained appropriate and understood that the increased threshold would make it easier to treat known misstatements as immaterial; (2) accepted, without a reasonable basis, NFC accounting decisions and adjustments that offset the effect of the overstatement; (3) authorized issuance of the audit opinion before NFC completed reconciliation of the accounts that were the source of the overstatement; and (4) otherwise failed to act with the requisite due professional care and professional skepticism.

C. Respondent Failed to Comply with PCAOB Auditing Standards in Auditing the Financial Statements of Navistar Financial Corporation for FY 2003

4. NFC is a Delaware corporation with principal executive offices in Rolling Meadows, Illinois. NFC issues debt securities in the public markets and is required to file reports under Section 15(d) of the Securities Exchange Act of 1934. At all relevant times, NFC was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). At all times relevant to this Order, NFC, a second-tier, wholly-owned subsidiary of NIC,[2/] provided financing for new and used trucks sold by another NIC subsidiary and its dealers. NFC's results are consolidated into NIC's financial statements. At the time of the events described in this Order, Deloitte (and its

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[2/] NIC's common stock is registered under Section 12(b) of the Securities Exchange Act of 1934 and, at all times relevant to this Order, was listed on the New York Stock Exchange. NIC is an "issuer" as that term is defined in the Act and Board rules.

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predecessors) had served as the outside auditor for NIC (and its predecessors) for nearly a century.

5. Respondent was the engagement partner for each of Deloitte's audits and reviews of NFC's financial statements from the beginning of FY 2000 through the end of FY 2003. In an audit report dated December 18, 2003, and included in NFC's Form 10-K filed with the Securities and Exchange Commission (the "Commission") on December 19, 2003, Deloitte expressed an unqualified opinion on NFC's statements of consolidated financial condition as of October 31, 2003 and October 31, 2002, and the related statements of consolidated income and cash flow for each of the three years in the period ended October 31, 2003. Deloitte's audit report stated that, in Deloitte's opinion, the audit had been conducted in accordance with U.S. generally accepted auditing standards[3/] and that NFC's financial statements presented fairly, in all material respects, its financial position in conformity with U.S. generally accepted accounting principles ("GAAP"). Respondent had final responsibility for the NFC audit as that phrase is used in AU § 311, *Planning and Supervision*, and authorized issuance of the audit report on December 18, 2003, concurrent with Deloitte's issuance of the NIC FY 2003 audit report.

6. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with the Board's auditing standards.[4/] Under these standards, an auditor may express an

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[3/] Deloitte's audit report for NFC stated that its audit was conducted in accordance with generally accepted auditing standards in the United States of America ("GAAS"). Respondent was required to conduct the audit in accordance with the PCAOB's interim auditing standards pursuant to PCAOB Rule 3200T, which took effect on April 25, 2003. However, at the time of the FY 2003 NFC audit, the PCAOB's interim auditing standards were the same as GAAS as it existed on April 16, 2003, and, until PCAOB Auditing Standard No. 1 took effect on May 24, 2004, it remained appropriate for auditors to refer to GAAS in their audit reports. Accordingly, although the reference to GAAS in Deloitte's report for NFC was appropriate at the time, the standards pursuant to which the audit was required to be performed are more appropriately referred to as PCAOB auditing standards (or PCAOB standards), and that is how they are referred to in this Order.

[4/] See PCAOB Rules 3100, 3200T.

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unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[5/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[6/] Under PCAOB standards, representations from management are part of the evidential matter that an auditor obtains, but management representations are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for the auditor's opinion.[7/] PCAOB standards also provide that when information comes to an auditor's attention that differs significantly from the information on which the audit plan was based, the auditor may need to re-evaluate his or her audit procedures based on a revised consideration of audit risk and materiality.[8/] Respondent failed to comply with these standards in connection with NFC's FY 2003 audit.

Background

7. NFC disclosed that its business included securitizing and selling loans and leases through special purpose entities, which then issued securities to investors. NFC retained interests in, and continued to service, the securitized loans and leases. After the FY 2002 audit of NFC's financial statements, Deloitte issued a management letter which, among other things, noted significant unreconciled items in suspense accounts that NFC used to account for cash disbursements and collections related to the securitization transactions. The management letter recommended improvements to the reconciliation process and, in FY 2003, Deloitte's NFC engagement team ("the engagement team") informed NFC that NFC needed to complete the suspense account reconciliations before the end of the FY 2003 audit and issuance of the NFC audit report. In addition, by FY 2003, the engagement team had identified what it believed to

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5/ See AU § 508.07, *Reports on Audited Financial Statements*.

6/ See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 326, *Evidential Matter*.

7/ See AU § 333, *Management Representations*.

8/ See AU § 312, *Audit Risk and Materiality in Conducting an Audit*.

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be certain deficiencies in NFC's methodology for calculating gains on the securitization transactions.

8. In FY 2003, NFC sold a total of $1.705 billion of loans and leases in three separate securitization transactions. For both the "2002-B" transaction in the first quarter and the "2003-A" transaction in the third quarter, NFC calculated the gains using the same methodology and estimates it had previously been using. For the "2003-B" transaction, in the fourth quarter, NFC calculated the gains using a new methodology (devised in consultation with the engagement team) and certain new estimates. NFC also re-ran the gain calculation for the 2003-A securitization using its new methodology. The engagement team compared the results of that recalculation to the results NFC previously had reached and recorded using its old methodology. The engagement team found no material difference in the results and, as late as December 14, 2003, concluded that the estimates used in all the gain calculations for FY 2003 "appear reasonable in all material respects."

Earnings Announcement and Subsequent Discovery of Overstated Balances

9. On December 2, 2003, NIC management hosted a conference call with securities analysts to announce, among other things, NIC's fourth-quarter and year-end results. NIC informed analysts that its fourth-quarter net income from continuing operations, when adjusted for restructuring costs, was $0.72 per share. NIC management specifically noted that these results were "on the top side of the previous guidance we had provided" to the public at the end of the third quarter.[9/] Before the December 2 call, Deloitte had informed NIC that the FY 2003 audits of NIC and NFC were substantially completed and that unqualified opinions were expected to be issued.

10. By no later than December 8, 2003, Respondent expected that Deloitte's audit reports for NIC and NFC would be issued and NIC's and NFC's Forms 10-K would be filed with the Commission on or about December 19, 2003. This expectation was consistent with NIC's and NFC's goal, and past practice, of filing their Forms 10-K with the Commission before the Christmas holiday, several weeks in advance of the regulatory filing deadline (which in this case was January 29, 2004).

[9/] In August 2003, NIC management had informed analysts that "[w]e anticipate we will be solidly profitable in the fourth quarter with diluted earnings of between $0.65 and $0.75 per share from continuing operations."

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11. As of December 16, 2003, the engagement team was still awaiting NFC's suspense account reconciliations that had been noted in Deloitte's FY 2002 management letter. On the evening of December 16, 2003, Respondent was advised, as a result of the ongoing suspense account reconciliations, that the balances of certain NFC accounts were overstated. Specifically, Respondent was advised that cash outlays totaling approximately $17.7 million had not been appropriately recorded, and that an asset, now worthless, was recorded on NFC's books at approximately $2.0 million. Respondent concluded that these errors, totaling approximately $19.7 million, resulted in an overstatement of NFC's assets, revenue, and earnings.

NFC's Adjustments to Address the Overstatement

12. Because NFC's results are consolidated into NIC's financial statements, a write-off of the overstatement would reduce NIC's fourth-quarter earnings below what NIC had previously announced. Faced with that prospect, NFC, over December 17 and 18, made a series of accounting decisions that had the net result of avoiding any impact on NIC's reported earnings. First, NFC identified rationales for writing off less than half of the $19.7 million in 2003. Second, through recalculations of estimated gains, NFC recorded purported additional gains that offset those write-offs.

NFC's Decision to Write Off Only $7.294 Million in 2003

13. The overstatement of account balances had two basic components. One component was a $2,041,814 "hanging debit," which represented a recorded asset related to a FY 1999 securitization transaction (the 1999-B securitization). The debit was remaining (or "hanging") on NFC's balance sheet after the 1999-B securitization was settled in FY 2003. Because the securitization would not generate any future cash flows, the recorded asset was worthless. NFC wrote off this $2,041,814.

14. The remaining component—amounting to $17,645,115—involved what NFC had identified during the reconciliation process as incorrect accounting entries for cash outlays related to three securitization transactions (the 2000-C, 2001-B and 2002-B transactions). Respondent concluded that this component of the overstatement inflated the value of both an asset and a revenue account related to NFC's retained interests in the securitizations. Of the $17,645,115 component of the overstatement, NFC decided not to write off $7,768,145 related to the 2001-B and 2002-B transactions. The engagement team's work papers reflected that NFC's rationale for that decision was an analysis purportedly showing that the fair values of NFC's retained interests in

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the 2001-B and 2002-B transactions exceeded their book values, even when all cash outlays were considered, thus purportedly rendering unnecessary any adjustment to the accounts related to those retained interests.

15. Of the $9,876,970 that related to the 2000-C transaction, the audit work papers reflected that, on the basis of the same type of analysis described above, NFC determined that $215,129 did not need to be written off. Of the remaining $9,661,841, NFC decided to write off only $5,173,512 in FY 2003, and indicated to Respondent that it would write off the remaining $4,488,329 in FY 2004.

16. In sum, of the $19.7 million in overstated account balances, NFC wrote off only $7,215,326 in FY 2003: the $2,041,814 hanging debit and $5,173,512 relating to the 2000-C transaction. At the same time, NFC made a separate, unexplained adjustment writing off an additional $78,674, bringing the total write-offs in FY 2003 to $7,294,000.

NFC's Adjustments that Offset $7.294 Million in Write-Offs

17. After identifying the overstatement, NFC recalculated the gains it previously had reported on sales related to the first two securitization transactions for FY 2003 – the 2002-B and 2003-A transactions. Whereas NFC had used its old methodology and estimates in initially calculating and reporting gains on those sales, NFC applied its new methodology and estimates in performing the recalculations. As a result, NFC arrived at an additional $6.259 million in gains.

18. NFC also made certain changes to the gain it initially calculated on sales related to the 2003-B transaction. Specifically, NFC reallocated certain transaction expenses between FY 2003 and FY 2004 and made certain interest rate adjustments. These changes resulted in additional gains of $1.035 million for FY 2003. Adding this $1.035 million to the $6.259 million derived from recalculating the 2002-B and 2003-A gains resulted in $7.294 million in additional gains.

19. Accordingly, in financial statements filed with NFC's Form 10-K on December 19, 2003 – three days after the $19.7 million overstatement was identified – the effect of the overstatement, including any potential impact on NIC's reported earnings, was neutralized by the decisions and adjustments described above. NFC's Form 10-K filing was accompanied by a Deloitte audit report, which Respondent authorized to be released on December 18, expressing an unqualified opinion on NFC's financial statements.

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Respondent's Auditing Failures

20. Under the circumstances described above, an auditor proceeding in compliance with PCAOB standards would recognize the need to consider whether NFC's last-minute adjustments called for the auditor to revise his assessment of the risk of material misstatement due to fraud,[10/] or otherwise to reconsider the nature, timing, or extent of audit procedures[11/] in order to obtain the appropriate level of assurance concerning the financial statements. More generally, the due professional care required by PCAOB standards includes the element of professional skepticism, which is "an attitude that includes a questioning mind and a critical assessment of audit evidence" and an unwillingness to "be satisfied with less than persuasive evidence."[12/]

[10/] PCAOB standards require an auditor, without making assumptions about whether management is honest or dishonest (see AU § 230.09), to respond to certain events – including "last-minute adjustments by the entity that significantly affect financial results" and "undue time pressures imposed by management to resolve complex or contentious issues" – by factoring them into an objective assessment of the risk of material misstatement due to fraud. See AU § 316.68, *Consideration of Fraud in a Financial Statement Audit*. (In the predecessor version of AU § 316, which was in effect for the audit of NFC's FY 2003 financial statements, the corresponding provision is found at ¶ 25, rather than ¶ 68. See AU § 316A.25.)

[11/] Faced with factors suggesting an increased risk of material misstatement due to fraud, the application of appropriate professional skepticism involves such things as considering the need for additional procedures and additional corroboration of management's explanations or representations. See AU § 316.46. (In the predecessor version of AU 316, which was in effect for the audit of NFC's FY 2003 financial statements, the corresponding provision is found at ¶ 27, rather than ¶ 46. See AU § 316A.27.) Even apart from any risk of misstatement due to fraud, when information comes to an auditor's attention that differs significantly from the information on which the audit plan was based, the auditor may need to re-evaluate his or her audit procedures based on a revised consideration of audit risk and materiality. See AU § 312.33, *Audit Risk and Materiality in Conducting an Audit*.

[12/] See AU §§ 230.07, 230.09.

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21. Following the December 16 discovery of the overstatement, however, Respondent did not comply with these standards. On each of the points described below, Respondent accepted, without reasonable basis, NFC's rationales for concluding that the overstatement did not affect earnings and, thus, failed to obtain sufficient competent evidential matter to support the unqualified opinion on NFC's financial statements.

22. In planning the audit, Respondent had set, at $4.1 million, the quantitative threshold used by the engagement team to, among other things, determine whether to treat a misstatement in NFC's financial statements as presumptively material. But shortly after the overstatement was discovered, he accepted a decision, made at Deloitte's NIC engagement team level, that the threshold for the NFC audit should be increased to $6.1 million. Respondent accepted that decision even though he had final responsibility for the NFC audit, believed that the original materiality threshold remained appropriate, and understood that the increased threshold would make it easier to treat known misstatements as immaterial.

23. The increased materiality threshold affected the engagement team's assessment of the approximately $4.5 million component of the overstatement related to the 2000-C transaction. Respondent understood that NFC intended to postpone the write-off of the $4.5 million to FY 2004, rather than take the write-off in FY 2003. He identified NFC's failure to write off the $4.5 million in FY 2003 as resulting in a misstatement. Had he applied the original $4.1 million materiality threshold, he would have been required by Deloitte internal guidance to treat that unadjusted audit difference as a presumptively material departure from GAAP.[13/] Applying the 50 percent higher threshold, however, Respondent treated the $4.5 million as presumptively immaterial on a quantitative basis. As a result, Respondent failed to evaluate with due care and professional skepticism whether the $4.5 million unadjusted audit difference was in fact material to NFC's financial statements.

[13/] Deloitte's internal guidance concerning evaluation of misstatements provided, in part: "If known misstatements (net of tax effects, if applicable), either individually or in the aggregate, exceed planning materiality, we generally conclude that the financial statements are materially misstated. In such event, the client needs to adjust some or all of the known misstatements until we can conclude that aggregate unadjusted misstatements are acceptably small."

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24. Respondent also failed to evaluate with due care and professional skepticism NFC's approach to the approximately $7.8 million in errors related to the 2001-B and 2002-B transactions. Specifically, Respondent failed to evaluate whether, consistent with GAAP, NFC could avoid writing off the overstatement to income by identifying a purported unrealized gain on the fair value of a related asset.

25. Further, Respondent did not adequately assess the appropriateness of NFC's recalculation of gains on sales related to the three securitization transactions in 2003. Although Respondent knew that the recalculations resulted in $7.294 million of additional gains – which offset the portion of the overstatement that NFC had determined to write off – he did not evaluate with due care and professional skepticism whether that result might have been achieved by making inappropriate changes to previously reported estimates, including estimates that he knew had previously been judged by the engagement team to appear reasonable in all material respects. Moreover, even aside from that failure, Respondent noted that the recalculated gains were overstated by $1.5 million because of NFC's rounding of certain items to the nearest million, a practice which he specifically advised NFC to discontinue for future periods.[14/] Respondent neither caused NFC to reduce the additional recorded gains nor included the $1.5 million overstatement on the schedule of unadjusted audit differences.

26. Finally, even though he knew that the reconciliation process had already uncovered the approximately $19.7 million overstatement, Respondent authorized release of an unqualified audit opinion for FY 2003 before NFC had completed the suspense account reconciliations.[15/]

[14/] The new gain calculations also included several mathematical and input errors, all of which increased the recalculated gains, and none of which Respondent detected.

[15/] After the audit report was released and NFC's Form 10-K for FY 2003 was filed, the ongoing reconciliation process revealed that certain amounts partially written off in connection with the 2000-C securitization had not been recorded in error and need not have been written off.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanction agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Christopher E. Anderson is suspended for one (1) year from the date of this Order from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(1);

B. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for one (1) year following the termination of the suspension ordered in paragraph A, Christopher E. Anderson's role in any audit of the financial statements of an issuer shall be restricted to that of "assistant," as that term is used in the Board's interim auditing standards, AU § 311.02(a), and may not include serving as the auditor with final responsibility for the audit (or any functionally equivalent but differently denominated role, such as "lead engagement partner" or "practitioner-in-charge") and may not include exercising authority either to sign a registered public accounting firm's name to an audit report or to consent to the use of a previously issued audit report for any issuer;

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Anderson shall pay this civil money penalty within 10 days of the issuance of this Order by (a) United States postal money order, certified check, bank cashier's check or bank money order; (b) made payable to the Public Company Accounting Oversight Board; (c) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (d) submitted under a cover letter which identifies Christopher E. Anderson as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover

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letter and money order or check shall be sent to Office of the Secretary, Attention: J. Gordon Seymour, General Counsel and Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

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J. Gordon Seymour
Secretary

October 31, 2008

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Cordovano and Honeck, P.C. and Samuel D. Cordovano, CPA* *Respondents.*	PCAOB Release No. 105-2008-004 December 18, 2008

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Cordovano and Honeck, P.C. (the "Firm" or "Cordovano and Honeck") and barring Samuel D. Cordovano, CPA ("Cordovano") from being an associated person of a registered public accounting firm.[1/] The Board is imposing these sanctions on the basis of its findings concerning Respondents' violations of PCAOB rules and auditing standards in auditing the financial statements of one issuer client for its fiscal years ending December 31, 2003 ("FY 2003") and December 31, 2004 ("FY 2004") and one issuer client for its fiscal year ending June 30, 2004 ("FY 2004").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Cordovano and Honeck, P.C. and Samuel D. Cordovano, CPA.

[1/] Cordovano may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers and information obtained by the Board in this matter, the Board finds[2/] that:

A. Respondents

1. Cordovano and Honeck, P.C. is an accounting firm located in Denver, Colorado. At all relevant times, Cordovano and Honeck was licensed under the laws of the state of Colorado (Colorado State Board of Public Accountancy License No. FRM-736). Cordovano and Honeck is registered with the Board pursuant to Section 102 of the Act and Board Rules.

[2/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing on Cordovano in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Cordovano's conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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2. Samuel D. Cordovano, 60, of Centennial, Colorado is a certified public accountant licensed under the laws of the state of Colorado (License No. CPA-6754). He is the Firm's President and, at all times relevant to this matter, was an associated person of the Firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter involves violations of the PCAOB's auditing standards. As detailed below, in auditing the FY 2003 and FY 2004 financial statements of Celtron International, Inc. ("Celtron"),[3/] Respondents failed to perform, or reasonably ensure the performance of, sufficient audit procedures relating to Celtron's recognition of assets and liabilities connected with four purported acquisitions and failed to identify or appropriately address departures from generally accepted accounting principles ("GAAP") related to the adequacy of Celtron's financial statement disclosures concerning the purported acquisitions and related to the recognition of an extraordinary gain on one transaction.[4/] In auditing the FY 2004 financial statements of Pinnacle Resources, Inc. ("Pinnacle"), Respondents failed to perform, or reasonably ensure the performance of, sufficient audit procedures relating to the valuation, presentation, and classification of certain research and development costs.

[3/] On or about May 22, 2006, Celtron changed its name to Satellite Security Corporation. On or about April 28, 2008, Satellite Security Corporation changed its name to Mobicom Corporation.

[4/] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Securities and Exchange Commission has considered or made any determination concerning the issuer's compliance with GAAP.

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C. Respondents Violated PCAOB Rules and Professional Standards

4. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards and related professional practice standards.[5/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[7/] In connection with the audits of the financial statements of Celtron for FY 2003 and FY 2004 and Pinnacle for FY 2004, Respondents failed to do so, as described in more detail below.

Audit of Celtron's 2003 Financial Statements

5. Celtron is a Nevada corporation headquartered in Midrand, South Africa. Its common stock is registered under Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act"). Celtron's public filings disclose that it has been primarily in the business of marketing vehicle locating and management systems and mobile technology solutions. At all relevant times, Celtron was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

6. The Firm was engaged as Celtron's auditor beginning with the audit of Celtron's financial statements for FY 2003. The Firm issued an audit report dated April 16, 2004, that was included in Celtron's Form 10-KSB/A filed with the United States Securities and Exchange Commission ("Commission") on May 26, 2004. In the audit report, the Firm expressed an unqualified audit opinion on Celtron's consolidated balance sheet as of December 31, 2003, and the related consolidated statement of operations, stockholders' equity (deficit), and cash flows for the period ended December

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[5/] See PCAOB Rules 3100, 3200T.

[6/] See AU § 508.07, *Reports on Audited Financial Statements.*

[7/] See AU § 150.02, *Generally Accepted Auditing Standards*; § 230, *Due Professional Care in the Performance of Work*; and § 326, *Evidential Matter*.

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31, 2003. The Firm's audit report stated that Celtron's consolidated financial statements presented fairly, in all material respects, Celtron's financial position, results of operations and cash flows in conformity with U.S. GAAP. In addition, the report stated that the audit was conducted in accordance with auditing standards generally accepted in the United States of America ("GAAS").[8/] Cordovano was the engagement partner who had final responsibility for the audit as that phrase is used in AU § 311, *Planning and Supervision,* and authorized the issuance of the audit report.

Failures to Perform Audit Procedures Concerning Reported Assets

7. In its FY 2003 Form 10-KSB/A, Celtron reported the following assets, valued in amounts totaling 61% of Celtron's total reported assets:

- $397,059 (26% of total assets) relating to license rights purportedly obtained in connection with Celtron's 2002 acquisition of Orbtech Holdings Ltd. ("Orbtech") from Celtron International, Ltd. ("CIL");
- $330,882 (22% of total assets) in goodwill relating to Celtron's acquisition of CJ Systems (Pty) Ltd ("CJ Systems"); and
- $199,265 (13% of total assets) in goodwill relating to Celtron's acquisition of MineWorx International (Pty) Ltd ("MineWorx").

[8/] The audit report stated that the audit was conducted in accordance with GAAS. Respondents were required to conduct those audits in accordance with the PCAOB's interim auditing standards pursuant to PCAOB Rule 3200T, which took effect on April 25, 2003. However, at the time the audit was performed, the PCAOB's interim auditing standards were the same as GAAS as it existed on April 16, 2003, and, until PCAOB Auditing Standard No.1 took effect on May 24, 2004, it remained appropriate for auditors to refer to GAAS in their audit reports. Accordingly, while the reference to GAAS in the audit report was appropriate at the time, the standards pursuant to which the audit was required to be performed are more appropriately referred to as PCAOB auditing standards (or PCAOB standards), and that is how they are referred to in this Order.

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As described below, Respondents failed to perform sufficient audit procedures related to those reported assets.

8. Respondents failed to perform procedures to evaluate whether the license rights purportedly acquired in the Orbtech acquisition existed, were owned by Celtron, and were appropriately valued. Moreover, despite Orbtech's history of operating losses and negative cash flows, Respondents failed to evaluate whether the license rights were impaired. In addition, even though Respondents had information indicating that the Orbtech acquisition was a related party transaction,[9/] Respondents failed to take steps to determine whether it was a related party transaction and, if so, to satisfy themselves concerning the purpose and nature of the transaction and concerning the required accounting in the financial statements included in the FY 2003 Form 10-KSB/A.[10/]

9. Respondents also failed to perform sufficient audit procedures concerning the CJ Systems acquisition. First, despite being aware of inconsistent information concerning whether Celtron had issued any stock in connection with the transaction,[11/] Respondents failed to perform sufficient procedures to evaluate whether and when Celtron owned CJ Systems. Respondents relied principally on an acquisition agreement purportedly signed on January 29, 2004 and obtained no audit evidence supporting a conclusion that Celtron owned CJ Systems as of Celtron's December 31, 2003 fiscal year end. Second, Respondents failed to evaluate the appropriateness of Celtron's valuation of its stock at approximately $.15 per share for purposes of reporting the purported acquisition, when the quoted market price of its stock on or about the date

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[9/] Celtron's public filings disclosed that CIL and Celtron were under common control at the time Celtron acquired Orbtech from CIL. See Celtron Form 8-K, filed June 20, 2001.

[10/] See AU § 334, *Related Parties*, ¶¶ .01 and .09.

[11/] Celtron disclosed in its FY 2003 Form 10-KSB/A that it had acquired CJ Systems through a subsidiary for 2,250,000 shares of stock. Respondents, however, had detailed shareholder lists for 2003 and 2004, and information from a transfer agent about total issued and outstanding shares, that appeared to be inconsistent with Celtron having issued any shares to acquire CJ Systems.

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of the acquisition was never less than $.87 per share.[12/] Third, Respondents failed to test the reported goodwill related to the acquisition. Respondents obtained no evidence concerning whether Celtron obtained any assets or liabilities in the transaction, information without which Respondents could not evaluate the appropriateness of the recorded goodwill. More specifically, even though Celtron disclosed that it acquired CJ Systems to access certain distribution rights, Respondents did not evaluate whether those rights represented an identifiable intangible asset, and, if so, whether that asset should have been recognized apart from goodwill.[13/]

10. Similarly, Respondents failed to perform sufficient audit procedures concerning the MineWorx acquisition. First, Respondents failed to perform sufficient procedures to evaluate whether Celtron owned MineWorx, relying principally on a document that referred to the possibility of an acquisition and failing to obtain sufficient evidence to support a conclusion that the transaction had occurred. Second, Respondents failed to test Celtron's valuation of the consideration provided in exchange for MineWorx, even despite the existence of significant conflicts in the information available to Respondents.[14/] Finally, Respondents failed to test the reported goodwill

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[12/] GAAP provides that the quoted market price of an equity security issued to effect a business combination generally should be used to estimate the fair value of the acquired entity, subject to consideration of certain other factors. Statement of Financial Accounting Standards ("SFAS") No. 141, *Business Combinations*, ¶ 23. (This Order's cites to SFAS No. 141 refer to the version in effect at the time of Respondents' Celtron audits and not to the revised version issued in 2007.)

[13/] GAAP describes criteria concerning whether to recognize an intangible asset apart from goodwill and states, among other things, that an intangible asset shall be recognized as an asset apart from goodwill if it arises from contractual or other legal rights or if it can be separated from the acquired entity and sold, transferred, licensed, rented, or exchanged. SFAS No. 141, ¶ 39.

[14/] Celtron disclosed that it acquired MineWorx for $200,000 and 262,500 shares of stock. Celtron's consolidated statement of shareholders' equity indicated zero value for the shares issued. Respondents, however, had information indicating that Celtron may have paid $46,324 in cash and that, for purposes of the goodwill computation, Celtron may have valued the shares issued at $152,941. In addition, even the $152,941 valuation would have reflected a per share value (approximately $.58) that

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related to the acquisition, again obtaining no evidence concerning whether Celtron obtained any assets or liabilities in the transaction.

Failure to Identify and Address Disclosure Issues

11. Pursuant to GAAP, Celtron's FY 2003 Form 10-KSB/A should have included various disclosures related to the acquisitions discussed above. As described below, Respondents, failed to identify and appropriately address certain disclosure issues in Celtron's financial statements.

12. The Orbtech acquisition was disclosed in Celtron's FY 2002 Form 10-KSB and related amended filings, but it was not until Celtron's third quarter of FY 2003 that Celtron first included the results of Orbtech's operations in its financial statements. In its FY 2003 Form 10-KSB/A, Celtron included a statement of operations for FY 2002 that included the results of Orbtech as if it had been a consolidated subsidiary since the beginning of FY 2002. Under GAAP, this constituted a change in the reporting entity,[15/] which should have been accompanied by a disclosure describing the nature of the change and the reason for it.[16/] Celtron provided no disclosure, however, as to why the manner of reporting had changed in FY 2003 or why the FY 2002 statement of operations included in the FY 2003 Form 10-KSB/A differed from the FY 2002 statement of operations presented in the FY 2002 Form 10-KSB. Respondents failed to identify and appropriately address this omission. In addition, as described above, Respondents had information indicating that the Orbtech acquisition was a related party transaction, but Respondents failed to take steps to determine whether it was a related party transaction and, if so, to satisfy themselves concerning the adequacy of Celtron's disclosures, including in the financial statements filed with the FY 2003 Form 10-KSB/A.[17]

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was significantly less than the quoted market price on or about the date of the acquisition (approximately $.82).

[15/] See Accounting Principles Board Opinion ("APB") No. 20, *Accounting Changes*, ¶ 12.

[16/] See APB No. 20, ¶ 35.

[17/] See AU § 334.01 and .11.

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13. With respect to the purported acquisitions of CJ Systems and MineWorx, Celtron's FY 2003 10-KSB/A filing did not include certain disclosures that GAAP requires concerning any material business combination. Specifically, Celtron did not disclose (1) the periods for which the results of the operations of CJ Systems and MineWorx were included in the consolidated statement of operations of Celtron; (2) the basis for determining the value of the shares issued to consummate the acquisitions; (3) condensed balance sheets of CJ Systems and MineWorx as of the acquisition date; (4) pro forma results of operations as if the acquisitions had taken place on January 1, 2002, and (5) the reason for the MineWorx acquisition.[18/] Respondents failed to identify and appropriately address those omissions as well.

14. Finally, Celtron's FY 2003 10-KSB/A disclosed that it issued a total of 2,512,500 shares for acquisitions in 2003 – the acquisitions of CJ Systems and MineWorx. On its consolidated statement of changes in shareholders' equity, however, Celtron reported that in 2003 it issued 1,711,775 shares, at zero value, for acquisitions. Although the disclosure and the consolidated statement of changes in shareholders' equity could not both have been correct on this point, Respondents failed to identify and appropriately address the inconsistency. Moreover, Respondents had information indicating that (1) the shares reported on the consolidated statement of changes in shareholders' equity may have included 1,449,275 shares for an advance payment involving a third acquisition that was consummated in FY 2004, and (2) Celtron may have issued no shares in FY 2003 concerning the CJ Systems acquisition. Respondents failed to perform procedures to reconcile that information with the disclosure or otherwise to evaluate the disclosure in light of the information.

Audit of Celtron's 2004 Financial Statements

15. The Firm issued an audit report dated May 26, 2005, that was included in Celtron's Form 10-KSB filed with the Commission on June 1, 2005. In the audit report, the Firm expressed an audit opinion on Celtron's consolidated financial statements for FY 2004. The report stated that Celtron's financial statements presented fairly, in all material respects, Celtron's financial position, results of operations, and cash flows in conformity with GAAP. In addition, the report stated that the audit was conducted in

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[18/] Those disclosures were required by SFAS No. 141, ¶¶ 51 and 54.

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accordance with PCAOB standards. Cordovano was the engagement partner who had final responsibility for the audit.

16. In its FY 2004 Form 10-KSB, Celtron disclosed that it acquired certain technology from a principal shareholder in exchange for 11 million shares of stock. Celtron reported the transaction as a $4,071,922 charge on its statement of operations under the caption "stock-based compensation – software expense." Respondents had information indicating that the shareholder from which Celtron acquired the technology was CIL, the same party from which Celtron had acquired Orbtech and the related license rights discussed above. Celtron continued to report an asset relating to the license rights of $396,797, which approximated 16% of Celtron's total reported assets as of December 31, 2004. Respondents took no steps to determine whether there was any overlap between the license rights and the newly acquired technology that would have rendered the continued reporting of the license rights as an asset inappropriate. This was part of Respondents' broader failure, again, to perform procedures to test the existence and valuation of the license rights. Respondents also failed again to test the license rights for impairment, despite Orbtech's continued operating losses and negative cash flows.

17. Celtron's FY 2004 Form 10-KSB also disclosed that the previously announced agreement to acquire CJ Systems was never consummated. Celtron no longer reported any goodwill related to CJ Systems. Although the goodwill was no longer reported in FY 2004, Celtron continued to report on its FY 2004 financial statements a $396,797 asset – separate from the identically valued license rights discussed above – under the caption "other investments," and Respondents had information indicating that that reported asset related to CJ Systems. Respondents, however, failed to perform procedures to evaluate whether this asset existed, was owned by Celtron, and was appropriately valued.

18. In addition, Celtron disclosed in its FY 2004 Form 10-KSB that MineWorx had become insolvent and was no longer under Celtron's control. Celtron also disclosed that because of MineWorx' insolvency, Celtron exercised its right to obtain certain MineWorx assets and that it planned to run the former business of MineWorx. Celtron's FY 2004 Form 10-KSB otherwise treated the MineWorx acquisition as if it had not occurred: the previously reported goodwill asset was not reflected in the balance sheet and there was no related impairment loss reported in the statement of operations. In light of Celtron's disclosure about the insolvency of MineWorx, the previously

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recognized goodwill asset was impaired, and GAAP required that Celtron report an impairment loss as part of a separate line item on the statement of operations presenting the aggregate amount of goodwill impairment losses.[19/] Respondents failed to identify and address this departure from GAAP.

19. Finally, Celtron reported in its 2004 Form 10-KSB that it acquired approximately 94% of the issued and outstanding common stock of Knight Fuller, Inc. ("KFI") in exchange for an intangible asset developed by Celtron, and reported an extraordinary gain of $305,968 connected with the transaction.[20/] Celtron's recording of that gain, and related disclosures, involved at least the following four departures from GAAP, none of which was identified and appropriately addressed by Respondents:

a. According to KFI's public filings near the time of the transaction and at December 31, 2004, KFI had liabilities in excess of its assets. Under GAAP, the KFI liabilities should have been factored into the purchase accounting computation,[21/] which may have negated the extraordinary gain that Celtron recognized, but they were not factored into that computation.

b. Celtron disclosed that KFI's assets included 350,469 shares of Celtron's common stock valued at $192,758, and, according to the public filings of Celtron and KFI, Celtron included the cost of its own stock as part of the gain recognized in the transaction, which was inappropriate under GAAP.

c. Celtron disclosed that KFI's assets included 221,233 restricted shares of Sutter Holding Corp. ("Sutter"), valued at $132,740. Celtron included the value of the Sutter investment in the gain, but did not report the investment as an asset. Under GAAP, securities, like the

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[19/] See SFAS No. 142, ¶¶ 18 and 43.

[20/] The Firm audited KFI's December 31, 2004 financial statements and issued an audit report thereon dated May 28, 2005.

[21/] See SFAS No. 141, ¶ 35.

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Sutter investment, should be reported as assets.[22/] However, Celtron reflected the amount as a direct reduction to its retained earnings.

d. Despite its disclosure that it acquired 94% of KFI's issued and outstanding shares, Celtron did not consolidate and report the results of KFI in its consolidated financial statements as of December 31, 2004. Under GAAP, Celtron should have done so.[23/]

20. Respondents also failed to perform sufficient procedures concerning other aspects of the KFI transaction. First, despite the fact that Cordovano believed that the KFI transaction was with a related party, Respondents failed to satisfy themselves concerning the purpose and nature of the transaction and concerning the required financial statement accounting and disclosure.[24/] Second, Respondents performed no procedures to test the fair value of the intangible asset paid to acquire KFI.

Audit of Pinnacle Resources, Inc. 2004 Financial Statements

21. Pinnacle is a Wyoming corporation headquartered in Englewood, Colorado. Its common stock is registered with the Commission under Section 12(g) of the Exchange Act. Pinnacle's public filings disclose that during FY 2004 it was primarily in the business of mining ocean diamonds, refining tantalum, and developing vanadium/titanium, although it had not recognized any revenues during FY 2004 or earlier. At all relevant times, Pinnacle was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

22. The Firm was engaged as Pinnacle's auditor beginning with the audit of Pinnacle's financial statements for FY 2000. The Firm issued an audit report dated August 30, 2004 that was included in Pinnacle's Form 10-KSB filed with the Commission on October 13, 2004. In the audit report, the Firm expressed an unqualified audit opinion on Pinnacle's consolidated balance sheet as of June 30, 2004 and the related statements of operations, changes in shareholders' equity and cash

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[22/] See SFAS No. 141, ¶ 37.

[23/] See Accounting Research Bulletin No. 51, *Consolidated Financial Statements,* ¶ 3.

[24/] See AU § 334.01 and .09.

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flows for the years ended June 30, 2004 and 2003. The report stated that the financial statements presented fairly, in all material respects, Pinnacle's financial position, results of operations, and cash flows in conformity with GAAP. In addition, the report stated that the audit was conducted in accordance with PCAOB standards. Cordovano was the engagement partner who had final responsibility for the audit.

23. According to Pinnacle's 2004 Form 10-KSB, Pinnacle was developing a machine called the Aqua Walker, which was a platform that could walk into the ocean and recover from the ocean floor diamondiferous gravels that were previously inaccessible by conventional recovery methods. Pinnacle disclosed that the Aqua Walker made its maiden walk in April 2003 and had completed certain sea trials. Pinnacle further disclosed that it was still conducting trial runs and that it was expecting to start commercial operations with the Aqua Walker toward the end of calendar year 2004.

24. For the period ended June 30, 2004, Pinnacle had capitalized approximately $380,000 in costs accumulated in connection with the design, development, and construction of the Aqua Walker. The $380,000 constituted approximately 48% of Pinnacle's total reported assets. Respondents, however, failed to evaluate whether capitalization of those costs was appropriate or whether, in light of the development status of the Aqua Walker, those costs should have been expensed.[25/] Even assuming that capitalization was appropriate, Respondents also failed to evaluate the appropriateness of the amount capitalized. Rather than obtain and critically assess any significant audit evidence concerning the Aqua Walker, Respondents relied solely on

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[25/] GAAP requires the immediate expensing of research and development costs. See SFAS No. 2, *Accounting for Research and Development Costs*, ¶ 12. SFAS No. 2, ¶ 8(b) defines "development," in part, as "the translation of research findings or other knowledge into a plan or design for a new product or process…whether intended for sale or use. It includes the conceptual formulation, design, and testing of product alternatives, construction of prototypes, and operation of pilot plants." SFAS No. 2, ¶ 11(a) further prescribes that "the costs of materials, equipment, or facilities that are acquired or constructed for a particular research and development project and that have no alternative future uses (in other research and development projects or otherwise) and therefore no separate economic values are research and development costs at the time the costs are incurred."

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management's uncorroborated representations that the Aqua Walker would be operational in the near future.[26/]

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(5), Cordovano and Honeck, P.C. is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Samuel D. Cordovano is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

C. After one (1) year from the date of this Order, Cordovano may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

J. Gordon Seymour
Secretary

December 18, 2008

[26/] Representations from management are evidential matter, but do not substitute for the application of auditing procedures necessary to afford a reasonable basis for an audit opinion. See AU § 333.02, *Management Representations*.

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Clancy and Co., P.L.L.C., Jennifer C. Nipp, CPA, and Judith J. Clancy, CPA,* *Respondents.*	PCAOB Release No. 105-2009-001 March 31, 2009

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Clancy and Co., P.L.L.C. ("the "Firm" or "Clancy and Co."), barring one of its partners, Jennifer C. Nipp, CPA ("Nipp"), and suspending, for a period of one year from the date of this Order, the other partner, Judith J. Clancy ("Clancy") (collectively, "Respondents"), from being associated persons of a registered public accounting firm.[1/] The Board is imposing these sanctions on the basis of its findings concerning Respondents' violations of PCAOB rules and auditing standards in auditing the financial statements of an issuer client from 2003 to 2005.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Clancy and Co., Nipp, and Clancy.

[1/] Clancy and Co. may reapply for registration after one year (1) year from the date of this Order. Nipp may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers and information obtained by the Board in this matter, the Board finds[2/] that:

A. Respondents

1. Clancy and Co., P.L.L.C. is a public accounting firm located in Phoenix, Arizona. At all relevant times, Clancy and Co. was licensed under the laws of the state of Arizona to engage in the practice of public accounting (Firm Registration No. 01098-L). Clancy and Co.'s Arizona firm registration was placed on probation by the Arizona State Board of Accountancy ("Arizona Board") for a period of two years, commencing on May 27, 2008.[3/] Clancy and Co. is registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

[2/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3/] *See In the Matter of Certified Public Accountant Certificate No. 10871-R Issued to: Jennifer C. Nipp, and Certified Public Accounting Firm Registration No. 1098-L Issued to: Clancy and Co., P.L.L.C.*, ASBA File Nos. 2007.075, 2007.110 (May 27, 2008 Decision & Order (By Consent)). The Arizona Board disciplined the Firm and Nipp for failures to comply with PCAOB and other professional standards in the audits

2. Jennifer C. Nipp, 42, of Draper, Utah, is a certified public accountant who is licensed under the laws of the State of Arizona (License No. 10871-R), the Commonwealth of Kentucky (License No. 5942), and the State of California (License No. 78106). Nipp's Arizona license was placed on probation by the Arizona State Board of Accountancy for a period of two years, commencing on May 27, 2008.[4/] At all relevant times, she was a partner in the Firm and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. Judith J. Clancy, 66, of Phoenix, Arizona, is a certified public accountant who is licensed under the laws of the State of Arizona (License No. 8221-R) and the Commonwealth of Kentucky (License No. 5398). At all relevant times, she was the Managing Member of the Firm and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

4. This matter involves violations of PCAOB auditing standards by Respondents in the audits of the 2003, 2004, and 2005 financial statements of PacificNet, Inc. ("PNET"). Nipp and the Firm violated PCAOB auditing standards by failing to adopt appropriate measures to assure coordination with another accounting firm and using work of the other accounting firm without following up on indications that the work may have been inappropriate for use by the Firm. Nipp and the Firm also violated PCAOB auditing standards by failing to: a) perform sufficient audit procedures relating to PNET's accounting for certain business acquisitions in 2003, 2004, and 2005; b) identify and appropriately address departures from Generally Accepted Accounting Principles ("GAAP") concerning PNET's 2004 statement of cash flows; and c) perform sufficient audit procedures relating to the adequacy of PNET's disclosure concerning a related party receivable in its 2005 financial statements. Respondents violated PCAOB standards by failing to take appropriate steps in a timely manner after learning of possible errors in PNET's accounting for stock options in 2003, 2004, and 2005. Finally, Clancy failed to exercise due care in her role as concurring partner reviewer in the audits of the 2003, 2004, and 2005 PNET financial statements.

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of two issuers, which, according to the Decision & Order, constitute violations of Arizona Board rules.

[4/] See id.

C. Respondents Violated PCAOB Auditing Standards in Connection with the Audits of PNET's 2003, 2004, and 2005 Financial Statements

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[7/] As detailed below, Respondents failed to meet these standards in connection with the audits of the financial statements of PNET for 2003, 2004, and 2005.

6. PNET is a Delaware corporation based in Beijing, China. Its common stock is registered with the United States Securities and Exchange Commission ("Commission") under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and is quoted on the OTC Bulletin Board. PNET's public filings disclose that it is a holding company with primary interests in the telecommunications industry. At all relevant times, PNET was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

7. The Firm was engaged as PNET's auditor from March 2002 to January 2007. During that time, Respondents audited PNET's 2003, 2004, and 2005 financial statements. Respondents issued audit reports dated March 30, 2004 (included in PNET's Form 10-KSB filed April 2, 2004), April 15, 2005 (included in PNET's Form 10-KSB filed April 19, 2005), April 25, 2006 (included in PNET's Form 10-KSB filed April 28, 2006), and October 25, 2006 (a dual-dated reissue of the April 25, 2006 report, included in PNET's Form 10-KSB/A filed November 3, 2006[8/]), each of which were filed with the Commission. Each report stated that the audit was conducted in accordance

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[5/] See PCAOB Rules 3100, 3200T.

[6/] See AU § 508.07, *Reports on Audited Financial Statements*.

[7/] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; and AU § 326, *Evidential Matter*.

[8/] The report is dated October 25, 2006 as to the matters discussed in Note 1 of the financial statements, concerning the correction of an error in accounting for business combinations, and is otherwise dated April 25, 2006.

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with PCAOB standards, except for the March 30, 2004 report, which stated that the audit was conducted in accordance with generally accepted auditing standards ("GAAS").[9/] In each of those audit reports, the Firm expressed an unqualified audit opinion and stated that, in the Firm's opinion, PNET's financial statements presented fairly, in all material respects, PNET's financial position, results of operations, and cash flows in conformity with U.S. GAAP. For each of the audits, Nipp was the engagement partner who had final responsibility for the audit, and Clancy served as the concurring review partner.

8. In auditing PNET's 2003, 2004, and 2005 financial statements, Nipp and the Firm performed various audit procedures but also used a significant amount of audit work that was performed by a Hong Kong accounting firm that had been separately engaged by PNET. Nipp and the Firm determined that the nature and extent of their work was sufficient to enable the Firm to serve as principal auditor with respect to financial statements that PNET filed with the Commission,[10/] and the Firm assumed responsibility for the Hong Kong firm's work that it used.[11/]

[9/] Respondents were required to conduct the audit of the 2003 financial statements in accordance with the PCAOB's interim auditing standards pursuant to PCAOB Rule 3200T, which took effect on April 25, 2003. However, at the time Respondents performed the audit, the PCAOB's interim auditing standards were the same as GAAS as it existed on April 16, 2003, and, until PCAOB Auditing Standard No. 1 took effect on May 24, 2004, it remained appropriate for auditors to refer to GAAS in their audit reports. Accordingly, although the reference to GAAS in the March 30, 2004 audit report was appropriate at the time, the standards pursuant to which the audit was required to be performed were PCAOB standards, and that is how they are referred to in this Order.

[10/] AU § 543, *Part of Audit Performed by Other Independent Auditors*, describes factors relevant to an auditor's consideration of whether the nature and extent of the auditor's own participation in audit work is sufficient to enable the auditor to serve as the principal auditor and to report as such on the financial statements. See AU § 543.02.

[11/] Under AU § 543, a principal auditor who uses another auditor's work chooses between assuming responsibility for that work (in which case the principal auditor's report makes no reference to the other auditor's work or report) and not assuming such responsibility (in which case the principal auditor's report should make reference to the other auditor and clearly indicate the division of responsibility between the two auditors). See AU § 543.03.

9. As described below, in some instances, Nipp and the Firm failed to follow up on indications that the Hong Kong firm's work used by the Firm may not have been performed in accordance with PCAOB standards and may not have provided sufficient competent evidential matter relating to whether the financial statements comported with U.S. GAAP. In other instances, Nipp and the Firm failed to perform sufficient procedures in their own audit work.

Nipp's and the Firm's Failure to Adequately Coordinate with Another Auditor Whose Work They Used

10. PCAOB standards require a principal auditor to perform certain procedures when using the work of another auditor and assuming responsibility for that work.[12/] Those procedures include adopting appropriate measures to assure the coordination of the auditor's activities with those of the other auditor in order to achieve a proper review of matters affecting the consolidating or combining of accounts in the financial statements.[13/]

11. In using the Hong Kong firm's work in the audits of PNET's 2003, 2004, and 2005 financial statements, Nipp and the Firm failed to adopt appropriate measures to assure coordination with the Hong Kong firm. Nipp and the Firm never obtained representations from the Hong Kong firm that the Hong Kong firm's work that the Firm used on the 2003, 2004 and 2005 audits had been performed in accordance with PCAOB standards or had been done with the objective of assessing whether the financial statements were presented fairly in conformity with U.S. GAAP. With respect to the 2003 audit, Nipp and the Firm actually understood that the Hong Kong firm's work that the Firm used on the audit was performed in accordance with standards other than PCAOB standards and that the purpose of the Hong Kong firm's audit work was to assess the financial statements' compliance with accounting principles other than U.S. GAAP.

[12/] AU § 543.10 (principal auditor should "make inquiries concerning the professional reputation and independence of the other auditor" and "adopt appropriate measures to assure the coordination of his activities with those of the other auditor in order to achieve a proper review of matters affecting the consolidating or combining of accounts in the financial statements," including, considering procedures such as ascertaining through communication with the other auditor that the other auditor is familiar with relevant accounting principles, auditing standards, and financial reporting requirements and will conduct his or her audit and will report in accordance therewith); AU § 543.12 (describing certain information that the principal auditor must obtain, review, and retain).

[13/] AU § 543.10.

Deficiencies in the Audit Procedures Performed by Nipp and the Firm

12. Nipp's and the Firm's PNET audits were deficient in other respects as well. In some cases, Nipp and the Firm failed to audit significant aspects of the financial statements even in cases where they understood that the Hong Kong firm had not done so. In other cases, Nipp and the Firm failed to perform procedures adequately or failed to identify and properly address GAAP departures in PNET's financial statements. In particular:

(a) In the audits of the 2003, 2004 and 2005 financial statements, Nipp and the Firm understood that PNET had relied upon an accounting standard other than U.S. GAAP to prepare its financial statements and then converted those financial statements into U.S. GAAP financial statements. Nipp and the Firm failed to evaluate whether PNET's purported conversions were appropriate.

(b) GAAP requires acquiring entities to "allocate the cost of an acquired entity to the assets acquired and liabilities assumed based on their estimated fair values at date of acquisition."[14/] Nipp understood during the audits of the 2003, 2004, and 2005 financial statements that PNET was recording the assets acquired and the liabilities assumed based on the acquirees' book value, which PNET claimed reasonably approximated fair value. Nipp and the Firm, however, failed to test management's assertion that the acquirees' book value reasonably approximated the estimated fair value.[15/]

(c) In assessing the appropriateness of PNET's 2004 statement of cash flows, Nipp and the Firm failed to appropriately address an error concerning PNET's reported reconciliation of net earnings to net cash used in operating activities. Specifically, the minority interest amount included on the reconciliation did not agree to the minority interest amount reported on PNET's 2004 Income

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[14/] Statement of Financial Accounting Standard ("SFAS") No. 141, *Business Combinations*, ¶ 35. (This cite to SFAS No. 141 refers to the version in effect at the time of Respondents' PNET audits and not to the revised version issued in 2007.)

[15/] During 2003, PNET wrote off $1,186,000 of its acquired assets within weeks of their acquisition. Nipp and the Firm knew of these write-offs during the 2003 audit, but performed no audit procedures on them. In an S-1/A filed on November 13, 2006, PNET restated its 2003 Summary Consolidated Financial Data to reduce its 2003 losses before income tax, minority interest and discontinued operations by $1,186,000. The restatement showed that PNET had overstated its 2003 selling, general and administrative expenses by 75 percent and its 2003 net loss by 46 percent.

Statement. Although Nipp and the Firm identified the inconsistency, they did not address it other than to ask management about it and accept management's explanation.[16/]

(d) Assets reported on PNET's 2005 financial statements included a $1,215,000 loan receivable due from a related party. PNET's 2005 financial statements disclosed the amount of, counterparty to, purpose of, and collateral for the receivable, but did not disclose that, at December 31, 2005, approximately $1 million of the receivable was past due. Nipp and the Firm understood that the receivable was past due but failed to assess the adequacy of the disclosure in light of the omission of that information.[17/]

Inadequate Response to Subsequent Discovery of Possible Errors in PNET's Accounting for Stock Options

13. PNET's financial statements for 2003, 2004, and 2005, as originally reported, did not recognize certain expenses associated with the issuance of stock options to PNET executives and directors. In mid-December 2006, Respondents became aware of information suggesting that PNET's stock option expense accounting may have been inappropriate. Respondents recognized almost immediately that the information existed at the time of the Firm's audit reports and that had they been aware of it at the dates of those reports it might have affected the reports. As Respondents

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[16/] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Commission has considered or made any determination concerning the issuer's compliance with GAAP. In 2006, however, PNET restated its 2004 financial statements to revise its Statement of Cash Flows. See PNET's Form 10-KSB, filed on April 28, 2006.

[17/] AU § 431.02, *Adequacy of Disclosure in Financial Statements*, requires an auditor to consider the adequacy of an issuer's financial statement disclosures and to take certain steps if the financial statements omit information required by GAAP. In its financial statements for the year ended December 31, 2006, PNET recorded a $993,000 provision relating to the receivable. See PNET's Form 10-K, filed on May 11, 2007, p. F-33.

realized, PCAOB standards required them to take action as soon as practicable to determine whether the information was reliable and, if so, whether steps were necessary to prevent future reliance on the Firm's audit reports.[18/] Respondents, resigned from the engagement in mid-January 2007 without having taken any such action and then waited until February 2007 before contacting PNET to confirm the reliability of the information[19/] and quantifying the potential error.[20/]

Clancy's Concurring Reviews

14. An auditor who undertakes to perform a concurring review has "a duty to perform that task professionally,"[21/] which includes a duty to perform the task with due care and professional skepticism.[22/] In her role as the Firm's concurring partner reviewer for the audits of PNET's 2003, 2004, and 2005 financial statements, Clancy understood that PNET relied upon an accounting standard other than U.S. GAAP to prepare its financial statements. Clancy understood that PNET had converted those financial statements into U.S. GAAP financial statements and that neither the Hong Kong firm nor Nipp and the rest of the Firm's engagement team had performed audit procedures to evaluate whether PNET's purported conversion was appropriate. Clancy, understanding that no such audit procedures were performed, still concurred with the Firm's audit opinions for the 2003, 2004, and 2005 financial statements. In so doing, she failed to exercise due professional care in her concurring partner reviews.

[18/] See AU § 561.04, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*.

[19/] AU § 561 requires the auditor to undertake to determine whether the information is reliable even when the auditor has resigned or been discharged. See AU § 9561, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report: Auditing Interpretations of Section 561*.

[20/] After Respondents notified PNET's management and audit committee of the possible errors in its accounting for stock options, PNET restated its compensation expense for 2003, 2004, and 2005. See PNET's Form 10-K, filed on May 11, 2007.

[21/] See *Potts v. Securities and Exchange Comm'n*, 151 F.3d 810, 813 (8th Cir. 1998).

[22/] See AU § 230.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Clancy and Co., P.L.L.C. is revoked;

B. After one (1) year from the date of this Order, Clancy and Co., P.L.L.C. may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jennifer C. Nipp is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

D. After two (2) years from the date of this Order, Nipp may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm, and any such petition shall be filed by submitting it to Office of the Secretary of the PCAOB; and

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Judith J. Clancy is suspended for one (1) year from the date of this Order from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

_____

J. Gordon Seymour
Secretary

March 31, 2009

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Drakeford & Drakeford, LLC and John A. DellaDonna, CPA,* *Respondents.*	PCAOB Release No. 105-2009-002 June 16, 2009

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Drakeford & Drakeford, LLC (the "Firm") and suspending John DellaDonna, CPA ("DellaDonna") from being associated with a registered public accounting firm for a period of one year from the date of this Order.[1/] The Board is imposing these sanctions on the basis of its findings concerning (1) a misleading representation made by Respondents in connection with PCAOB inspection processes and (2) a violation of PCAOB auditing standards relating to audit documentation.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Drakeford & Drakeford, LLC and John DellaDonna, CPA.

[1/] Drakeford & Drakeford, LLC may reapply for registration after one (1) year from the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers and information obtained by the Board in this matter, the Board finds[2/] that:

A. Respondents

1. Drakeford & Drakeford, LLC is a public accounting firm located in Mableton, Georgia. Drakeford & Drakeford, LLC was formed in 1999, and John DellaDonna is a partner and the only employee of the Firm. At all relevant times, Drakeford & Drakeford, LLC was licensed under the laws of the State of Georgia to engage in the practice of public accounting (license no. ACF004373). Drakeford & Drakeford, LLC is registered with the Board pursuant to Section 102 of the Act and Board rules.

2. John A. DellaDonna, 62, of Mableton, Georgia, is a certified public accountant licensed in Georgia (license no. CPA003424), New York (license no. 090884), and New Jersey (license no. 20CC03066800). At all relevant times, DellaDonna was a partner and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

[2/] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5)(A), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Respondents Violated PCAOB Rule 4006

3. On March 9, 2006, the Board issued a report concerning its first inspection of Drakeford & Drakeford, LLC, conducted late in 2004. The report described, among other things, certain concerns about the Firm's quality control policies and procedures. Pursuant to section 104(g)(2) of the Act, the portion of the report describing those concerns was initially kept nonpublic, but was subject to being made public if the Firm failed to address those concerns to the Board's satisfaction within 12 months.[3/]

4. On March 5, 2007, the Firm, pursuant to PCAOB Rule 4009(a), submitted information to the Board's Division of Registration and Inspections ("Inspections") concerning how the Firm had addressed the quality control concerns described in the inspection report. On July 17, 2008, Inspections, also pursuant to Rule 4009(a), sent the Firm notice that Inspections intended to recommend that the Board determine that the Firm had not satisfactorily addressed those concerns. On July 23, 2008, the Firm, on its own initiative, supplemented its Rule 4009(a) submission to provide further evidence of improvements the Firm had made before the March 9, 2007 deadline by which the Firm needed to take sufficient steps to improve if the Firm hoped to keep the report's quality control discussion nonpublic. Among other things, the supplemental Rule 4009(a) submission included audit work papers that the Firm purported to have prepared in conducting a certain audit in 2006 (hereafter, "the 2006 audit"). The Firm asserted that those work papers provided additional evidence of relevant quality control improvements during the 12-month period.

5. Separate from the Rule 4009(a) quality control remediation process related to the first inspection of the Firm, Inspections had conducted a second inspection of the Firm in August 2007. In that inspection, Inspections had collected and reviewed certain of the Firm's work papers related to the 2006 audit. Because Inspections had maintained copies of those work papers, they were available for comparison with the work papers included in the Firm's July 23, 2008 supplemental Rule 4009(a) submission. Inspections noticed that certain work papers included with that submission contained additional material that had not been present in the audit file when the Firm had been inspected in August 2007.

[3/] Neither the Act nor Board rules require a firm to address the quality control criticisms in an inspection report to the Board's satisfaction. Rather, the Act provides that doing so will result in the Board's quality control criticisms remaining nonpublic, and thereby provides an incentive for firms to do. See generally *The Process for Board Determinations Regarding Firms' Efforts to Address Quality Control Criticisms in Inspection Reports*, PCAOB Release No. 104-2006-077 (March 21, 2006).

6. Inspections contacted DellaDonna and inquired about whether changes had been made to the work papers since the audit file had been reviewed by the PCAOB inspectors in 2007. DellaDonna initially denied having made any changes to the work papers. Only after Inspections staff told DellaDonna that the staff had copies of the work papers from the 2007 inspection and could compare them with the July 23, 2008 supplemental Rule 4009(a) submission did DellaDonna admit that he may have added some notes. Inspections staff requested that DellaDonna identify all such changes and additions to the work papers. On July 31, 2008, DellaDonna provided documentation to Inspections identifying thirteen work papers containing material that had been added since the 2007 inspection.

7. PCAOB Rule 4006, *Duty to Cooperate With Inspectors*, states that –

> [e]very registered public accounting firm, and every associated person of a registered public accounting firm, shall cooperate with the Board in the performance of any Board inspection. Cooperation shall include, but is not limited to, cooperating and complying with any request, made in furtherance of the Board's authority and responsibilities under the Act, to – (a) provide access to, and the ability to copy, any record in the possession, custody, or control of such firm or person, and (b) provide information by oral interviews, written responses, or otherwise.

8. The Rule 4006 cooperation obligation includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes. This obligation applies with no less force to information or communications that a firm or person decides on its own to provide – such as a Rule 4009(a) submission made in an effort to persuade Inspections to recommend a favorable quality control remediation determination – than it does to information that the Board specifically requires a firm or person to provide. Respondents' conduct in making a misleading representation concerning documentation submitted as evidence of quality control improvement in connection with the Board's Rule 4009 process violated PCAOB Rule 4006.

C. Respondents violated PCAOB Auditing Standard No. 3

9. Under PCAOB Auditing Standard No. 3, *Audit Documentation* ("AS No. 3"), any additions to audit documentation after the audit report release date, "must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[4/] As described above, thirteen

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[4/] AS No. 3, paragraph 16.

work papers submitted by Respondents as part of the July 2008 supplemental Rule 4009(a) submission contained additional information that had been added after the report release date. Respondents violated AS No. 3 by failing to include with those work papers any indication of the date the information was added, the name of the person who prepared it, and the reason for adding it.

10. In addition, for each of five sets of work papers in the 2006 audit file, Respondents added a cover page indicating that those documents had been updated after the audit report release date.[5/] For each of those sets of work papers, Respondents' indication of the additions and the reasons for them was limited to the statement, on the cover page, that "[t]he attached documents were updated to include procedures performed in other sections of the work papers." Although each cover page is dated and indicates that DellaDonna prepared it, there is no indication, in either the cover pages or the documents attached to them, of the ways in which those documents were updated. Without any more specific indication of what was added to the documentation, and without any more specific explanation than "to include procedures performed in other sections of the work papers," Respondents failed to satisfy both the fundamental requirement that additions to the work papers be identifiable as such and the requirement to indicate the reasons for the additions.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105 (c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Drakeford & Drakeford, LLC is revoked;

B. After one (1) year from the date of this Order, Drakeford & Drakeford, LLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

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5/ The five sets of work papers referred to here were not included as part of the Firm's July 23, 2008 supplemental Rule 4009(a) submission.

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), John A. DellaDonna is suspended for one (1) year from the date of this Order from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(1).

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

J. Gordon Seymour
Secretary

June 16, 2009

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Thomas J. Linden, CPA,* *Respondent.*	PCAOB Release No. 105-2009-004 August 11, 2009

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) barring Thomas J. Linden, CPA ("Respondent") from being associated with a registered public accounting firm and (2) imposing a civil money penalty in the amount of $75,000 against him.[1/] The Board is imposing these sanctions on the basis of its findings concerning Respondent's violations of PCAOB rules and auditing standards in connection with the fiscal year ("FY") 2003 audits of the financial statements of two issuer clients.

I.

On January 9, 2009, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Respondent. As required by section 105(c)(2) of the Act, these proceedings were not public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

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[1/] Respondent may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer, the Board finds[2/] that:

A. Respondent

1. Thomas J. Linden, 46, of Western Springs, Illinois, is a certified public accountant licensed in Illinois (license no. 065023618). At all relevant times, he was a partner in the Chicago, Illinois office of the registered public accounting firm of Deloitte & Touche LLP ("Deloitte") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Respondent's violations of PCAOB rules and professional standards in connection with Deloitte's audits of the FY 2003 financial statements of Navistar Financial Corporation ("NFC") and its ultimate parent, Navistar International Corporation ("NIC"). This conduct occurred in the context of NFC's discovery—shortly before NFC and NIC planned to file their Forms 10-K—of approximately $19.7 million of apparent errors resulting in an overstatement of NFC's assets, revenues, and earnings (the "overstatement"). NIC had already publicly announced its fourth-quarter earnings when the overstatement was discovered. Because NFC's financial results were consolidated into NIC's financial statements,

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[2/] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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correction of the overstatement created the prospect that NIC would have to revise its previously-announced earnings.

3. Respondent helped NIC avoid the possibility of a revision of its reported results and assisted NIC and NFC to meet their internal deadline for filing their Forms 10-K. Upon learning of the overstatement, Respondent (1) initiated an increase of approximately 50 percent in Deloitte's planned tolerance for misstatements in NFC's reported financial results (an increase that the NFC engagement partner adopted); (2) authored, with the assistance of a member of the NFC engagement team, an NFC audit work paper that inaccurately characterized the reasons for and circumstances surrounding the increase; (3) failed to evaluate adequately the risk that NIC's financial statements were materially misstated due to error or fraud; and (4) otherwise failed to act with the requisite due professional care and professional skepticism.

C. Respondent Failed to Comply with PCAOB Auditing Standards in Connection With the FY 2003 NIC and NFC Audits

4. NIC is a Delaware corporation with principal executive offices in Warrenville, Illinois. NIC is a holding company with several operating subsidiaries, including NFC. Truck and engine manufacturing represents the majority of NIC's business activities. NIC, whose common stock is registered under Section 12(b) of the Securities Act of 1934, is an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). At the time of the events described in this Order, Deloitte (and its predecessor firms) had served as the outside auditor for NIC (and its corporate predecessors) for nearly a century. The Audit Committee of NIC's Board of Directors dismissed Deloitte as its outside auditor in April 2006.

5. NFC is a Delaware corporation with principal executive offices in Schaumburg, Illinois. NFC issues debt securities in the public markets and is required to file reports under Section 15(d) of the Securities Exchange Act of 1934. At all relevant times, NFC was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). NFC, a second-tier, wholly-owned subsidiary of NIC, provided financing for new and used trucks sold by another NIC subsidiary and its dealers. Part of NFC's business included securitizing and selling loans and leases through special purpose entities, which then issued securities to investors. NFC retained interests in, and continued to service, the securitized loans and leases.

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6. Respondent began working on the NIC audit engagement in 1994. He became the lead engagement partner and Lead Client Service Partner for the NIC engagement in 1997 and remained in those roles through completion of the FY 2003 audit, when he rotated off the engagement. In an audit report dated December 18, 2003, and included in NIC's Form 10-K filed with the Securities and Exchange Commission (the "Commission") on December 19, 2003, Deloitte expressed an unqualified opinion on NIC's statements of consolidated financial condition as of October 31, 2003 and October 31, 2002, and the related statements of consolidated income, comprehensive income, and cash flow for each of the three years in the period ended October 31, 2003. Deloitte's audit report stated that the audit had been conducted in accordance with U.S. generally accepted auditing standards[3/] and that, in Deloitte's opinion, NIC's financial statements presented fairly, in all material respects, its financial position in conformity with U.S. generally accepted accounting principles ("GAAP"). Respondent had final responsibility for the NIC audit as that phrase is used in AU § 311, *Planning and Supervision*, and authorized issuance of the audit report on December 18, 2003, concurrent with Deloitte's issuance of the NFC FY 2003 audit report. During the final days of the FY 2003 audit, Respondent also performed certain procedures in the NFC audit as described in this Order, although he was not a member of Deloitte's engagement team for the NFC audit (the "NFC engagement team").

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with the Board's auditing standards.[4/] Under these standards, an auditor may express an

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[3/] Deloitte's FY 2003 audit reports for NIC and NFC stated that the audits were conducted in accordance with generally accepted auditing standards in the United States of America ("GAAS"). Respondent was required to conduct the audits in accordance with the PCAOB's interim auditing standards pursuant to PCAOB Rule 3200T, which took effect on April 25, 2003. However, at the time of the FY 2003 NIC and NFC audits, the PCAOB's interim auditing standards were the same as GAAS as it existed on April 16, 2003, and, until PCAOB Auditing Standard No. 1 took effect on May 24, 2004, it remained appropriate for auditors to refer to GAAS in their audit reports. Accordingly, although the references to GAAS in Deloitte's reports for NIC and NFC were appropriate at the time, the standards pursuant to which the audits were required to be performed are more appropriately referred to as PCAOB auditing standards (or PCAOB standards), and that is how they are referred to in this Order.

[4/] See PCAOB Rules 3100, 3200T.

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unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[5/] Among other things, those standards require that an auditor exercise due professional care, maintain professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[6/] Under PCAOB standards, representations from management are part of the evidential matter that an auditor obtains, but management representations are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for the auditor's opinion.[7/] PCAOB standards also provide that when information comes to an auditor's attention that differs significantly from the information on which the audit plan was based, the auditor may need to re-evaluate his or her audit procedures based on a revised consideration of audit risk and materiality.[8/] Respondent failed to comply with these standards in connection with the FY 2003 audits of NIC and NFC.

NIC's Earnings Announcement

8. By early December 2003, the Deloitte engagement teams' field work on the NIC and NFC audits was substantially complete and NIC management prepared to publicly announce its fourth-quarter and year-end results. Respondent knew that NIC routinely communicated with securities analysts at the end of each reporting period to discuss the company's financial and operating results and to provide earnings guidance for future periods. On December 1, 2003, Respondent attended a telephonic meeting of NIC's Audit Committee during which NIC's fourth-quarter and year-end results were reviewed in anticipation of an upcoming conference call with analysts and a public release on Form 8-K. He informed the Audit Committee at that time that Deloitte had substantially completed its audit and expected to issue an unqualified report.

5/ See AU § 508.07, *Reports on Audited Financial Statements*.

6/ See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 326, *Evidential Matter*.

7/ See AU § 333, *Management Representations*.

8/ See AU § 312, *Audit Risk and Materiality in Conducting an Audit*.

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9. On December 2, 2003, NIC management hosted a conference call with securities analysts to announce, among other things, NIC's fourth-quarter and year-end results. NIC informed analysts that its fourth-quarter net income from continuing operations, when adjusted for restructuring costs, was $0.72 per share. NIC management noted that these results were "on the top side of the previous guidance we had provided" to the public at the end of the third quarter.[9/] Respondent was aware of the substance of NIC's earnings announcement prior to the completion of the NIC and NFC audits.

Audit Committee Communication

10. On December 8, 2003, Respondent informed the Audit Committee that Deloitte's FY 2003 audit of NIC's consolidated financial statements was substantially complete. At that time, Respondent expected that the Deloitte audit reports would be issued and NIC's and NFC's Forms 10-K would be filed with the Commission on December 18, 2003. This expectation was consistent with the companies' past practice of filing their Forms 10-K with the Commission before the Christmas holiday, several weeks in advance of the regulatory deadline (which fell on January 29, 2004 for the FY 2003 financial statements).

Discovery of Overstated Balances

11. Although Respondent's December 8, 2003 Audit Committee communication indicated that the audit of NIC's consolidated financial statements was substantially complete, the NFC engagement team was still awaiting NFC's reconciliation of suspense accounts used to account for cash disbursements and collections related to NFC's securitization transactions.

12. On the evening of December 16, 2003, the NFC engagement partner advised Respondent that the ongoing suspense account reconciliations had revealed potential overstatements in the balances of certain accounts. The NFC engagement team had been advised by NFC management that cash outlays totaling approximately $17.7 million had not been appropriately recorded, and an asset, now worthless, was recorded on NFC's books at approximately $2.0 million. These apparent errors resulted

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[9/] In August 2003, NIC management had informed analysts that "[w]e anticipate we will be solidly profitable in the fourth quarter with diluted earnings of between $0.65 and $0.75 per share from continuing operations."

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in an overstatement of NFC's assets, revenue, and earnings, according to an NFC audit work paper.

NFC's Accounting Decisions and Adjustments

13. Following discovery of the overstatement, NFC made a series of accounting decisions on December 17 and 18 that had the net result of avoiding any impact on NIC's reported earnings. First, NFC identified rationales for writing off less than half of the overstatement in 2003. Second, through recalculations of estimated securitization gains, NFC identified purported additional gains that offset those write-offs.

14. Accordingly, in financial statements filed with NFC's Form 10-K on December 19, 2003, the effect of the overstatement, including any potential impact on NIC's reported earnings, was neutralized.

Respondent's Knowledge of NFC's Accounting Decisions and Adjustments

15. Respondent knew, following the discovery of the overstatement, that NFC and NIC executives had a "certain level of anxiety" concerning the potential size of the overstatement and that NIC management would prefer not to revise its announced earnings. And he knew that both NIC and NFC executives attended and participated in meetings related to the overstatement.

16. By the time he authorized issuance of Deloitte's audit report for NIC on or about December 18, 2003, Respondent knew that NFC had made adjustments to its FY 2003 gain calculations that had the effect of neutralizing the write-offs made in connection with the discovery of the overstatement. An analysis prepared by the NFC engagement partner, and transmitted to Respondent on December 18, showed a $7.294 million write-off and an offsetting $7.294 million increase from additional gains related to NFC's FY 2003 securitization transactions.

17. Respondent also knew that NFC postponed the write-off of $4.5 million of the overstatement to the first-quarter of FY 2004, without identifying a sufficient basis under GAAP to do so. And he knew that in recalculating its securitization gains, NFC rounded certain figures to the nearest million dollars. The NFC engagement partner told Respondent in an email that the rounding resulted in a $1.5 million overstatement in the recalculated gains.

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Respondent's Auditing Failures

18. Under the circumstances described above, an auditor proceeding in compliance with PCAOB standards would recognize the need to consider whether the company's last-minute adjustments called for the auditor to revise his assessment of the risk of material misstatement due to fraud,[10/] or otherwise to reconsider the nature, timing, or extent of audit procedures[11/] in order to obtain the appropriate level of assurance concerning the financial statements. More generally, the due professional care required by PCAOB standards includes the element of professional skepticism, which is "an attitude that includes a questioning mind and a critical assessment of audit evidence" and an unwillingness to "be satisfied with less than persuasive evidence."[12/]

[10/] PCAOB standards require an auditor, without making assumptions about whether management is honest or dishonest (see AU § 230.09), to respond to certain events—including "last-minute adjustments by the entity that significantly affect financial results" and "undue time pressures imposed by management to resolve complex or contentious issues"—by factoring them into an objective assessment of the risk of material misstatement due to fraud. See AU § 316.68, *Consideration of Fraud in a Financial Statement Audit*. (In the predecessor version of AU § 316, which was in effect for the audits of NFC's and NIC's FY 2003 financial statements, the corresponding provision is found at ¶ 25, rather than ¶ 68. See AU § 316A.25.)

[11/] Faced with factors suggesting an increased risk of material misstatement due to fraud, the application of appropriate professional skepticism involves such things as considering the need for additional procedures and additional corroboration of management's explanations or representations. See AU § 316.46. (In the predecessor version of AU § 316, which was in effect for the audits of NFC's and NIC's FY 2003 financial statements, the corresponding provision is found at ¶ 27, rather than ¶ 46. See AU § 316A.27.) Even apart from any risk of misstatement due to fraud, when information comes to an auditor's attention that differs significantly from the information on which the audit plan was based, the auditor may need to re-evaluate his or her audit procedures based on a revised consideration of audit risk and materiality. See AU § 312.33, *Audit Risk and Materiality in Conducting an Audit*.

[12/] See AU §§ 230.07, 230.09.

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19. Following the December 16, 2003 discovery of the overstatement, however, Respondent failed to comply with these standards in connection with his role in the NFC and NIC audits. Although he was the engagement partner for the NIC audit, after the overstatement was discovered, Respondent initiated, and the NFC engagement partner adopted, an increase in Deloitte's planned tolerance for error in the NFC audit. Respondent also authored, with the assistance of a member of the NFC engagement team, an NFC work paper that inaccurately characterized the reasons for and circumstances surrounding the increase. And he failed to assess with due care and professional skepticism the risk that NIC's financial statements were materially misstated due to error or fraud.

The Increase in NFC's Planning Materiality

20. In planning the FY 2003 audit for NFC, the NFC engagement partner had set, at pre-tax income of $4.1 million, the quantitative threshold to be used to determine, among other things, whether to treat a misstatement in NFC's financial statements as presumptively material. The NFC engagement partner had used the same 5 percent threshold, known as the "planning materiality" threshold, in all four of his years as the engagement partner for the NFC audit. In those four years, Respondent had no involvement in setting planning materiality for NFC.

21. The morning after the discovery of the overstatement, however, Respondent reviewed the planning materiality threshold that the NFC engagement partner had set. He then initiated, and the NFC engagement partner adopted, an increase to 7.5 percent of pre-tax income, or $6.1 million, thus effectively raising by 50 percent a key benchmark used to help determine how much error would be tolerated in NFC's financial statements. The increase to the materiality threshold made it easier for NFC to avoid correction of misstatements associated with the overstatement.

Respondent's Documentation of
The Planning Materiality Increase

22. The increase in NFC's planning materiality threshold was documented in a December 17, 2003 memorandum from Respondent to the NFC audit files (the "materiality memo"). The materiality memo stated that "NFC's materiality calculation for 2003 was not calculated in a manner that was consistent with its parent – NIC and [did not] properly incorporate[ ] all of the right qualitative factors." However, there is no requirement that materiality for a manufacturing parent and a wholly-owned financial

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services subsidiary be calculated in a consistent manner.[13/] Planning materiality was increased to make it easier to issue an unqualified audit opinion despite known misstatements in NFC's financial statements.

23. The materiality memo also included certain supporting detail that did not accurately characterize the circumstances in which Respondent initiated the increase of NFC's planning materiality. Specifically, the materiality memo stated: "During our year end audit summary process, I reviewed the materiality calculations of all of the subsidiaries of [NIC] including Navistar Financial Corporation (NFC) to ensure consistency with the materiality used for the parent company and to provide concurrence as to the calculated amounts." In fact, it was the discovery of the overstatement, not the year-end audit summary process, that led Respondent to review NFC's planning materiality.

The Effect of the Increased Planning Materiality

24. The increased materiality threshold affected the NFC engagement team's assessment of the approximately $4.5 million component of the overstatement. Respondent understood that NFC intended to postpone the write-off of that $4.5 million to FY 2004, rather than take the write-off in FY 2003. Respondent also knew that, if the original $4.1 million materiality threshold were applied, the NFC engagement partner would have been required by Deloitte's internal guidance to treat that $4.5 million unadjusted audit difference as presumptively material to NFC's financial statements.[14/] Applying the 50 percent higher threshold, however, enabled the NFC engagement team to treat the $4.5 million as presumptively immaterial on a quantitative basis under Deloitte's internal guidance.

[13/] PCAOB standards provide that materiality assessments should "vary with the size and complexity of the entity" and take into account "[c]ertain entity-related factors." AU § 312.15.

[14/] Deloitte's internal guidance concerning evaluation of misstatements provided, in part: "If known misstatements (net of tax effects, if applicable), either individually or in the aggregate, exceed planning materiality, we generally conclude that the financial statements are materially misstated. In such event, the client needs to adjust some or all of the known misstatements until we can conclude that aggregate unadjusted misstatements are acceptably small."

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Respondent's Approach to Materiality at NIC

25. Because NFC's financial results were consolidated into NIC's, Respondent was required to evaluate whether any misstatements identified in NFC's financial statements were material to NIC's financial statements. PCAOB standards provide that, "[i]n evaluating the effects of misstatements, the auditor should include both qualitative and quantitative considerations."[15/] In determining whether an unadjusted amount in dispute with management is qualitatively material, PCAOB standards identify certain factors as relevant, including:

- "[t]he sensitivity of the circumstances surrounding the misstatement;"
- "[t]he effect of misstatements of earnings when contrasted with expectations;"
- "[t]he motivation of management;"
- "[t]he existence of offsetting effects of individually significant but different misstatements;" and
- "[t]he risk that possible additional undetected misstatements would affect the auditor's evaluation."[16/]

26. Related guidance similarly advises the auditor to consider whether management might be improperly refusing to take a write-off to avoid a charge to reported earnings.[17/] Specifically, that guidance: (a) provides that it is "unlikely that it is ever 'reasonable' . . . not to correct known misstatements—even immaterial ones—as

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[15/] AU § 312.34.

[16/] AU § 9312.17g., j., l., m., p., *Audit Risk and Materiality in Conducting an Audit: Auditing Interpretations of Section 312*.

[17/] See Commission Staff Accounting Bulletin No. 99, *Materiality* ("SAB 99"); Practice Alert 94-1 (AICPA SEC Practice Section Professional Issues Task Force), *Dealing With Audit Differences.*

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part of an ongoing effort directed by or known to senior management for the purposes of 'managing' earnings;"[18/] and (b) advises auditors that they "should exercise great care when netting 'hard' . . . differences [i.e., known errors] and 'soft' . . . differences [i.e., differences based on estimates]," especially when the netting is done at the "[l]ast-minute."[19/]

27. In evaluating whether NIC's financial statements were free from material misstatement, Respondent failed sufficiently to assess the qualitative factors discussed above. At the time of his assessment, Respondent understood that (1) NFC had offset any overstatement-related write-offs by recalculating its securitization gains; (2) NFC had rounded certain figures to the nearest million dollars in recalculating those gains, thereby increasing the recalculated gains by $1.5 million; (3) NFC and NIC had not provided a sufficient basis under GAAP to delay the write-off of $4.5 million of the overstatement; (4) NIC and NFC executives had a "certain level of anxiety" concerning the potential size of the NFC overstatement; (5) NIC management preferred not to revise its announced earnings; and (6) a public company's stock price can be affected when projected earnings are missed. Under the circumstances, Respondent did not obtain reasonable assurance that NIC's financial statements were free from material misstatement due to error or fraud.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanction agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Thomas J. Linden is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

[18/] SAB 99.

[19/] Practice Alert 94-1, *Dealing With Audit Differences,* ¶ .03.

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B. After two (2) years from the date of this Order, Thomas J. Linden may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $75,000 is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Thomas J. Linden shall pay this civil money penalty within 10 days of the issuance of this Order by (a) United States postal money order, certified check, bank cashier's check or bank money order; (b) made payable to the Public Company Accounting Oversight Board; (c) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (d) submitted under a cover letter which identifies Thomas J. Linden as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: J. Gordon Seymour, General Counsel and Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

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J. Gordon Seymour
Secretary

August 11, 2009

PCAOB
Public Company Accounting Oversight Board

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Lawrence Scharfman CPA PA, and Lawrence Scharfman, CPA,* *Respondents.*	PCAOB Release No. 105-2009-005 August 11, 2009

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Lawrence Scharfman CPA PA (the "Firm") and barring Lawrence Scharfman CPA ("Scharfman") (collectively "Respondents") from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings concerning Respondents' violations of Section 10A(b) of the Securities Exchange Act of 1934 ("Exchange Act"), PCAOB rules, and PCAOB auditing and independence standards, in auditing the financial statements of three issuer clients during the years 2006 and 2007.

I.

On June 15, 2009, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Respondents. Pursuant to Section 105(c)(2) of the Act, these proceedings were not public.

II.

In response to these proceedings, Respondents have each submitted an Offer of Settlement ("Offers") pursuant to PCAOB Rule 5205 that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

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III.

On the basis of Respondents' Offers, the Board finds that[1/]:

A. Respondents

1. Lawrence Scharfman CPA PA is a public accounting firm located in Boynton Beach, Florida. It is licensed under the laws of the State of Florida to engage in the practice of public accounting (license no. AC0030673). The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. Lawrence Scharfman, 76, is a certified public accountant who is licensed under the laws of the states of Florida (license no. AC0030673) and New York (license no. 023532-1). At all relevant times, Scharfman was the President and the sole shareholder of the Firm, and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and auditing standards in auditing the financial statements of Prospero Minerals Corp. ("Prospero"), Cal-Bay International Inc. ("Cal-Bay"), and LitFunding Corp. ("LitFunding"). As detailed below, Respondents failed to perform procedures required by PCAOB auditing standards during the audit of the financial statements of their issuer clients.

4. Respondents violated PCAOB rules and auditing standards in auditing the March 31, 2006 ("FY 2006") and March 31, 2007 ("FY 2007") financial statements of

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[1/] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5)(A), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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Prospero. These violations included failing to: (a) plan the audit work; (b) perform sufficient audit procedures on Prospero's largest reported asset; (c) address known material inconsistencies between the other information contained in the FY 2006 10KSB and the financial statements; and (d) assess whether a significant stock issuance was properly valued, disclosed and reported. Respondents also failed to maintain independence from Prospero when, during the course of this engagement, Mr. Scharfman agreed to accept 200,000 shares of company stock.

5. Respondents violated PCAOB rules and auditing standards in their audit of Cal-Bay's 2005 financial statements by: (a) failing to perform sufficient procedures to test the valuation of two assets which, together, constituted more than 90 percent of Cal-Bay's total reported assets; (b) failing to take steps to prevent reliance on their audit opinion after concluding that the previously issued 2005 financial statements were misleading; and (c) adding documents to their work papers after the documentation completion date without complying with PCAOB Auditing Standard No. 3, *Audit Documentation* ("AS3"). The Firm, moreover, failed to take the steps required by Section 10A(b) of the Exchange, after becoming aware that an illegal act had occurred. Mr. Scharfman omitted to take any steps to cause the Firm to comply with Section 10A(b).

6. Respondents violated PCAOB rules and auditing standards in their audit of LitFunding's 2005 and 2006 financial statements by: (a) failing to test the adequacy of a reserve for an asset which constituted 85 percent and 40 percent of LitFunding's 2005 and 2006 total reported assets, respectively; and (b) adding documents to their work papers after the documentation completion date without complying with AS3.

C. Respondents Violated Section 10A(b) of the Exchange Act, and PCAOB Rules, Auditing Standards, and Independence Standards

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards and related professional practice standards.[2/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in

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[2/] See PCAOB Rules 3100, 3200T.

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accordance with PCAOB standards.[3/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[4/] PCAOB rules and standards require associated persons of registered public accounting firms to comply with certain independence restrictions, including restrictions against committing to acquire a financial interest in an audit client.[5/] As detailed below, Respondents failed to meet these standards in connection with the audits of three issuers: the audits of the financial statements of Prospero for FY 2006 and 2007, Cal-Bay for FY 2005, and LitFunding for FY 2005 and 2006. Moreover, Section 10A(b) of the Exchange Act requires firms to take certain steps after becoming aware that an illegal act has taken place. The Firm violated Section 10A(b) in the course of the Cal-Bay engagement. PCAOB Rule 3502 requires that associated persons not omit to take action knowing, or recklessly not knowing, that the omission will directly and substantially contribute to a violation by the firm of the securities laws. Mr. Scharfman violated this rule by failing to cause the Firm to take the steps Section 10A(b) required.

Audit of Prospero Minerals Corp.'s 2006 and 2007 Financial Statements

8. At all relevant times, Prospero was a Nevada corporation based in New York City, NY. Its common stock is registered with the U.S. Securities and Exchange Commission ("Commission") under Section 12(g) of the Exchange Act and is dually quoted on the OTC Bulletin Board and the Pink Sheets. Prospero's public filings disclosed that at all relevant times it was an exploration stage company engaged in the acquisition and development of mineral properties. At all relevant times, Prospero was

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[3/] See AU § 508.07, *Reports on Audited Financial Statements.*

[4/] See AU § 150.02, *Generally Accepted Auditing Standards*; § 230, *Due Professional Care in the Performance of Work*; and § 326, *Evidential Matter*.

[5/] See PCAOB Rules 3100, 3200T (incorporating requirements of certain AICPA auditing standards as in existence on April 16, 2009, including AU § 220, *Independence)*, and 3600T (incorporating requirements of certain AICPA independence standards as in existence on April 16, 2003, including ET § 101 and interpretations thereunder).

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an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. The Firm was engaged as Prospero's auditor beginning on August 14, 2006. During that time, Respondents audited Prospero's 2006 and 2007 financial statements. Respondents issued audit reports dated August 16, 2006 (included in Prospero's Form 10-KSB filed with the Commission on August 17, 2006) and June 22, 2007 (included in Prospero's Form 10-K filed with the Commission on July 27, 2007). Each report stated that the audit was conducted in accordance with the standards of the PCAOB. In each of the audit reports, the Firm expressed an unqualified audit opinion and stated that in the Firm's opinion, Prospero's financial statements presented fairly, in all material respects, Prospero's financial position, results of operations, and cash flows in conformity with Generally Accepted Accounting Principles ("GAAP").

The 2006 Audit

10. Inquiry of the predecessor auditor is a necessary auditing procedure because it may provide information that will assist the successor auditor in determining whether to accept the engagement, and an auditor should not accept an engagement before evaluating certain communications with the predecessor auditor.[6/] Respondents failed to comply with this standard by accepting the engagement without first inquiring of Prospero's predecessor auditors.

11. Audit work should be adequately planned.[7/] In planning an audit, an auditor should consider the nature, extent, and timing of work to be performed and should prepare a written audit program.[8/] The audit program should set forth in reasonable detail the audit procedures that the auditor believes are necessary to accomplish the objectives of the audit. Respondents failed to comply with this standard. Respondents did not perform or document any planning procedures.

[6/] See AU § 315.03, .07-.10, *Communications Between Predecessor and Successor Auditors.*

[7/] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 311, *Planning and Supervision*.

[8/] See AU § 311.05.

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12. Prospero's FY 2006 financial statements reported total assets of approximately $520,000. Approximately $425,000, or 80 percent of the assets, was identified as Capital Assets. Respondents failed to perform any procedures to evaluate this significant balance sheet item.

13. In Part I, Item 2 of the FY 2006 Form 10-KSB (the Management Discussion and Analysis section, or "MD&A"), Prospero reported that "on March 31, 2006, Prospero acquired 100% ownership of Lobaye Gold." Prospero reported that this acquisition resulted from an asset purchase agreement "with RCA Resources Corporation ('RCA') for the purchase and sale of all assets of RCA for an acquisition cost of $64 million," including "a 100% interest in Lobaye Gold SARL" (the "Lobaye Gold acquisition"). Lobaye Gold purportedly was engaged in gold and diamond prospecting in the Central African Republic. Prospero further disclosed that as consideration for this transaction, it issued 80 million shares of company stock to the seller, RCA.

14. The FY 2006 financial statements did not reflect the Lobaye Gold acquisition. While the financial statements did report an $80,000 increase in the balance of Prospero's outstanding common stock,[9/] they did not reflect the issuance of 80 million shares as disclosed in the MD&A, and earnings per share was calculated based on 9 million outstanding shares.

15. Respondents failed to perform any procedures to assess whether Prospero had appropriately reported and disclosed this acquisition and related stock issuance in Prospero's FY 2006 financial statements. Respondents performed no audit procedures to assess whether the Lobaye Gold assets existed and were valued appropriately. Respondents also performed no procedures to assess whether the company had reasonably valued the 80 million shares issued in exchange for the acquired assets.[10/] Further, the Respondents failed to identify the apparent errors in the

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[9/] The financial statements reported that the par value per share of Prospero's common stock was $0.001. Thus, an $80,000 increase in the par value of all outstanding shares, as reported in the financial statements, would reflect the issuance of 80 million shares.

[10/] Based on Prospero's FY 2006 financial statements, the 80 million shares issued in the Lobaye Gold acquisition were assigned a value of $0.005 per share ($420,600 of par value and additional paid in capital/80 million shares). During the fiscal quarter in which this transaction closed, however, the low bid and high bid for

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reported number of shares issued as of March 31, 2006 and in the reported loss per common share.

16. Respondents also did not address what they understood to be a material inconsistency between disclosures in Part I, Item 2 and Part II, Item 3.02 of the Form 10KSB, both of which described the Lobaye Gold acquisition as having a cost of $64 million, and the financial statements, which did not reflect any such acquisition. Respondents were aware of these disclosures and determined that they were materially inconsistent with the financial statements. Respondents should have, but failed to determine whether the financial statements, the audit report, or both required revision.[11/]

17. Respondents also failed to address a potentially material related-party transaction. In Prospero's Form 8-K filed with the Commission on March 20, 2007, Prospero stated that two persons, together, owned almost one-third of the shares of RCA, the seller of the Lobaye Gold assets. Prospero's Forms 10-KSB for FY 2005 and FY 2006 stated that one of these persons was an officer and a shareholder of Prospero, and the other person was a shareholder, officer and director of Prospero at the time of the acquisition. Despite these indications that Prospero insiders stood on both sides of the Lobaye Gold acquisition, Respondents failed to take any steps to determine whether the Lobaye Gold acquisition was a related-party transaction that required specific disclosure in the financial statements.[12/]

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shares of Prospero's common stock were $1.26 and $2.15, respectively. Respondents did nothing to assess the reasonableness of the difference between the Company's valuation of the stock issued during the Lobaye Gold acquisition and the trading value of the stock at the time of the acquisition.

[11/] See AU § 550.04, *Other Information in Documents Containing Audited Financial Statements*.

[12/] See AU § 334.11, *Related Parties*.

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The 2007 Audit

18. In its FY 2007 financial statements, Prospero's Capital Assets increased to $845,000, and comprised 99.9 percent of the total assets reported as of March 31, 2007. Respondents performed no procedures to test this significant account beyond reconciling the amount reported in the balance sheet to a summary-level worksheet prepared by Prospero.

19. Part II, Item 5 of the FY 2007 Form 10-KSB reported that Prospero acquired all of the assets pertaining to the water purification business of Cavitation Concepts Corporation in exchange for 10 million shares of Prospero's common stock. This transaction increased the reported number of outstanding Prospero common shares from approximately 90 million to approximately 100 million. Respondents failed to perform any procedures to assess whether the assets acquired or the shares issued were fairly valued.

20. Auditor independence is impaired if, during the period of the professional engagement, an auditor had or was committed to acquire any direct or material indirect financial interest in an audit client.[13/] While serving as Prospero's outside auditor, Scharfman committed to acquire 200,000 shares of Prospero stock from a shareholder of Prospero in exchange for services and consultations that Scharfman agreed to perform for the shareholder and for the company. As the auditor with final responsibility for the audit, Scharfman's commitment to acquire a direct financial interest in Prospero impaired his independence.

Audit of Cal-Bay's 2005 Financial Statements

21. At all relevant times, Cal-Bay was a Nevada corporation based in Carlsbad, CA. Its common stock is registered with the Commission under Section 12(g) of the Exchange Act and is dually quoted on the OTC Bulletin Board and the Pink Sheets. Cal-Bay's public filings disclose that it is in the business of acquiring, managing, and selling real estate. At all relevant times, Cal-Bay was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

[13/] See AU § 220, *Independence*; ET § 101.02, *Independence.*

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22. Respondents were engaged as Cal-Bay's auditors on March 29, 2006. The Firm issued an audit report dated April 12, 2006, which was included in Cal-Bay's Form 10-KSB filed with the Commission on April 17, 2006. In the audit report, the Firm expressed an unqualified audit opinion on Cal-Bay's balance sheet as of December 31, 2005, and the related consolidated statements of operations, changes in "stockholder' (sic) equity" and cash flows for the period ended December 31, 2005. The firm's audit report stated that Cal-Bay's financial statements presented fairly, in all material respects, Cal-Bay's financial position, results of operations, and cash flows in conformity with GAAP. In addition, the Firm's report stated that the audit was conducted in accordance with the standards of the PCAOB.

Aspen Cove Resort

23. In its 2005 financial statements, Cal-Bay reported that it purchased real estate in Aspen Cove, Utah (the "Aspen Cove Resort"). The financial statements disclosed that Cal-Bay acquired this property by issuing 35 million shares of company stock to the seller, and by assuming an $800,000 first trust deed against the property. The Aspen Cove Resort constituted approximately 23% percent of the total assets reported in Cal-Bay's 2005 financial statements. Respondents failed to perform adequate audit procedures to test this transaction. Respondents reconciled the reported values to the purchase agreement and reviewed related journal entries, but did nothing to assess whether the acquired asset and shares issued were properly valued.

West Palm Mortgage Note

24. In its 2005 financial statements Cal-Bay also disclosed that it purchased the first mortgage ("Mortgage Note") position on a parcel of land in West Palm Beach, FL. According to its disclosures, the company purchased the mortgage on the property for $1,500,000 cash and $4,000,000 in company stock. Respondents understood that Cal-Bay valued the assets acquired at $7.8 million, which consisted of $5.5 million in principal and $2.3 million of accrued interest.

25. Respondents failed to gather sufficient competent evidential matter to support that the acquired asset was valued appropriately. Furthermore, Respondents failed to address multiple indications that the principal and accrued interest may not be collectible. The Firm's work papers included documents showing that the Mortgage Note was in default, requiring an earlier holder of the note to enter judgment against the mortgagor. Nevertheless, Respondents failed to determine whether any payments had

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been made in settlement of the Mortgage Note. Respondents also failed to perform any procedures to assess whether the value of the land collateralizing the note was sufficient to secure the payment of the Mortgage Note.[14/]

Cost of Goods Sold

26. Cal-Bay's 2005 financial statements reported a Real Estate Purchase totaling $1.5 million as Cost of Sales. This amount constituted more than 80 percent of the Cost of Sales reported for 2005. Respondents failed to perform any procedures to determine whether this item was reported appropriately.

Withdrawal of Audit Opinion

27. PCAOB standards require an auditor who, subsequent to the date of the report upon audited financial statements, becomes aware that facts may have existed at that date which might have affected the report had he or she then been aware of such facts, to take certain steps to address the potential impact of those facts.[15/] When subsequently discovered information is determined to be reliable, to have existed at the date of the report, and would have affected the audit report if the information had been known to the auditor, PCAOB standards require the auditor to advise his client to make appropriate disclosures of the subsequently discovered information and its impact on the financial statements.[16/] If the client refuses to do so, the auditor ultimately is obligated to notify the Commission, among others, that the auditor's report should no longer be relied upon, the nature of the subsequently acquired information, and the information's effect on the financial statements.[17/]

28. After the 2005 Form 10-KSB was filed with the Commission, Respondents determined that Cal-Bay overstated the value of the Mortgage Note. Respondents

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[14/] See AU § 326, *Evidential Matter*.

[15/] See AU § 561, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*.

[16/] See AU § 561.06.

[17/] See AU § 561.08b and .09a(i).

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concluded that Cal–Bay should not have recorded as an asset the $2.3 million of accrued interest due under the Mortgage Note. On April 30, 2006, Respondents requested that Cal-Bay restate its financial statements to remove the $2.3 million in accrued interest, and informed management that Respondents were withdrawing their opinion on the 2005 financial statements. When Cal-Bay failed to restate its financial results, however, Respondents did not notify the Commission, as PCAOB standards require, that it had withdrawn its audit opinion.

Failure to Take Required Steps Regarding an Illegal Act

29. The Firm also failed to comply with Section 10A(b) of the Exchange Act. Section 10A(b) requires an auditor to take certain defined steps after detecting or becoming aware that an illegal act has occurred. Likewise, the Firm and Mr. Scharfman violated PCAOB standards, which require auditors to assure themselves that an audit committee or others with equivalent authority at an issuer client are adequately informed with respect to the occurrence of an illegal act.[18/] Scharfman and the Firm were aware that an illegal act had occurred when, in addition to failing to restate its financial results, Cal-Bay also failed to file a Form 8-K disclosing that its auditors had withdrawn their opinion and advised Cal-Bay to restate its financial statements. The Respondents did not thereafter take the steps required by PCAOB standards, and the Firm did not take the steps set forth in Section 10A(b), including reporting its conclusions regarding the likely illegal act to Cal-Bay's Board of Directors. Mr. Scharfman, moreover, violated PCAOB Rule 3502 by omitting to take any action to cause the Firm to follow the steps prescribed in Section 10A(b) knowing, or recklessly not knowing, that such omission would directly and substantially contribute to the Firm's violation of Section 10A(b).

30. Scharfman signed his audit opinion as of April 12, 2006, and the 2005 Form 10-KSB was filed on April 17, 2006. Under AS3, *Audit Documentation*, the documentation completion date would be no later than June 1, 2006 (not more than 45 days after the report release date).[19/] After the documentation completion date, a

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[18/] See AU § 317, *Illegal Acts by Clients*.

[19/] See AS3 at ¶ 15.

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document may be added to an auditor's work papers only if the document indicates the date when it was added, the person who prepared it, and the reason for adding it.[20/]

31. The Firm's work papers include a form audit program released by its publisher in October 2006, months after the documentation completion date. Also, the only copy of the management representation letter contained in the work papers bore a fax header of February 2007, eight months after the latest possible documentation completion date. Scharfman added these documents to his work papers without indicating the date these documents were added, the person who prepared these documents, or the reason for adding these documents.

Audits of LitFunding's 2005 and 2006 Financial Statements

32. At all relevant times, LitFunding Corp. was a Nevada corporation based in Las Vegas, Nevada. Its common stock is registered with the Commission under Section 12(g) of the Exchange Act and is dually quoted on the OTC Bulletin Board and the Pink Sheets. LitFunding's public filings disclosed that at all relevant times it was in the business of investing in litigation recoveries. At all relevant times, LitFunding was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

33. Respondents were engaged as LitFunding's auditors on April 28, 2006. The Firm issued an audit report dated May 3, 2006, which was included in LitFunding's Form 10-KSB filed with the Commission on May 19, 2006. In the audit report, the Firm expressed an unqualified audit opinion on LitFunding's balance sheet as of December 31, 2005, and the related statements of operations, stockholders equity and cash flows for the period ended December 31, 2005. The Firm's audit report stated that LitFunding's financial statements for the year ended December 31, 2005 presented fairly, in all material respects, LitFunding's financial position, results of operations, and cash flows in conformity with GAAP. In addition, the Firm's audit report stated that the audit was conducted in accordance with the standards of the PCAOB.

34. The Firm also issued an audit report dated May 9, 2007, which was included in LitFunding's Form 10-KSB filed with the Commission on May 14, 2006.[21/] In

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[20/] See AS3 at ¶ 16.

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the audit report, the Firm expressed an unqualified audit opinion on LitFunding's balance sheet as of December 31, 2006, and the related statements of operations, stockholders equity and cash flows for the period ended December 31, 2006. The Firm's audit report stated that LitFunding's financial statements for the year ended December 31, 2006 presented fairly, in all material respects, LitFunding's financial position, results of operations, and cash flows in conformity with GAAP. In addition, the Firm's audit report stated that the audit was conducted in accordance with the standards of the PCAOB.

35. LitFunding's financial statements report that "[c]ontingent advances less reserves for unsuccessful resolution of lawsuits" constituted approximately 85 percent and 40 percent of LitFunding's total reported assets as of December 31, 2005, and December 31, 2006, respectively. In both its 2005 and 2006 financial statements, LitFunding disclosed that management "estimates the net realizable value of contingent advances by periodically reviewing the progress of the cases with the attorneys trying them and past experience with similar cases." The 2005 and 2006 financial statements also disclosed that LitFunding's historical loss rate was 15 percent, before it emerged from bankruptcy, but management calculated its reserve for the unsuccessful resolution of lawsuits using a loss rate of 10 percent, under the assumption that the loss rate would improve following the company's emergence from bankruptcy.

36. Respondents failed to test sufficiently the adequacy of the reserve for the unsuccessful resolution of lawsuits.[22/] Respondents also failed to perform a retrospective review of this significant accounting estimate to determine whether management judgments and assumptions relating to the estimate indicated a possible bias.[23/]

37. In addition, many of the documents included in the Firm's work papers for the 2005 LitFunding audit were added after the documentation completion date, with no

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[21/] LitFunding's original 2006 Form 10-KSB, filed with the Commission on April 18, 2007, failed to include an audit report for the 2006 financial statements.

[22/] See AU § 342, *Auditing Accounting Estimates*.

[23/] See AU § 316.64, *Consideration of Fraud in a Financial Statement Audit*.

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indication of the date these documents were added, the person who prepared these documents, or the reason for adding these documents.[24/]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Lawrence Scharfman CPA PA is revoked; and

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Lawrence Scharfman is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour
_____
J. Gordon Seymour
Secretary

August 11, 2009

[24/] See AS3 at ¶ 16.

PCAOB
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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Moore & Associates, Chartered, and Michael J. Moore, CPA* *Respondents.*	PCAOB Release No. 105-2009-006 August 27, 2009

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Moore & Associates, Chartered (the "Firm" or "M&A") and barring Michael J. Moore, CPA ("Moore") (collectively, "Respondents") from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings concerning Respondents' violations of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder, PCAOB rules and auditing standards in auditing the financial statements of three issuer clients from 2006 to 2008, PCAOB rules and quality controls standards, and noncooperation with a Board investigation.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) and (3) against Moore & Associates, Chartered and Michael J. Moore, CPA.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers, the Board finds[1/] that:

A. Respondents

1. Moore & Associates, Chartered is a public accounting firm located in Las Vegas, Nevada. At all relevant times, M&A was licensed under the laws of the state of Nevada (Nevada State Board of Public Accountancy License No. CORP-0467). M&A is registered with the Board pursuant to Section 102 of the Act and Board Rules. During the relevant time period, M&A employed between 4 and 12 audit personnel. None of the staff under Mr. Moore had any significant training or education in auditing or accounting.

2. Michael J. Moore, 55, of Las Vegas, Nevada, is a certified public accountant licensed under the laws of the state of Nevada (License No. CPA-3453R). He is the Firm's president and, at all times relevant to this matter, was an associated person of

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[1/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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the Firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. After M&A registered with the Board in October 2004, Moore began auditing the financial statements of public companies for the first time in more than ten years. Over the next three years, M&A accepted nearly 300 public audit engagements, with Moore serving as the auditor with final responsibility on each of them. Respondents added new clients at a nearly exponential rate while the audit staff was comprised of inexperienced staff members overseen by one professional. M&A staffed the audits with assistants who had no accounting or auditing education, experience or training. These unqualified audit assistants planned and executed the audits with little or no supervision from Moore. Through its approach to its audit practice, M&A violated PCAOB quality control standards, and Moore caused those violations. In the case of certain audit engagements on which the Board specifically focused attention through its investigative processes, Respondents failed to perform or ensure the performance of any audit work for critical aspects of the audit, in violation of PCAOB auditing standards. In each of those cases, Respondents also violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by issuing audit reports that represented that the audits had been conducted in accordance with PCAOB standards, when they knew, or were reckless in not knowing, that such representations were false.

4. Respondents also failed to cooperate with the Board's investigation of this matter in three ways. Respondents created false work papers that did not accurately reflect the work performed on the relevant audits and produced those false work papers to the Board's Division of Enforcement and Investigations. Moore also falsely testified that these work papers produced by Respondents were true and accurate audit work papers completed during the audit, when he knew they were not. In addition, M&A failed to produce documents required by an Accounting Board Demand.

C. Respondents Violated PCAOB Rules and Quality Control Standards

5. PCAOB rules require that a registered public accounting firm comply with certain quality control standards.[2/] A firm should establish policies and procedures to encompass, among other things, (a) personnel management, (b) acceptance and continuance of clients and engagements, and (c) engagement performance.[3/] These

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[2/] See PCAOB Rules 3100, 3400T.

[3/] QC § 20.07.

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policies and procedures should be communicated to the firm's personnel,[4/] and the firm should implement monitoring procedures to obtain reasonable assurance that its system of quality control is effective.[5/] In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation of Board standards by that firm.[6/] As described below, M&A violated the Board's quality control standards in several respects, and Moore directly and substantially contributed to those violations.

6. Although M&A maintained a draft quality control manual in Moore's office, it failed to provide a copy of or otherwise communicate the substance of the manual to its personnel.[7/] Additionally, at all relevant times, the Firm failed to train assistants with respect to a system of quality controls that would reasonably ensure that the Firm's audits were performed in accordance with PCAOB standards.

Personnel Management

7. PCAOB standards provide that policies and procedures should be established to provide the Firm with reasonable assurance that, among other things, (1) those hired possess the appropriate characteristics to enable them to perform competently, and (2) work is assigned to personnel having the degree of technical training and proficiency required in the circumstances.[8/] PCAOB standards further provide that, the more able and experienced the personnel assigned to an engagement, the less direct supervision is needed.[9/] M&A failed to comply with these standards.

8. The Firm's audit staff consisted of one staff member in 2005, which grew to 12 by 2008. None of the audit staff had any prior auditing or accounting experience or

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[4/] QC § 20.23.

[5/] QC § 30.03.

[6/] See PCAOB Rule 3502.

[7/] In March 2009, the Firm adopted a new quality control manual that all staff was required to review.

[8/] QC § 20.13

[9/] QC § 20.11

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education. Newly hired staff received informal on the job training from other audit assistants, who were not qualified to provide the training because they also lacked relevant education, experience or training on how to perform audits in compliance with PCAOB standards. New hires' informal training, among other things, included instructions to complete audit programs and audit reports without actually performing audit procedures. In fact, at least one audit assistant was trained to simply "fill in the blanks on the audit report with the names of the clients and the dates, but to not do any work."

9. In addition to full-time audit staff, M&A often engaged casual acquaintances and conveniently located relatives of Moore who were neither employees of the firm nor trained or experienced in accounting or auditing to perform audit procedures. For example, M&A dispatched Moore's ex-wife on one occasion and a distant cousin on another to perform inventory observations. On another occasion, M&A sent Moore's daughter's then-boyfriend to a foreign country to inspect certain fixed assets and inventory of an audit client.

Acceptance and Continuance of Clients and Engagements

10. PCAOB standards require the Firm to establish policies and procedures that provide reasonable assurance that the Firm undertake only those engagements that it could reasonably expect to be completed with professional competence.[10/] The Firm failed to comply with this standard, accepting engagements that it could not undertake with professional competence. From 2004 through May 2009, the Firm issued a total of 680 audit opinions. The number of audit opinions issued per year grew from 1 in 2004 to 280 in 2008.[11/] For each of these audits, Moore was the only CPA at the Firm who participated,[12/] he was responsible for the audit, and he authorized the issuance of the Firm's audit report.

[10/] See QC 20.15a.

[11/] M&A added audit clients with little, or no, regard for whether the Firm was equipped to perform the audit or if the client was acceptable. The Firm did not budget or track staff time by audit. Instead, the Firm relied solely on Moore to determine if the Firm had the expertise and resources to handle an audit client.

[12/] In December 2008, the Firm added one CPA to its staff. However, as of March 2009, that individual had not participated in any of the audits on which the Firm had issued opinions.

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Engagement Performance

11. PCAOB standards provide that a firm should develop policies and procedures to provide it with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[13/] The Firm heavily relied on audit assistants who possessed no prior auditing or accounting experience. There were no policies and procedures in place to ensure that the staff performed procedures necessary to comply with PCAOB standards or to even be aware of what those standards required.

12. The Firm typically assigned one staff member to each audit, and the staff member completed the audit with little to no supervision from Moore. Each staff member was responsible for approximately 50 audit clients at any one time. Work was assigned to personnel without the degree of technical training and proficiency required under the circumstances.[14/] As a result, audit assistants were assigned to audit clients that they were not qualified to audit.

Moore's Substantial Contribution to Quality Control Violations

13. At all relevant times, Moore was responsible for designing, implementing, and monitoring the Firm's system of quality control. All of the Firm's conduct described in paragraphs 6 through 12 above was either conduct of Moore's or omissions to act for which Moore was responsible. With respect to all such acts and omissions, Moore knew, or was reckless in not knowing, that the act or omission would directly and substantially contribute to the quality control failings described above, which constituted violations of the Board's quality control standards. Moore thereby violated PCAOB Rule 3502.

D. Respondents Violated PCAOB Rules and Auditing Standards

14. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards and related professional practice standards.[15/] An

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[13/] QC § 20.17.

[14/] *Id.*

[15/] See PCAOB Rules 3100, 3200T.

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auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[16/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[17/] As detailed below, Respondents failed to meet these standards in connection with the audits of three issuers on which the Board specifically focused attention through its authority to investigate possible violations of law, rules, and standards: the audits of the financial statements of Standard Drilling, Inc. ("Standard Drilling") for FY 2006, Biocoral, Inc. ("Biocoral") for FY 2006 and 2007, and Ethos Environmental, Inc. ("Ethos") for FY 2007.

Audit of Standard Drilling's 2006 Financial Statements

15. Standard Drilling is a Nevada corporation headquartered, at all relevant times, in Washington, D.C. with an operations office in Houston, TX. Its common stock is registered under Section 12(g) of the Exchange Act and is traded on the pink sheets. Standard Drilling's public filings disclose that it was primarily in the business of constructing and selling land drilling rigs. At all relevant times, Standard Drilling was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

16. The Firm was engaged as Standard Drilling's auditor on April 30, 2007 to audit Standard Drilling's financial statements for the fiscal year ended December 31, 2006. Two weeks after being engaged as Standard Drilling's independent auditor, the Firm issued an audit report dated May 14, 2007, that was included in Standard Drilling's Form 10-KSB filed with the United States Securities and Exchange Commission ("Commission") on May 18, 2007.[18/] In the audit report, the Firm expressed an unqualified opinion on Standard Drilling's balance sheet as of December 31, 2006, and the related statement of operations, stockholders' equity and comprehensive income, and cash flows for the period ended December 31, 2006. The Firm's audit report stated that Standard Drilling's financial statements presented fairly, in all material respects,

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16/ See AU § 508.07, *Reports on Audited Financial Statements.*

17/ See AU § 150.02, *Generally Accepted Auditing Standards*; § 230, *Due Professional Care in the Performance of Work*; and § 326, *Evidential Matter*.

18/ Respondents completed the audit in two weeks as an accommodation to the client, even though Moore and the audit assistant believed two weeks was not sufficient time to complete the audit.

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Standard Drilling's financial position, results of operations and cash flows in conformity with U.S. GAAP. In addition, the report stated that the audit was conducted in accordance with the standards of the PCAOB. Moore was the engagement partner who had final responsibility for the audit as that phrase is used in AU § 311, *Planning and Supervision,* and authorized the issuance of the audit report.

17. The audit team consisted of Moore and one audit assistant. Field work was conducted at M&A's office in Las Vegas. At no time during the audit did anyone from, or on behalf of, M&A travel to Standard Drilling's headquarters or operations office. To perform its audit, M&A exclusively relied on documents provided to it by Standard Drilling's management.

18. Standard Drilling reported an accounts receivable balance of $486,610 as of December 31, 2006. This balance was 4% of Standard Drilling's total assets and 46% of current assets and included 100% of its FY 2006 revenue. While identified as a significant issue by M&A, Respondents failed to audit accounts receivable. The only audit documentation relating to accounts receivable was an off-the-shelf third party audit program template completed by the audit assistant. Respondents failed to perform any procedures to confirm receivables.[19/] Instead, the audit team documented that confirmation procedures were "not applicable" without documenting how the Firm overcame the presumption that confirmations were necessary.[20/] At the time of the audit, the audit assistant did not know that confirmation of accounts receivable was a presumptively required audit procedure and was unfamiliar with the concept of performing alternative procedures in lieu of confirmations. Even though he was responsible for supervising the audit, Moore was not aware of any procedures performed to test the existence and valuation of accounts receivable.

19. The audit team also performed few or no procedures concerning Standard Drilling's reported revenue. The audit assistant filled out a template audit program for accounts receivable and sales and initialed the document to indicate having performed procedures related to the company's sales transactions. These procedures, however,

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[19/] AU § 330.34, *The Confirmation Process*, states that there is a presumption that the auditor will request the confirmation of accounts receivable during an audit unless (1) accounts receivable are immaterial to the financial statements, (2) the use of confirmations would be ineffective, or (3) inherent and control risk is low.

[20/] AU § 330.35 provides that the auditor should document how he or she overcame the presumption that confirmations are necessary to audit accounts receivable.

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consisted simply of reading the company's footnote disclosure covering revenue recognition. The audit assistant failed to evaluate the company's revenue recognition policy or perform any testing of the company's compliance with the policy. Moore, who believed that the audit assistant was probably not qualified to perform procedures related to revenue recognition, was unaware of any procedures performed to test reported revenue.

20. Standard Drilling reported net property and equipment of $11.8 million as of December 31, 2006, which equaled 54% of total assets. Property and equipment was comprised of oil and gas properties ($3 million), drilling rigs and machinery ($7.5 million) and office furniture and equipment ($1.3 million). Respondents' evaluation of the existence or valuation of the company's reported property and equipment was limited to relying on the company's general ledger as audit evidence for property and equipment, even though Moore knew that the general ledger did not provide sufficient competent audit evidence and that M&A did not do enough audit work in this respect.

21. Under the caption "Other Assets," the company also reported an asset of approximately $9 million for "deposits on rigs," which equaled 42% of total reported assets. While M&A received company-prepared schedules to support this asset, the schedules do not tie to the balance sheet. According to the work papers, "deposits on rigs" equaled $11.9 million, not $9 million as reported. Respondents failed to resolve this inconsistency or obtain sufficient competent evidence to conclude on the existence and valuation of the deposits on rigs.[21/] The audit assistant never knew if the company's assets were valued properly, and Respondents failed to obtain sufficient competent evidence to conclude on the existence and valuation of property and equipment and other assets.[22/]

[21/] Auditing Standard No. 3 ¶ 5, *Audit Documentation* ("AS No. 3"), states that audit documentation should "[d]emonstrate that the underlying accounting records agreed or reconciled with the financial statements." AU § 339A.05, *Working Papers*, provides that the audit work papers "should be sufficient to show that the accounting records agree or reconcile to the financial statements."

[22/] Respondents also failed to obtain sufficient competent audit evidence to conclude on the existence and valuation of the Company's reported $4.1 million of accounts payable, $2.7 million of accrued expenses, and $13.4 million in stockholders' equity.

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22. Respondents also failed to appropriately staff the audit, and Moore failed to appropriately supervise the work of the audit assistant.[23/] Respondents assigned the assistant to the audit despite Moore's knowledge of the assistant's limited qualifications, including that she had never audited an oil-and-gas company and did not know how to audit revenue, accounts receivable, and property. Moore, as the auditor with final responsibility for the audit, also failed to ensure that the assistant understood the objectives of the audit and the procedures to be performed, and he failed to adequately review the work performed.[24/]

Audits of Biocoral's 2006 and 2007 Financial Statements

23. Biocoral is a Delaware corporation headquartered in Perret Cedex, France. Its common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. Biocoral's public filings disclose that it is an international biomaterials "tissue-engineering" company specializing in the research, development and commercialization of patented high biotechnologies and biomaterials in the health care area. At all relevant times, Biocoral was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

24. M&A issued audit reports dated March 28, 2007 (included in Biocoral's Form 10-K filed March 30, 2007) and March 28, 2008 (included in Biocoral's Form 10-K filed March 31, 2008), both of which were filed with the Commission.[25/] In both audit reports,

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[23/] AU § 230.06 provides that "[a]uditors should be assigned to tasks and supervised commensurate with their level of knowledge, skill, and ability so that they can evaluate the audit evidence they are examining. . . . The auditor with final responsibility is responsible for the assignment of tasks to, and supervision of, assistants."

[24/] AU § 311.11 provides that the supervisory responsibility of the auditor with final responsibility for the audit includes directing the efforts of assistants who are involved in accomplishing the objectives of the audit, determining whether those objectives were accomplished, keeping informed of significant problems encountered, and reviewing the work performed, all commensurate with the complexity of the subject matter and the qualifications of the assistant.

[25/] The Firm also issued an audit report dated September 7, 2007 included with Biocoral's Form 10-K/A filed with the Commission on September 11, 2007. Biocoral restated its financial statements for each of the three years in the period ended December 31, 2006 to correct errors related to the presentation of patent cost capitalizations and the recording of the fair value of embedded derivatives attached to

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the Firm expressed an unqualified audit opinion and stated that the audit was conducted in accordance with PCAOB standards and that Biocoral's consolidated financial statements presented fairly, in all material respects, the consolidated financial position of Biocoral and its subsidiaries, the consolidated results of operations, and cash flows in conformity with GAAP. The firm also issued unqualified audit opinions over Biocoral's internal control over financial reporting as of December 31, 2006 and December 31, 2007. Moore was the engagement partner who had final responsibility for the audits.

25. The audit team for both years consisted of Moore and an audit assistant. Neither Moore nor the audit assistant spoke or read French at the time of the audits. No one from, or on behalf of, M&A traveled to France in connection with the 2006 audit. Rather, all field work performed by M&A was conducted at its offices in Las Vegas.[26/]

26. The Biocoral audits involved the audit of eight subsidiaries. While M&A was the principal auditor, Biocoral retained a PCAOB-registered French audit firm to audit its two French subsidiaries, Biocoral France S.A.S. and Inoteb S.A. Biocoral France was responsible for 100% of Biocoral's 2006 and 2007 net sales.

27. Moore decided that M&A would use the work of the French audit firm and would assume responsibility for that work, rather than make reference to the French audit firm in M&A's audit opinions.[27/] PCAOB standards require a principal auditor to perform certain procedures when using the work of another auditor and taking responsibility for that work.[28/] Those procedures include adopting appropriate measures

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convertible debt. The restatement stemmed from comment letters received from the staff of the Commission's Division of Corporation Finance.

[26/] A non-audit partner of the Firm traveled to Paris in 2008 and met with Biocoral's CEO, however, the partner did not perform any audit field work as part of the trip.

[27/] Under AU § 543, a principal auditor that uses another auditor's work chooses between assuming responsibility for that work (in which case the principal auditor's report makes no reference to the other auditor's work or report) and not assuming responsibility (in which case the principal auditor's report should make reference to the other auditor and clearly indicate the division of responsibility between the two auditors). See AU § 543.03.

[28/] AU § 543.10 (principal auditor should "make inquiries concerning the professional reputation and independence of the other auditor" and "adopt appropriate measures to assure the coordination of his activities with those of the other auditor in

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to assure the coordination of the auditor's activities with those of the other auditor in order to achieve a proper review of matters affecting the consolidating or combining of accounts in the financial statements.[29/]

28. Respondents relied solely on receipt of an independence letter from the French audit firm and the receipt, from Biocoral's CEO, of the French subsidiaries' financial statements and the French audit firm's audit reports. Respondents failed to make any inquiries concerning the French audit firm's professional reputation and failed to undertake any measures to assure the coordination of its activities with those of the French audit firm. Respondents did not obtain from the French audit firm, and review and retain, any of the following information: (1) an engagement completion document; (2) a list of significant fraud risk factors, the French audit firm's response to those risks, and the results of any related procedures; (3) information relating to significant findings or issues inconsistent with the auditor's final conclusions; (4) a schedule of audit adjustments; (5) all significant deficiencies and material weaknesses in internal control over financial reporting; (6) letters of representation from management; and (7) all matters to be communicated to the audit committee. Accordingly, Respondents failed to perform the necessary procedures to be able to use the work of the French audit firm in M&A's audits of Biocoral.

29. In addition, Respondents failed adequately to audit Biocoral's reported assets. Biocoral's largest reported asset as of December 31, 2006 and 2007 was "Intangible assets, net" of $527,879 and $705,496, which equaled approximately 40% and 50% of the company's reported assets, respectively. Intangible assets were comprised of patents held by Biocoral and its subsidiary BioHoldings. Respondents included copies of the patents in the Biocoral permanent file. Other than receipt of copies of the patents, Respondents failed to perform any procedures related to the patents. Respondents also failed to perform procedures to audit the company's amortization of its patent costs.

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order to achieve a proper review of matters affecting the consolidating or combining of accounts in the financial statements," including considering procedures such as ascertaining that the other auditor is familiar with relevant accounting principles, auditing standards, and financial reporting requirements and will conduct his or her audit and will report in accordance therewith); AU § 543.12 and AS No. 3 ¶19 (describing certain information that the principal auditor must obtain, review, and retain).

[29/] AU § 543.10.

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30. M&A also was engaged to audit Biocoral management's assessment of the effectiveness of Biocoral's internal controls over financial reporting. M&A issued unqualified opinions for 2006 and 2007 on Biocoral's internal control over financial reporting, stating that it conducted its audits in accordance with PCAOB standards.[30/] Respondents failed, however, to perform any procedures to test Biocoral's internal controls. In addition, Respondents failed to take any steps to determine whether the French audit firm had performed an audit of the internal controls of Biocoral France and Inoteb.

31. Respondents failed to appropriately staff the Biocoral audits, and Moore failed adequately to supervise the audit assistant. Respondents assigned the assistant despite Moore's awareness of her limited qualifications, including the fact that she had no prior experience auditing financial statements that required the consolidation of multiple subsidiaries and that involved foreign entities. In addition, Moore, as the auditor with final responsibility for the audit, failed to ensure that the assistant understood the objectives of the audit and the procedures to be performed, and he failed to adequately review the work performed.

Audit of Ethos's 2007 Financial Statements

32. Ethos is a Nevada corporation based in San Diego, CA. Its common stock is registered with the Commission under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. Ethos's public filings disclose that, at all times relevant to this matter, it manufactured and distributed a line of fuel reformulaters that add cleaning and lubrication qualities to fuel or motor oil. At all relevant times, Ethos was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

33. The Firm was Ethos's independent auditor beginning on November 30, 2007. The Firm issued an audit report dated April 14, 2008, which was included in Ethos's Form 10-KSB filed with the Commission on April 15, 2008. In the report, the Firm expressed an unqualified opinion on Ethos's consolidated balance sheet as of December 31, 2007, and the related consolidated statements of operations, stockholders' equity, and cash flows for the year ended December 31, 2007. The Firm's audit report stated that its audit was conducted in accordance with PCAOB standards

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[30/] For the 2007 audit, Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That is Integrated with An Audit of Financial Statements*, was in effect. For the 2006 audit, Auditing Standard No. 2, *An Audit of Internal control Over Financial Reporting Performed in Conjunction with An Audit of Financial Statements*, was in effect.

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and that Ethos's financial statements presented fairly, in all material respects, Ethos's financial position in conformity with GAAP. Moore was the engagement partner with final responsibility for the audit.

34. Inquiry of the predecessor auditor is a necessary auditing procedure because it may provide information that will assist the successor auditor in determining whether to accept the engagement, and an auditor should not accept an engagement before evaluating certain communications with the predecessor auditor.[31/] Respondents failed to comply with this standard in connection with the Ethos audit. Moreover, even after Ethos, on January 24, 2008, filed a Form 8-K/A identifying several accounting issues raised by its predecessor auditor, Respondents failed to contact the predecessor auditor to inquire of or evaluate the issues raised. These accounting issues included questions concerning whether there was persuasive evidence of an arrangement with buyers, whether collectability of reported revenue was reasonably assured, and whether Ethos had entered into a consignment arrangement with certain buyers. In addition, Respondents failed to consider whether and to what extent these accounting issues raised by the predecessor auditor may have affected the nature, timing or extent of the audit procedures to be performed.[32/]

35. Ethos reported approximately $10.3 million in revenue for the year ended December 31, 2007, an annual increase of approximately 120%. Ethos disclosed that two customers accounted for 87% of its reported revenue, one non-U.S. customer accounting for 79% and a second customer accounting for 8%. Ethos also reported nearly $6 million in accounts receivable as of December 31, 2007. Ethos disclosed that 84% of its reported balance was due from one customer and that the reported accounts receivable was net of an allowance for uncollectable debt of $111,362.

36. Respondents failed to adequately test revenue or accounts receivable. Respondents did not obtain or evaluate any source documentation concerning the reported sales. While the work papers contained accounts receivable confirmations purportedly signed by Ethos's customers, Respondents did not send any confirmations

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[31/] See AU § 315.03, .07-10, *Communications Between Predecessor and Successor Auditors.*

[32/] Respondents were also aware that the company received a comment letter from the staff of the SEC's Division of Corporation Finance requesting information concerning the issues raised by the predecessor auditor and disclosed in the Form 8-K/A filing. Yet, as discussed below, Respondents failed to perform any procedures related to revenue recognition.

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to Ethos's customers, but received confirmation responses directly from Ethos's management. As a result, Respondents failed to maintain control over the confirmation requests and responses, contrary to PCAOB standards.[33/]

37. Respondents' work papers included an accounts receivable aging report prepared by Ethos's management. The report reflected that $3.2 million, or 54%, of reported accounts receivable was more than 90 days past due. Of this amount, $2.6 million was attributed to a non-U.S. customer. According to the aging report, the same customer owed Ethos a current amount of $2.5 million. Notwithstanding the significant past due amounts and the concentration of $5.1 million, or 86%, of total receivables with one customer, Respondents failed to perform any procedures to test the allowance for doubtful accounts.

38. Respondents also failed appropriately to staff the Ethos audit, and Moore failed appropriately to supervise the audit assistant. The assistant assigned to the audit, and instructed by Moore to plan and perform the audit, had worked at the Firm for approximately one year. She had no education, training or experience with auditing or accounting matters beyond informal training from another audit assistant who likewise had no prior education or training, and limited experience with auditing or accounting matters. Based on this training, the audit assistant understood that an audit consisted solely of preparing an audit report, but not performing audit procedures designed to elicit competent evidence. As a result, the audit assistant performed few or no audit procedures during the Ethos audit. Moore failed to provide supervision commensurate with the audit assistant's limited qualifications and the complexities of the audit, failing to ensure that the assistant understood the objectives of the audit and the procedures to be performed, and failing to adequately review the assistant's work.[34/]

[33/] See AU § 330.28, *The Confirmation Process*.

[34/] Ethos restated its FY 2007 financial statements on Form 10KSB/A filed with the Commission on November 20, 2008. Respondents issued an audit report dated November 19, 2008 containing an unqualified audit opinion on the restated financial statements. The restatement decreased reported revenue by more than $9 million, or nearly 87% of originally reported revenue. The restatement also decreased accounts receivable by nearly $6 million, or more than 98% of originally reported accounts receivable.

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E. Respondents Violated Section 10(b) of the Exchange Act and Commission Rule 10b-5

39. Section 10(b) of the Exchange Act and Commission Rule 10b-5 thereunder prohibit a person, in connection with the purchase or sale of a security, from making an untrue statement of a material fact or from omitting to state a material fact necessary to make statements made, in light of the circumstances under which they were made, not misleading. To violate Section 10(b) or Rule 10b-5, a defendant must act with scienter, Aaron v. SEC, 446 U.S. 680, 695, 701-02 (1980), which the Supreme Court has defined as "a mental state embracing intent to deceive, manipulate, or defraud." Ernst & Ernst v. Hochfelder, 425 U.S. 185, 193 n. 12 (1976). Scienter encompasses knowing or intentional conduct, or recklessness. See, e.g., IIT v. Cornfeld, 619 F.2d 909, 923 (2d Cir. 1980). An auditor violates Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by issuing an audit report stating that the audit has been performed in accordance with PCAOB standards when he knows, or is reckless in not knowing, that the statement is false. In re: Richard P. Scalzo, CPA, Exchange Act Rel. No. 48328, 2003 SEC LEXIS 1915, at *1 (August 13, 2003) and In re: Dennis M. Gaito, CPA, Exchange Act Rel. No. 45941, 2002 SEC LEXIS 1306, at *1 (May 16, 2002). These statements are clearly material, as "[f]ew matters could be more important to investors than that of whether an issuer's financial statements, contained in its filings with the Commission, had, in fact, been subjected to an annual audit conducted in accordance with [PCAOB standards] in all material respects." Scalzo, 2003 SEC LEXIS 1915, at *52-53.

40. Respondents violated Section 10(b) of the Exchange Act and Commission Rule 10b-5 by issuing audit reports in connection with Standard Drilling's, Biocoral's, and Ethos's financial statements falsely stating that the audits were conducted in accordance with PCAOB standards. The Respondents knew, or were reckless in not knowing, that few if any substantive audit procedures were performed prior to the issuance of the Firm's audit reports. Respondents also knew, or were reckless in not knowing, that they had staffed these audits with assistants who had no accounting or auditing education, experience, or training, and who executed the audits with little or no supervision by Moore.

F. Noncooperation in Connection with the Board's Investigation

41. The Act authorizes the Board to impose disciplinary sanctions for a registered firm's or associated person's noncooperation with a Board investigation,[35/]

[35/] See Section 105(b)(3) of the Act.

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and Board rules include procedures for implementing that authority.[36/] Noncooperation with a Board investigation includes knowingly making any false material declaration or making or using any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration. As described below, M&A failed to cooperate with a Board investigation by submitting work papers to the PCAOB it knew to contain false material declarations. Moore also failed to cooperate with a Board investigation by falsely testifying that these documents represented the Firm's work papers. Finally, M&A failed to cooperate with a Board investigation by refusing to produce certain documents called for by an Accounting Board Demand.

42. On February 28, 2008, as part of an informal inquiry, the Division of Enforcement and Investigations ("Enforcement") requested the production of certain work papers ("Document Request"). In March and April 2008, M&A produced what appeared to be copies of the work papers in response to the Document Request. Certain portions of the purported work papers, however, were created at Respondents' direction after receiving Enforcement's Document Request. These newly created work papers were not created by audit team members and did not reflect actual work performed during the audits in question.

43. On November 11, 2008, in the course of a formal investigation, Enforcement issued to Respondents an Accounting Board Demand requiring the production of, among other things, the same documents that were the subject of the Document Request. In response, Moore represented in communications with Enforcement and in sworn testimony that the documents produced to Enforcement were a true and complete set of the audit work papers. The documents, however, were significantly different than documents previously provided to the Board's Division of Registration and Inspections ("Inspections") during the course of the inspection of the Firm in 2007. When confronted with the documents produced to Inspections, Moore could not explain the discrepancies between them and the documents produced to Enforcement, but maintained that the work papers produced to Enforcement were true and correct copies of the original work papers.

44. Two months after asserting the documents produced to Enforcement were true and complete sets of the demanded audit work papers, Moore changed his story and conceded that the documents were not the original work papers.[37/] At no time

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[36/] See PCAOB Rules 5110 and 5200(a)(3).

[37/] The Firm subsequently produced the original work papers to Enforcement.

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previously did Moore indicate that the work papers produced to Enforcement were anything other than true and complete copies of the original work papers. In reality, Moore knew that he had caused the creation of new work papers documenting procedures not performed at the time of the audit and had them sent to Enforcement in response to the demand for the work papers supporting the original audits.

45. Lastly, M&A also failed to cooperate with the Board's investigation by refusing to produce documents called for by an Accounting Board Demand issued to the firm on March 19, 2009. On May 12, 2009, after repeatedly asking for, and receiving, extensions of the April 2, 2009 deadline to produce all documents responsive to the Accounting Board Demand, counsel for M&A informed the Enforcement staff that the Firm would not comply with the Accounting Board Demand. To date, no documents responsive to that Accounting Board Demand have been produced by M&A.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. The Board, in determining the appropriate sanctions, has taken into account the fact that Moore has agreed to pay a civil monetary penalty to the U.S. Securities and Exchange Commission in the matter styled SEC v. Michael J. Moore and Moore & Associates Chartered, Case No. 2:09-cv-01637 (D. Nev. Filed August 27, 2009). Accordingly, it is hereby ORDERED that:

A. Pursuant to Sections 105(b)(3) and 105(c)(4)(A) of the Act and PCAOB Rules 5300(a)(1) and 5300(b)(1), the registration of Moore & Associates, Chartered is revoked; and

B. Pursuant to Sections 105(b)(3) and 105(c)(4)(B) of the Act and PCAOB Rules 5300(a)(2) and 5300(b)(1), Michael J. Moore is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

_____
J. Gordon Seymour
Secretary

August 27, 2009

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of* *The Blackwing Group, LLC and Sara L. Jenkins, CPA* *Respondents.*	PCAOB Release No. 105-2009-007 December 22, 2009

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of The Blackwing Group, LLC (the "Firm" or "Blackwing") and barring Sara L. Jenkins, CPA ("Jenkins") (collectively, "Respondents") from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings concerning Respondents' violations of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder in auditing the financial statements of two issuer clients from 2006 to 2008, PCAOB rules and auditing standards, noncooperation with a Board inspection, and noncooperation with a Board investigation.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) and (3) against The Blackwing Group and Sara L. Jenkins, CPA.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers, the Board finds[1/] that:

A. Respondents

1. The Blackwing Group, LLC is a public accounting firm located in Independence, Missouri. At all relevant times, the Firm was licensed by the Missouri Division of Professional Registration (License No. 2005036069).[2/] The Firm is registered with the Board pursuant to Section 102 of the Act and Board Rules. The Firm was formed in 2005, and registered with the Board on August 15, 2007. Other than Sara L. Jenkins, the Firm has no other partners or employees engaging in public auditing.[3/]

[1/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[2/] Blackwing's license expired on October 31, 2009.

[3/] Blackwing has been the subject of cease and desist orders issued by two state accountancy boards for issuing audit reports in states in which it was not licensed:

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2. Sara L. Jenkins, 43, is a certified public accountant licensed under the laws of the state of Missouri (License No. 2002006746). She is the Firm's managing partner and, at all times relevant to this matter, was an associated person of the Firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Prior to forming the Firm and registering it with the Board, Jenkins had no experience in auditing public companies.[4/]

B. Summary

3. This matter concerns Respondents' violations of the antifraud provisions of the federal securities laws, in auditing the financial statements of two issuer-clients, U.S Canadian Minerals, Inc. ("U.S. Canadian") and Wellstone Filters, Inc. ("Wellstone"), as well as Respondents' violations of PCAOB rules and auditing standards. The Firm issued audit reports for U.S. Canadian's 2006, 2007, and 2008 financial statements and for Wellstone's 2007 and 2008 financial statements, all of which were filed with the Securities and Exchange Commission ("SEC" or "Commission"). Jenkins was responsible for the issuance of those audit reports. In all of these audit reports, the Firm expressed an unqualified opinion and stated that the audits were conducted in accordance with PCAOB standards. Respondents failed to perform or performed very few audit procedures in connection with the issuance of these audit reports, in violation of PCAOB rules and auditing standards. In each of these cases, Respondents also repeatedly violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by issuing audit reports that represented that the audits had been conducted in accordance

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California (May 28, 2009) and North Carolina (Oct. 1, 2008). See Activity Review, North Carolina State Board of Certified Public Accountant Examiners, at 4, No. 11-2008.

[4/] Jenkins has been the subject of cease and desist orders issued by three state accountancy boards for issuing audit reports in states in which she was not licensed: California (May 28, 2009), Wyoming (May 23, 2008), and North Carolina (Oct. 1, 2008). See Activity Review, North Carolina State Board of Certified Public Accountant Examiners, at 4, No. 11-2008. She also had her license revoked by the Kansas Board of Accountancy on January 25, 2008, and by the Nevada State Board of Accountancy on January 11, 2008. See Jan. 25, 2008 Minutes of the Kansas Board of Accountancy, at 4-5, <http://www.ksboa.org/pdf/agendas_minutes/01252008%20MINUTES.pdf>; Jan. 11, 2008 Minutes of the Nevada State Board of Account ancy, at 5, <http://www.nvaccountancy.com/minutes/011108.pdf>. She is currently a respondent in a proceeding before the Administrative Hearing Commission of the Missouri State Board of Accountancy. See *State Bd. of Accountancy v. Sara L. Jenkins, et al.*, No. 08-2116, Order (Oct. 5, 2009).

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with PCAOB standards, when they knew, or were reckless in not knowing, that such representations were false.

4. Furthermore, Respondents compounded these violations by attempting to hide their wholly deficient audit work. Beginning in the spring of 2008 and continuing through June 2008, Respondents repeatedly altered work papers in anticipation of the Board's inspection of the Firm and made other misrepresentations to members of the Board's Division of Registration and Inspections ("Inspections staff") during the course of a Board inspection of the Firm in 2008. In addition, Respondents provided false documents and made false statements to staff of the Division of Enforcement and Investigations ("Enforcement staff") during the course of a Board investigation relating to the above-referenced audits.

C. Respondents Violated PCAOB Rules and Auditing Standards

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards and related professional practice standards.[5/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[7/] As detailed below, Respondents failed to meet these standards in connection with the audits of two issuers: the audits of the financial statements of U.S. Canadian for 2006, 2007, and 2008, and Wellstone for 2007 and 2008.

[5/] See PCAOB Rules 3100, 3200T.

[6/] See AU § 508.07, *Reports on Audited Financial Statements.*

[7/] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work;* and AU § 326, *Evidential Matter.*

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Audits of U.S. Canadian's 2006, 2007, and 2008 Financial Statements

6. U.S. Canadian is a Nevada corporation headquartered in Blaine, Washington.[8/] At all relevant times, its common stock was registered under Section 12(g) of the Exchange Act and quoted on the OTC Bulletin Board and the Pink Sheets. The company's public filings disclose that it is a development stage company focused on the mining industry and acquiring existing mining business operations and assets. At all relevant times, U.S. Canadian was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

7. In February 2008, U.S. Canadian engaged Respondents to audit U.S. Canadian's 2006 and 2007 financial statements. U.S. Canadian renewed its engagement of Respondents in April 2009 to audit its 2008 financial statements. During the time of their engagement, Respondents issued audit reports on U.S. Canadian's financial statements. Each report stated that the audit was conducted in accordance with PCAOB standards, expressed an unqualified audit opinion, and stated that, in the Firm's opinion, the company's financial statements were fairly presented in all material respects in conformity with U.S. Generally Accepted Accounting Principles ("GAAP"). The audit reports were dated March 25, 2008, March 21, 2008, and April 11, 2009 and included as part of the following U.S. Canadian filings: (a) December 31, 2006 Form 10KSB filed on April 3, 2008, (b) December 31, 2007 Form 10KSB filed on April 25, 2008, and (c) December 31, 2008 Form 10-K filed on April 14, 2009.[9/]

8. During Respondents' audit of U.S. Canadian's 2006 financial statements, Respondents failed to perform any audit procedures. When asked in the course of the Board's investigation about what audit procedures were performed during the audit, Jenkins admitted that she did not audit the U.S. Canadian 2006 financials, and that was why Respondents did not have any work papers. Despite not performing any audit procedures, Respondents issued an audit report containing an unqualified opinion.

[8/] U.S. Canadian changed its name to Noble Consolidated Industries Corp. on October 1, 2009. See U.S. Canadian Minerals, Inc. Form 8-K filed on October 5, 2009.

[9/] The Firm also issued audit reports dated August 20, 2008 and September 12, 2008 included with U.S. Canadian's Forms 10KSB/A filed with the Commission on August 25, 2008 and September 12, 2008. In these amended filings, U.S. Canadian disclosed that it restated its financial statements for the year ended December 31, 2007 to correct errors related to earnings per share and common shares issued for services.

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9. During Respondents' audit of U.S. Canadian's 2007 financial statements, Respondents performed few or no audit procedures. Other than relying on management's representations, Respondents: (a) failed to perform any audit procedures relating to U.S. Canadian's reported revenue of $25,524 and reported gain from discontinued operations of $214,984, including failing to perform any procedures to determine whether the reported gain existed and was properly valued; (b) failed to identify and address appropriately a GAAP departure related to the issuer's earnings per share calculation,[10/] including failing to consider the retroactive application of a 1-for-50 reverse stock split in the calculation of the weighted average number of shares outstanding in auditing U.S. Canadian's earnings per share;[11/] (c) failed to identify and address appropriately that U.S. Canadian used year-end balances of shares outstanding, instead of weighted average number of shares outstanding, in determining the net loss per share;[12/] (d) failed to identify and address appropriately a GAAP departure related to the valuation of common stock issued for services, including failing to identify and address appropriately that common stock issued for services was recorded at par value, rather than market value, as required by GAAP;[13/] (e) failed to perform any procedures to consider whether 73 million shares of common stock issued for services were properly valued and reported in the financial statements; (f) failed to perform any procedures to determine whether $270,000 in unpaid executive compensation was properly recorded as a liability; and (g) failed to perform any procedures to determine whether changes made to the 2006 Balance Sheet and Statement of Operations were correct or whether the changes were disclosed appropriately.

[10/] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Commission has considered or made any determination concerning the issuer's compliance with GAAP.

[11/] Statement of Financial Accounting Standards ("SFAS") No. 128, *Earnings Per Share*, ¶ 54.

[12/] SFAS No. 128, ¶ 8.

[13/] SFAS No. 123R, *Share-Based Payment*, ¶ 7.

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10. Respondents also failed to take appropriate steps when facts existing at the date of the auditor's report were subsequently discovered.[14/] Jenkins acknowledged that when the Inspections staff informed her in June 2008 during the course of an inspection that Respondents had failed to perform any procedures to determine whether the unpaid executive compensation was recorded properly, Respondents failed to take certain steps required by PCAOB standards, including performing procedures or considering the effect of the new information obtained on their audit opinion.

11. During Respondents' audit of U.S. Canadian's 2008 financial statements, Respondents performed few or no audit procedures. Other than relying on management's representations, Respondents: (a) failed to perform any procedures related to the reported revenue of $3,000, including testing existence and valuation; (b) failed to perform procedures to determine whether 231,598 shares of common stock issued for services were properly valued and reported in the financial statements; (c) failed to perform any procedures to determine whether unpaid executive compensation of $295,000 was properly recorded as a liability; (d) failed to perform any procedures related to cash, including testing existence, and rights and obligations; and (e) failed to perform any audit procedures related to related party accounts payable,[15/] or accounts payable and accrued liabilities, including testing for completeness.

[14/] PCAOB standards require an auditor who, subsequent to the date of the report upon audited financial statements, becomes aware that facts may have existed at that date which might have affected the report had he or she then been aware of such facts, to take certain steps to address the potential impact of those facts. When subsequently discovered information is determined to be reliable, to have existed at the date of the report, and would have affected the audit report if the information had been known to the auditor, PCAOB standards require the auditor to advise his client to make appropriate disclosures of the subsequently discovered information and its impact on the financial statements. If the client refuses to do so, the auditor ultimately is obligated to notify the Commission, among others, that the auditor's report should no longer be relied upon, the nature of the subsequently acquired information, and the information's effect on the financial statements. See AU § 561, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*.

[15/] PCAOB standards require that, after identifying related party transactions (such as related party accounts payable), the auditor should apply the procedures he considers necessary to obtain satisfaction concerning the purpose, nature, and extent of these transactions and their effect on the financial statements. The procedures should be directed toward obtaining and evaluating sufficient competent evidential matter and should extend beyond inquiry of management. See AU § 334, *Related Parties.*

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Audits of Wellstone's 2007 and 2008 Financial Statements

12. Wellstone is a Delaware corporation headquartered in Timberlake, North Carolina. At all relevant times, its common stock was registered under Section 12(g) of the Exchange Act and quoted on the OTC Bulletin Board and the Pink Sheets. The company's public filings disclose that it is a development stage company engaged in the development and marketing of a proprietary cigarette filter technology and a brand of cigarettes utilizing a patented reduced risk filter.

13. In January 2008, Wellstone engaged Respondents to audit Wellstone's 2007 financial statements. Wellstone renewed its engagement of Respondents in 2009 to audit its 2008 financial statements. During the time of their engagement, Respondents issued audit reports on Wellstone's financial statements. Each report stated that the audit was conducted in accordance with PCAOB standards, expressed an unqualified audit opinion, and stated that in the Firm's opinion, the company's financial statements were fairly presented in all material respects in conformity with U.S. GAAP. The audit reports were dated March 19, 2008, and March 17, 2009, and included as part of the following Wellstone filings: (a) December 31, 2007 Form 10KSB filed on March 25, 2008, and (b) December 31, 2008 Form 10-K filed on March 19, 2009.

14. Respondents' audits of Wellstone were wholly deficient in significant respects. During Respondents' audit of Wellstone's 2007 financial statements, Respondents performed few or no audit procedures. Other than relying on management's representations, Respondents: (a) failed to identify and address appropriately a GAAP departure related to the issuer's earnings per share calculation, including failing to consider the retroactive application of a 1-for-100 reverse stock split in the calculation of weighted average number of shares outstanding in auditing earnings per share;[16/] (b) failed to perform any procedures to determine whether Wellstone's gain for the forgiveness of debt was recorded appropriately; (c) failed to perform any procedures related to Wellstone's long-term debt; and (d) failed to perform any procedures related to Wellstone's interest expense, related party accounts payable, or notes payable to affiliates.

15. Respondents also failed to take appropriate steps when facts existing at the date of the auditor's report were subsequently discovered.[17/] Jenkins acknowledged

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[16/] SFAS No. 128, ¶ 54.

[17/] See AU § 561.

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that in preparing for or during the June 2008 inspection she learned that Respondents had failed to: (a) consider the retroactive application of a 1-for-100 reverse stock split in the calculation of weighted average number of shares outstanding in auditing Wellstone's earnings per share, (b) perform any procedures to determine whether the forgiveness of debt was recorded appropriately, (c) perform any procedures related to Wellstone's long-term debt, and (d) perform any procedures related to Wellstone's interest expense, related party accounts payable, or notes payable to affiliates. Jenkins nevertheless acknowledged that Respondents subsequently failed to take certain steps required by PCAOB standards, including performing procedures or considering the effect of the new information on their audit.

16. During Respondents' audit of Wellstone's 2008 financial statements, Respondents performed few or no audit procedures. Other than relying on management's representations, Respondents: (a) failed to perform any procedures related to Wellstone's long-term debt or its interest expense, and (b) failed to perform any audit procedures relating to related party accounts payable or notes payable to affiliates.[18/]

D. Respondents Committed Fraud in Violation of Section 10(b) of the Exchange Act and Commission Rule 10b-5 Thereunder

17. Section 10(b) of the Exchange Act and Commission Rule 10b-5 thereunder are antifraud provisions that prohibit a person, in connection with the purchase or sale of a security, from making an untrue statement of a material fact or from omitting to state a material fact necessary to make statements made, in light of the circumstances under which they were made, not misleading. To violate Section 10(b) or Rule 10b-5, a defendant must act with scienter, *Aaron v. SEC*, 446 U.S. 680, 695, 701-02 (1980), which the Supreme Court has defined as "a mental state embracing intent to deceive, manipulate, or defraud." *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 n. 12 (1976). Scienter encompasses knowing or intentional conduct, or recklessness. See*, e.g., IIT v. Cornfeld*, 619 F.2d 909, 923 (2d Cir. 1980). An auditor violates Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by issuing an audit report stating that the audit has been performed in accordance with PCAOB standards when the auditor knows, or is reckless in not knowing, that the statement is false. *In re: Richard P. Scalzo, CPA,* Exchange Act Rel. No. 48328, 2003 SEC LEXIS 1915, at *1 (August 13, 2003) and *In re: Dennis M. Gaito, CPA,* Exchange Act Rel. No. 45941, 2002 SEC LEXIS 1306, at *1 (May 16, 2002). "Few matters could be more important to investors than that of whether an issuer's financial statements, contained in

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[18/] See AU § 334.

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its filings with the Commission, had, in fact, been subjected to an annual audit conducted in accordance with [PCAOB standards] in all material respects." *Scalzo*, 2003 SEC LEXIS 1915, at *52-53.

18. Respondents committed fraud in violation of Section 10(b) of the Exchange Act and Commission Rule 10b-5 by issuing audit reports falsely stating that they audited the 2006, 2007 and 2008 financial statements of U.S. Canadian and the 2007 and 2008 financial statements of Wellstone, and that the audits were conducted in accordance with PCAOB standards. Respondents knew that few, if any, substantive audit procedures were performed prior to the issuance of the Firm's audit reports for the above-referenced financial statements. In addition, Respondents repeatedly admitted during the course of the Board's investigation that they were unfamiliar with PCAOB standards[19/] and made the statements that the audits were conducted in accordance with PCAOB standards without any regard to whether they understood their audits to comport with PCAOB standards. Respondents, nevertheless, included these statements in their audits reports solely because they were required by PCAOB standards.[20/]

E. Respondents Violated Their Duty to Cooperate with a Board Inspection

19. From June 16, 2008 to June 18, 2008, Inspections staff conducted an inspection of the Firm. After receiving notice of the Board's inspection, Respondents printed out and assembled copies of work papers for the Firm's audits of U.S. Canadian and Wellstone. Before providing the work papers to the Inspections staff, Jenkins wrote notes on many of the work papers without providing the date on which the notes were written or an explanation as to why they were written. These notes were misleading because they purported to represent the performance of audit procedures in connection with these audits, when, in fact, as Respondents knew, they had not performed any such audit procedures. For example, included in the 2007 audit work papers for Wellstone is a document titled "Audit Program for Internal Control." In anticipation of the PCAOB inspection, Jenkins printed out the work paper, and then wrote "Internal control evaluated for SEC audit report" on the work paper, without indicating when she

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[19/] Prior to her first audits of public companies, Jenkins' familiarity with PCAOB standards was based on taking a 40-hour on-line course in 2007 concerning PCAOB standards.

[20/] See PCAOB Audit Standard No. 1, paragraph 3.

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wrote the note or why she wrote it.[21/] In fact, Jenkins admitted during the Board's investigation that she did not evaluate Wellstone's internal control as part of Blackwing's 2007 audit.

20. Pursuant to Section 104(f) of the Act and Board Rule 4007, after the Inspections staff completed its field work for its inspection of the Firm, the staff provided Respondents with a draft inspection report dated January 12, 2009 for the Firm's review, and provided the Firm with the opportunity to submit a written response to the draft report.[22/]

21. In response to the draft inspection report, Respondents sent a letter to the Director of the Division of Registration and Inspections dated February 11, 2009, in which they made several misrepresentations. In the February 11, 2009 letter, Respondents stated that: (1) "[w]e have made arrangements for concurring review of our engagement with PCAOB experienced auditors in an effort to improve our audit quality" and (2) "[w]e have also reviewed the issues raised by your Report with them, in order to take positive corrective action." These statements were misleading because, as Respondents knew at the time and admitted during the Board's investigation, the Firm had not made any arrangements for a concurring review of its engagements.

22. During the inspection of the Firm, Respondents learned that Wellstone had not retroactively applied a 1-for-100 reverse stock split in the calculation of weighted average number of shares for fiscal year 2006 and that Wellstone's 2007 financial statements, which had included this calculation of weighted average number of shares, probably would have to be restated to correct the reported weighted average. In the February 11, 2009 letter, Respondents represented to the Director of the Division of Registration and Inspections that "[Wellstone] has acknowledged the deficiencies in information provided in the audit performed for the year ending December 31, 2007 and

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[21/] Respondents' alterations of the work papers also violated Auditing Standard No. 3, *Audit Documentation* ("AS3"). Under AS3, any additions to audit documentation after the audit report release date, "must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it." After the documentation completion date, a document may be added to an auditor's work papers only if the document indicates the date when it was added, the person who prepared it, and the reason for adding it.

[22/] Neither Section 104(f) of the Act or Board Rule 4007 requires a registered firm to provide a written response or any other form of response to a Board draft inspection report.

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has agreed to restated financial statements for that year if the additional procedures that will be applied during the audit of the year ending December 31, 2008, show that there are material misstatements in the December 31, 2007 financial statements." This statement, however, was misleading because, as Respondents knew at the time and admitted during the Board's investigation, Wellstone had never acknowledged to Respondents either that there were deficiencies in the 2007 audit or that it would restate its financial statements.

23. PCAOB rules require registered firms and their associated persons to cooperate in the performance of any Board inspection.[23/] This obligation to cooperate "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes" and "applies with no less force to information or communications that a firm or person decides on its own to provide" – such as a written response to a Board draft inspection report – "than it does to information that the Board specifically requires a firm or person to provide."[24/] Respondents' conduct in altering work papers in anticipation of a Board inspection and making misleading representations in response to the Board draft inspection report violated PCAOB Rule 4006.

F. Noncooperation in Connection with the Board's Investigation

24. The Act authorizes the Board to impose disciplinary sanctions for a registered firm's or associated person's noncooperation with a Board investigation,[25/] and Board rules include procedures for implementing that authority.[26/] Noncooperation with a Board investigation includes knowingly making any false material declaration or making or using any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration. As described below, Respondents failed to cooperate with a Board investigation by submitting work papers to the PCAOB Enforcement staff they knew to contain false material declarations.

[23/] See PCAOB Rule 4006.

[24/] *In the Matter of Drakeford & Drakeford, LLC and John A. DellaDonna, CPA,* PCAOB Release No. 105-2009-002, at 4.

[25/] See Section 105(b)(3) of the Act.

[26/] See PCAOB Rules 5110 and 5200(a)(3).

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Public Company Accounting Oversight Board

ORDER

25. On December 1, 2008, as part of an informal inquiry, the Enforcement staff requested that Respondents produce certain work papers ("Document Request") relating to the Firm's 2006 and 2007 audits of U.S. Canadian and 2007 audit of Wellstone. In December 2008 and January 2009, Respondents produced what purported to be copies of the work papers in response to the Document Request. On April 1, 2009, as part of a formal investigation, the Enforcement staff issued Accounting Board Demands ("Demands") to Respondents for certain work papers, including the same work papers requested pursuant to the Document Request, to the extent those work papers had not been already produced to the Enforcement staff. Between May 2009 and August 2009, Respondents produced what purported to be copies of work papers in response to the Demands. Among the documents Respondents produced pursuant to the Demands were three bank confirmations and several notes payable confirmations, which purported to be part of the Firm's work papers for the 2008 audit of U.S. Canadian and the 2008 audit of Wellstone, respectively. In her testimony to the Board's staff, Jenkins admitted that she had falsified these documents after receiving the Demands, by forging the bank signatures on the three bank confirmations and the creditor signatures on the notes payable.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Sections 105(b)(3) and 105(c)(4)(A) of the Act and PCAOB Rules 5300(a)(1) and 5300(b)(1), the registration of The Blackwing Group, LLC is revoked; and

B. Pursuant to Sections 105(b)(3) and 105(c)(4)(B) of the Act and PCAOB Rules 5300(a)(2) and 5300(b)(1), Sara L. Jenkins is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

_____

J. Gordon Seymour
Secretary
December 22, 2009

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Jennifer Nakao, CPA,* *Respondent.*	PCAOB Release No. 105-2010-002 February 17, 2010

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is suspending Jennifer Nakao ("Respondent") from being associated with a registered public accounting firm for a period of one year from the date of this Order. The Board is imposing this sanction on the basis of its findings concerning Respondent's violations of PCAOB rules and auditing standards in auditing the 2004 financial statements of one issuer client.

I.

On April 13, 2009, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Respondent. As required by section 105(c)(2) of the Act, these proceedings were not public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

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Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer, the Board finds[1/] that:

A. Respondent

1. Nakao, age 34, of Murray, Utah is a certified public accountant licensed under the laws of the state of Utah (License No. 5247207-2601). At all relevant times, she was a professional in the Salt Lake City, Utah office of the registered public accounting firm of Grant Thornton, LLP ("GT") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Respondent's violations of PCAOB Rules and auditing standards in connection with GT's audit of the fiscal year ("FY") 2004 financial statements of Imergent, Inc. ("Imergent" or the "Company"). Respondent's violations occurred in the context of auditing Imergent's (1) revenue, (2) allowance for doubtful accounts, and (3) related financial statement footnote disclosures.

3. GT became the independent auditor for Imergent in February 2002. Respondent began working on the Imergent audit in FY 2002 as the engagement senior. She was promoted to manager in July 2003 and became the manager on the Imergent engagement in FY 2004. She remained a member of the Imergent engagement team until GT was terminated as the company's independent auditor in

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[1/] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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ORDER

October 2005. Respondent was the only GT professional staffed on the Imergent engagement for all three fiscal years audited by GT.

4. Most of Imergent's FY 2004 revenue came from sales of software licenses to customers who were given 24-month extended payment term arrangements ("EPTAs") to finance their purchase. Under applicable Generally Accepted Accounting Principles ("GAAP"), Imergent could recognize revenue from EPTA-financed sales ("EPTA sales") on an accrual basis (*i.e.*, at the time the sale was completed, rather than when cash was ultimately received) only if, among other things, the sales fee was probable of collection and the fee was fixed or determinable. Respondent understood that for the EPTA sales fee to be deemed fixed or determinable, Imergent had to have a history of successfully collecting under the original payment terms without making concessions. Respondent also was aware that Imergent recognized all revenue from EPTA sales on an accrual basis despite having a history of poor collections and a practice of extending financing to all customers regardless of their credit history.

5. Respondent understood that Imergent's historical collection experience for EPTA sales was its primary basis for concluding that the FY 2004 EPTA sales were probable of collection and fixed or determinable. But Respondent failed to ensure that the engagement team sufficiently tested management's representations of its historical collection experience for EPTA sales. In fact, during the FY 2004 audit, Respondent was aware of materially contradictory evidence as to the collection rates of Imergent's EPTAs, but failed to obtain reasonable assurance regarding the actual rates in light of this contradictory evidence.

6. Respondent further failed to ensure that sufficient procedures were performed to test or assess the reasonableness of certain EPTA collection rates disclosed by Imergent in the footnotes to its FY 2004 financial statements and in its filings with the Securities and Exchange Commission ("SEC").

7. During the FY 2004 audit, the engagement team also identified Imergent's allowance for doubtful accounts as a significant audit issue. In order to properly value its trade receivables balance, Imergent needed to reasonably estimate its allowance for doubtful accounts. The trade receivables balance was comprised primarily of payments due from EPTA sales. At the time of the FY 2004 audit, Respondent was aware that, during FY 2004, Imergent's management adopted a new methodology for estimating its allowance for doubtful accounts. Under the new methodology, the allowance as a percentage of gross trade receivables decreased from 47% as of June 30, 2003 to 32%

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as of June 30, 2004. This decrease in the allowance reduced bad debt expense, thereby increasing FY 2004 net income. Despite being aware of the new methodology, the inherent risks associated with this significant estimate, and Imergent's history of underestimating the allowance for doubtful accounts, Respondent failed to ensure the performance of sufficient procedures to assess the reasonableness of the June 30, 2004 allowance for doubtful accounts balance.

C. Respondent Failed to Comply with Certain PCAOB Auditing Standards in Auditing the Financial Statements of Imergent, Inc. for FY 2004

8. Imergent is an e-services company based, at all relevant times, in Orem, Utah.[2/] Imergent's public filings disclose that it sold licenses to use a web-based software called StoresOnline Software ("SOS" or "software"), which assists customers in creating websites. Imergent's shares are listed on the American Stock Exchange. At all relevant times, Imergent was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. As manager on the FY 2004 Imergent audit, Respondent was responsible for supervising procedures performed by more junior members of the engagement team and for reviewing the team's work on revenue recognition and the allowance for doubtful accounts.[3/] She also personally performed certain of the procedures in those areas during the FY 2004 audit and prior audits. In an audit report dated August 27, 2004, and included in Imergent's Form 10-K filed with the Securities and Exchange Commission on September 10, 2004, GT expressed an unqualified opinion on Imergent's consolidated balance sheets as of June 30, 2004 and 2003, and the related consolidated statements of earnings, stockholders' equity, and cash flows for each of the three years in the period ended June 30, 2004. GT's audit report stated that the audit had been conducted in accordance with the standards of the PCAOB, and that, in GT's opinion, Imergent's financial statements presented fairly, in all material respects, its financial position in conformity with U.S. GAAP.

[2/] On April 27, 2009, Imergent announced that it was moving its headquarters from Orem, Utah to Phoenix, Arizona.

[3/] See AU § 311.11 & .13, *Planning and Supervision*. The auditor with final responsibility for the audit delegated portions of the supervision of the audit to Respondent. See AU § 311.02, *Planning and Supervision*.

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10. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with the Board's auditing standards.[4/] Under these standards, an auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[5/] Among other things, those standards require that an auditor exercise due professional care, maintain professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[6/] Respondent failed to comply with these standards in connection with the FY 2004 audit of Imergent.

Imergent's Business and Stratification of Sales

11. According to Imergent's FY 2004 Form 10-K, Imergent began selling the SOS license on October 1, 2000. During FY 2004, Imergent sold SOS licenses through promotional workshops held throughout the United States and in several foreign countries. Imergent disclosed that revenue from the sale of SOS licenses was recognized after the product was delivered to the customer and a three day rescission period expired.

12. Respondent was aware that Imergent accepted three methods of payment for the software: cash, credit cards, or EPTAs. Imergent entered into EPTAs with all purchasers of SOS licenses who made a 5% down payment, completed a credit application, and permitted Imergent to check their credit. The results of the credit check did not preclude a customer from qualifying for an EPTA.

4/ See PCAOB Rules 3100, 3200T.

5/ See AU § 508.07, *Reports on Audited Financial Statements*.

6/ See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 326, *Evidential Matter*. Under PCAOB standards, representations from management are part of the evidential matter that an auditor obtains, but management representations are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for the auditor's opinion. See AU § 333, *Management Representations*.

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13. Respondent was aware that Imergent performed the credit check at the time of the workshop and, based on the credit check, stratified purchasers into two distinct groups: "A" customers and "B" customers. Customers with credit scores of 630 or higher were categorized as "A" customers and those with credit scores below 630 were categorized as "B" customers. According to the work papers, Imergent began tracking customers by credit score during FY 2002 and continued to do so throughout the time GT was its independent auditor. The work papers indicate that the majority of FY 2004 EPTA customers were "B" customers.

14. Respondent was aware that, during FY 2004, Imergent sold portions of its EPTA receivables at a discount. Imergent referred to these sold receivables as "funded EPTAs" and the remaining EPTA receivables as "non-funded EPTAs." Imergent used customer credit scores to determine which EPTAs were likely to be funded. Beginning in FY 2003, Imergent also used the distinction between "A" and "B" customers in developing its allowance for doubtful accounts. Imergent developed an allowance for "B" customers representing a significantly lower estimated rate of collections than for "A" customers. In making certain of its revenue recognition decisions, however, Imergent relied on the cumulative collection rate of all EPTA sales to conclude that revenue should be recognized on an accrual basis for sales to all types or classes of EPTA customers.

Imergent's Revenue Recognition Conclusions

15. According to Imergent's FY 2004 Form 10-K, the accounting for EPTA sales was required to comply with American Institute of Certified Public Accountants Statement of Position 97-2, *Software Revenue Recognition* ("SOP 97-2") and was identified as a critical accounting policy. In order to recognize revenue for the sale of an SOS license on an accrual basis pursuant to SOP 97-2, Imergent was required, among other things, to establish that the sale was probable of collection and that the fee was fixed or determinable.[7/] During each year audited by GT, Imergent concluded that all EPTA sales were probable of collection and the sales price was fixed or determinable.

[7/] Paragraph .08 of SOP 97-2 states:

> If the arrangement does not require significant production, modification, or customization of software, revenue should be recognized when all of the following criteria are met:

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16. After Imergent's revenue recognition conclusions were questioned by the staff of the SEC's Division of Corporation Finance in May 2005, Imergent announced, on August 19, 2005, that, after consultation with GT, it would "correct its historical revenue recognition policy to cash basis from accrual basis for fiscal years 2002, 2003, 2004 and the first three quarters of fiscal 2005 in order to comply [with GAAP]." In October 2005, Imergent terminated GT as its independent auditor and, subsequently, restated its FY 2004 and 2003 financial statements in conjunction with filing its FY 2005 financial statements.

The FY 2004 Audit

17. According to work papers reviewed by Respondent, EPTA sales grew considerably in FY 2004, nearly doubling from $22.5 million in FY 2003 to $44.3 million in FY 2004. EPTA sales comprised nearly 55% of Imergent's total reported FY 2004 revenue of $81 million.

- Persuasive evidence of an arrangement exists.
- Delivery has occurred.
- The vendor's fee is fixed or determinable.
- Collectibility is probable.

With regard to whether the fee is "fixed or determinable," Paragraph .28 of SOP 97-2 provides that:

> … if payment of a significant portion of the software licensing fee is not due until after expiration of the license or more than twelve months after delivery, the licensing fee should be *presumed* not to be fixed or determinable. However, this presumption may be overcome by evidence that the vendor has a standard business practice of using long-term or installment contracts and a history of successfully collecting under the original payment terms without making concessions.

(italics in original; underlining added). Paragraph .29 provides that if the presumption cannot be overcome "revenue should be recognized as payments from customers become due (assuming all other conditions for revenue recognition in this SOP have been satisfied)."

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Probability of Collection

18. Respondent knew that Imergent had concluded that its FY 2004 EPTA sales were probable of collection based primarily on its historical collection experience. But Respondent failed to ensure that the engagement team sufficiently tested management's representations of its historical collection experience. In fact, during the 2004 audit, Respondent was aware of materially contradictory evidence as to the collection rates of Imergent's EPTAs, but failed to obtain reasonable assurance regarding the actual rates in light of this contradictory evidence.[8/]

19. The engagement team's analysis of the appropriateness of Imergent's revenue recognition policies is documented in a memorandum addressing revenue recognition (the "Revenue Recognition Memo") included in the FY 2004 audit work papers and reviewed by Respondent. In discussing SOS sales in the Revenue Recognition Memo, the engagement team asked "[i]s collection probable on sales under [EPTAs]?" In response, the memo states:

> The Company's position is that collection of the fee is probable since, on average, 70% of EPTA fees are paid. An analysis of the payment types and [EPTAs] delineated previously in this document shows that approximately 100% of cash and credit card payments are collected, approximately 98% of funded [EPTAs] are collected, and approximately 47% of non-funded [EPTAs] are collected. These percentages have been reasonably consistent and the Company is able to accurately estimate the percentage of bad debt likely to occur in a given classification of [EPTAs].
>
> CONCLUSION: The Company's position that the collection of the workshop fees is probable is appropriate. The Company recognizes bad debt expense in the period in which the bad debt is expected to have occurred. History has shown that payments under [EPTAs] are probable of collection, notwithstanding the fact that the bad debt percentage is very high on certain classes of [EPTAs]."

[8/] See AU § 333.04 ("If a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made").

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20. Respondent did not ensure that the EPTA collection percentages in the Revenue Recognition Memo were tested for reliability, even though the percentages were identical to the percentages in the previous year (and, for all but one figure, identical to the collection percentages from two years prior),[9/] and other information reviewed by Respondent showed a worsening collection history.[10/]

21. The FY 2004 work papers contain two documents analyzing Imergent's historical collection rates. They are: (1) a series of company-prepared spreadsheets analyzing Imergent's collections for the last six months of FY 2004 ("Six Month Analysis"),[11/] and (2) a company-prepared ratio analysis ("Ratio Analysis"). Both documents were reviewed by Respondent during the audit. Neither document provided sufficient competent evidential matter to support management's assertion that EPTA sales were probable of collection.[12/]

22. The Six Month Analysis did not provide a basis for concluding that EPTA sales were probable of collection because, among other things, it consisted of insufficiently tested management representations and included data that did not allow for a meaningful analysis of historical collection rates. In fact, during the FY 2004 audit, Respondent became aware of problems that inflated certain of the EPTA collection rates reflected in the Six Month Analysis, but she failed to assess the cumulative impact of those problems on the reliability of the analysis.

[9/] The purported collection percentages for FY 2003 and FY 2004 were identical, and differed in only one respect from those in FY 2002; *i.e.*, one number shown as 45% in the FY 2002 work papers became 47% in the FY 2003 and 2004 work papers.

[10/] See AU § 230.07 ("Due professional care requires the auditor to exercise *professional skepticism*. Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence.") (italics in original).

[11/] The Six Month Analysis is included in a GT work paper entitled "Allowance for Bad Debts Workbook."

[12/] See AU § 326.

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23. The Ratio Analysis contradicted Imergent's assertion that its EPTA sales were probable of collection and put Respondent on notice that Imergent's recent collection history did not support its asserted collection rates. The Ratio Analysis disclosed that, as of June 30, 2004, Imergent had written off 69% of EPTAs originated in FY 2003 and had written off 53% of EPTAs originated in FY 2002. In other words, the Ratio Analysis indicated that for the prior two fiscal years, Imergent wrote-off more than 50% of the total amount of EPTA-financed sales. Further, the FY 2004 work papers include a Concluding Ratio Analysis, which was reviewed by Respondent and states that "installment contracts on average are about 47% collectible . . . ." Despite this contradictory information, Respondent failed to sufficiently test management's assertion that EPTA sales were probable of collection and that "on average, 70% of EPTA fees are paid."[13/]

24. During the FY 2004 audit, Respondent failed to ensure that the engagement team obtained sufficient competent evidential matter to evaluate Imergent's historical collection rate for EPTAs or otherwise evaluate the primary basis for management's assertion that Imergent's EPTA sales were probable of collection. Moreover, Respondent failed to ensure that the engagement team took steps to determine how, in light of the representations in the Ratio Analysis, Imergent maintained its assertion that all EPTA-financed sales were probable of collection. Respondent improperly relied on management representations as a substitute for ensuring that sufficient procedures were performed to reasonably conclude on whether EPTA sales were probable of collection. Finally, despite knowing that Imergent grouped EPTA customers into categories with substantially different historical collection rates, Respondent failed to obtain sufficient competent evidential matter to accept Imergent's conclusion that the collection histories of all types and classes of EPTA sales could be combined to determine whether EPTA sales were probable of collection, and failed to assess adequately whether Imergent could properly recognize revenue on an accrual basis for sales to customers with inferior credit scores.

[13/] See AU § 326.25 ("In developing his or her opinion, the auditor should consider relevant evidential matter regardless of whether it appears to corroborate or to contradict the assertions in the financial statements. To the extent the auditor remains in substantial doubt about any assertion of material significance, he or she must refrain from forming an opinion until he or she has obtained sufficient competent evidential matter to remove such substantial doubt").

ORDER

Fixed or Determinable

25. In addition to satisfying the probability of collection requirement, Imergent had to establish that the EPTA sales fee was fixed or determinable before revenue could be recognized on an accrual basis. Respondent understood that an EPTA-financed sales fee was presumed not to be fixed or determinable under SOP 97-2 because payment of a significant portion of the fee was not due until more than 12 months after delivery. However, Imergent could overcome this presumption if it had "a standard business practice of using long-term or installment contracts and a history of successfully collecting under the original payment terms without making concessions."[14/] Imergent represented to GT that it overcame the presumption.

26. Respondent was aware that Imergent concluded that it had a history of successfully collecting EPTA sales fees based on the same historical collection experience it used to assess whether its EPTA sales were probable of collection. Yet, as previously described, Respondent did not ensure that the engagement team sufficiently tested the historical collection experience of EPTAs. Thus, the engagement team failed to perform sufficient procedures to adequately assess whether Imergent had a history of successfully collecting under the original payment terms without making concessions. Consequently, the engagement team did not obtain sufficient competent evidential matter to evaluate management's assertion that the fees from EPTA sales were fixed or determinable.

Financial Statement Revenue Recognition Disclosures

27. In the footnotes to the FY 2004 financial statements, Imergent disclosed that "[d]uring fiscal years ended June 30, 1999 through 2004, the Company has collected or is collecting approximately 70% of all EPTAs issued to customers … Despite reasonable efforts, approximately 47% of all EPTAs not sold to third party financial institutions become uncollectible during the life of the contract." Respondent failed to ensure that the engagement team performed sufficient procedures to assess whether the collection rates disclosed in the financial statement footnotes were reasonably accurate.

[14/] SOP 97-2 Paragraph .28.

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28. Respondent reviewed certain FY 2004 work papers which document without specific citations that the 70% and 47% figures were purportedly traced to support elsewhere in the work papers. The only place in the work papers where similar figures are found is in the Revenue Recognition Memo. Tracing the figures to the Revenue Recognition Memo, however, did not provide sufficient competent evidential matter to assess their reasonableness because the Revenue Recognition Memo figures consist of untested management representations that were contradicted by other evidence in the work papers, including the 2004 Ratio Analysis and the Concluding Ratio Analysis.[15/]

Allowance for Doubtful Accounts

29. Imergent's FY 2004 financial statements disclose that its customers owed Imergent $27.9 million as of June 30, 2004. Imergent referred to these amounts due from customers as trade receivables and reflected the amounts as assets on their balance sheet. Because Imergent expected that some of its trade receivables would not be paid, it estimated how much would not be collected. This amount is referred to as an allowance for doubtful accounts. As of June 30, 2004, Imergent recorded an allowance for doubtful accounts of $9 million, meaning it expected to collect approximately $18.9 million of its trade receivables balance. Net trade receivables ($18.9 million) comprised approximately 47% of total assets as of June 30, 2004 and was described in the work papers as a significant issue. Respondent reviewed company-prepared schedules calculating the allowance.

30. As documented in work papers reviewed by Respondent, Imergent had a history of under-estimating its allowance for doubtful accounts. During FY 2003, Imergent determined that it had significantly underestimated its June 30, 2002 allowance. According to the work papers, Imergent learned during FY 2004 that it had again under-estimated its allowance for doubtful accounts estimate, this time the June 30, 2003 estimate.

31. Respondent knew that, during FY 2004, Imergent's management adopted a new methodology for estimating its allowance for doubtful accounts. The methodology used at year-end contained numerous new assumptions that were not tested by the engagement team for reasonableness. Under the new methodology, the

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[15/] See AU § 326.

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allowance for doubtful accounts as a percentage of gross trade receivables decreased to 32% as of June 30, 2004 from 47% as of June 30, 2003. In documentation reviewed by Respondent, this trend was identified as being contrary to the engagement team's expectation that the allowance would be 51% of trade receivables as of June 30, 2004. The engagement team obtained no evidence supporting the lower than expected allowance except management's representation as to the reason.

32. Respondent failed to ensure that adequate procedures were performed to (1) assess the reasonableness of the assumptions utilized in the new allowance methodology and (2) test the accuracy of the source data used by management to calculate the FY 2004 year-end allowance estimate.[16/]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanction agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

> Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jennifer Nakao is suspended from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i), for a period of one year from the date of this Order.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

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J. Gordon Seymour
Secretary

February 17, 2010

[16/] See AU § 326.

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Ray O Westergard, CPA,* *Respondent.*	PCAOB Release No. 105-2010-003 February 17, 2010

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is barring Ray O Westergard ("Respondent") from being associated with a registered public accounting firm.[1/] The Board is imposing this sanction on the basis of its findings concerning Respondent's violations of PCAOB rules and auditing standards in auditing the 2004 financial statements of one issuer client.

I.

On April 13, 2009, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Respondent. As required by section 105(c)(2) of the Act, these proceedings were not public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

[1/] Respondent may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer, the Board finds[2/] that:

A. Respondent

1. Westergard, age 69, of Bountiful, Utah is a certified public accountant licensed under the laws of the state of Utah. (License No. 120165-2601). At all relevant times, he was a partner in the Salt Lake City, Utah office of the registered public accounting firm of Grant Thornton, LLP ("GT"), was the professional standards partner in that office, and was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Respondent's violations of PCAOB Rules and auditing standards in connection with GT's audit of the fiscal year ("FY") 2004 financial statements of Imergent, Inc. ("Imergent" or the "Company"). Respondent's violations occurred in the context of auditing Imergent's FY 2004 (1) revenue, (2) allowance for doubtful accounts, and (3) related financial statement footnote disclosures.

3. GT became the independent auditor for Imergent in February 2002. Respondent became the audit engagement partner in FY 2004 and remained in that role until GT was terminated as the Company's independent auditor in October 2005.

4. Most of Imergent's FY 2004 revenue came from sales of software licenses to customers who were given 24-month extended payment term arrangements

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[2/] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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("EPTAs") to finance their purchase. Under applicable Generally Accepted Accounting Principles ("GAAP"), Imergent could recognize revenue from EPTA-financed sales ("EPTA sales") on an accrual basis (*i.e.*, at the time the sale was completed, rather than when cash was ultimately received) only if, among other things, the sales fee was probable of collection and the fee was fixed or determinable. Respondent understood that for the EPTA sales fee to be deemed fixed or determinable, Imergent had to have a history of successfully collecting under the original payment terms without making concessions. Respondent also was aware that Imergent recognized all revenue from EPTA sales on an accrual basis despite having a history of poor collections and a practice of extending financing to all customers regardless of their credit history.

5. Respondent understood that Imergent's historical collection experience for EPTA sales was its primary basis for concluding that the FY 2004 EPTA sales were probable of collection and fixed or determinable. But Respondent failed to ensure that the engagement team sufficiently tested management's representations of its historical collection experience for EPTA sales. In fact, during the FY 2004 audit, Respondent was aware of materially contradictory evidence as to the collection rates of Imergent's EPTAs, but failed to obtain reasonable assurance regarding the actual rates in light of this contradictory evidence.

6. Respondent further failed to ensure that sufficient procedures were performed to test or assess the reasonableness of certain EPTA collection rates disclosed by Imergent in the footnotes to its FY 2004 financial statements and in its filings with the Securities and Exchange Commission ("SEC").

7. During the FY 2004 audit, the engagement team also identified Imergent's allowance for doubtful accounts as a significant audit issue. In order to properly value its trade receivables balance, Imergent needed to reasonably estimate its allowance for doubtful accounts. The trade receivables balance was comprised primarily of payments due from EPTA sales. At the time of the FY 2004 audit, Respondent was aware that, during FY 2004, Imergent's management adopted a new methodology for estimating its allowance for doubtful accounts. Under the new methodology, the allowance as a percentage of gross trade receivables decreased from 47% as of June 30, 2003 to 32% as of June 30, 2004. This decrease in the allowance reduced bad debt expense, thereby increasing FY 2004 net income. Despite being aware of the new methodology, the inherent risks associated with this significant estimate, and Imergent's history of underestimating the allowance for doubtful accounts, Respondent failed to ensure the

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performance of sufficient procedures to assess the reasonableness of the June 30, 2004 allowance for doubtful accounts balance.

8. Finally, during the FY 2004 audit, Respondent was aware that Imergent had underestimated its year-end allowance for doubtful accounts at June 30, 2003. In addition, Respondent understood that the engagement team needed to perform procedures to assess whether, in light of data that became available during the course of the FY 2004 audit, significant accounting estimates reflected in the prior year financial statements indicate a possible bias on the part of management. Respondent, however, failed to ensure the performance of procedures to ascertain why Imergent had underestimated its FY 2003 year-end allowance, whether the underestimation was the result of management bias, and whether Imergent's June 30, 2004 estimate was possibly influenced by management bias.

C. Respondent Failed to Comply with Certain PCAOB Auditing Standards in Auditing the Financial Statements of Imergent, Inc. for FY 2004

9. Imergent is an e-services company based, at all relevant times, in Orem, Utah.[3/] Imergent's public filings disclose that it sold licenses to use a web-based software called StoresOnline Software ("SOS" or "software"), which assists customers in creating websites. Imergent's shares are listed on the American Stock Exchange. At all relevant times, Imergent was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

10. Respondent served as the concurring review partner on the Imergent engagement in FY 2002. He became the audit engagement partner beginning with the FY 2004 second quarter review and remained in that role until October 2005. In an audit report dated August 27, 2004, and included in Imergent's Form 10-K filed with the Securities and Exchange Commission on September 10, 2004, GT expressed an unqualified opinion on Imergent's consolidated balance sheets as of June 30, 2004 and 2003, and the related consolidated statements of earnings, stockholders' equity, and cash flows for each of the three years in the period ended June 30, 2004. GT's audit report stated that the audit had been conducted in accordance with the standards of the PCAOB, and that, in GT's opinion, Imergent's financial statements presented fairly, in all material respects, its financial position in conformity with U.S. GAAP. Respondent had

[3/] On April 27, 2009, Imergent announced that it was moving its headquarters from Orem, Utah to Phoenix, Arizona.

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final responsibility for the Imergent FY 2004 audit as that phrase is used in AU § 311, *Planning and Supervision*, and authorized GT's issuance of the FY 2004 Imergent audit report.

11. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with the Board's auditing standards.[4/] Under these standards, an auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[5/] Among other things, those standards require that an auditor exercise due professional care, maintain professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[6/] Respondent failed to comply with these standards in connection with the FY 2004 audit of Imergent.

Imergent's Business and Stratification of Sales

12. According to Imergent's FY 2004 Form 10-K, Imergent began selling the SOS license on October 1, 2000. During FY 2004, Imergent sold SOS licenses through promotional workshops held throughout the United States and in several foreign countries. Imergent disclosed that revenue from the sale of SOS licenses was recognized after the product was delivered to the customer and a three day rescission period expired.

13. Respondent was aware that Imergent accepted three methods of payment for the software: cash, credit cards, or EPTAs. Imergent entered into EPTAs with all

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[4/] See PCAOB Rules 3100, 3200T.

[5/] See AU § 508.07, *Reports on Audited Financial Statements*.

[6/] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 326, *Evidential Matter*. Under PCAOB standards, representations from management are part of the evidential matter that an auditor obtains, but management representations are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for the auditor's opinion. See AU § 333.02, *Management Representations*.

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purchasers of SOS licenses who made a 5% down payment, completed a credit application, and permitted Imergent to check their credit. The results of the credit check did not preclude a customer from qualifying for an EPTA. Indeed, according to Respondent, Imergent would extend credit through an EPTA to any customer who could "come up with 5% down and fog the mirror."

14. Respondent was aware that Imergent performed the credit check at the time of the workshop and, based on the credit check, stratified purchasers into two distinct groups: "A" customers and "B" customers. Customers with credit scores of 630 or higher were categorized as "A" customers and those with credit scores below 630 were categorized as "B" customers. According to the work papers, Imergent began tracking customers by credit score during FY 2002 and continued to do so throughout the time GT was its independent auditor. The work papers indicate that the majority of FY 2004 EPTA customers were "B" customers.

15. Respondent was aware that, during FY 2004, Imergent sold portions of its EPTA receivables at a discount. Imergent referred to these sold receivables as "funded EPTAs" and the remaining EPTA receivables as "non-funded EPTAs." Imergent used customer credit scores to determine which EPTAs were likely to be funded. Beginning in FY 2003, Imergent also used the distinction between "A" and "B" customers in developing its allowance for doubtful accounts. Imergent developed an allowance for "B" customers representing a significantly lower estimated rate of collections than for "A" customers. In making certain of its revenue recognition decisions, however, Imergent relied on the cumulative collection rate of all EPTA sales to conclude that revenue should be recognized on an accrual basis for sales to all types or classes of EPTA customers.

Imergent's Revenue Recognition Conclusions

16. According to Imergent's FY 2004 Form 10-K, the accounting for EPTA sales was required to comply with American Institute of Certified Public Accountants Statement of Position 97-2, *Software Revenue Recognition* ("SOP 97-2") and was identified as a critical accounting policy. In order to recognize revenue for the sale of an SOS license on an accrual basis pursuant to SOP 97-2, Imergent was required, among other things, to establish that the sale was probable of collection and that the fee was

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fixed or determinable.[7/] During each year audited by GT, Imergent concluded that all EPTA sales were probable of collection and the sales price was fixed or determinable.

17. After Imergent's revenue recognition conclusions were questioned by the staff of the SEC's Division of Corporation Finance in May 2005, Imergent announced, on August 19, 2005, that, after consultation with GT, it would "correct its historical revenue recognition policy to cash basis from accrual basis for fiscal years 2002, 2003, 2004 and the first three quarters of fiscal 2005 in order to comply [with GAAP]." In October 2005, Imergent terminated GT as its independent auditor and, subsequently, restated its FY 2004 and 2003 financial statements in conjunction with filing its FY 2005 financial statements.

[7/] Paragraph .08 of SOP 97-2 states:

> If the arrangement does not require significant production, modification, or customization of software, revenue should be recognized when all of the following criteria are met:
>
> - Persuasive evidence of an arrangement exists.
> - Delivery has occurred.
> - The vendor's fee is fixed or determinable.
> - Collectibility is probable.

With regard to whether the fee is "fixed or determinable," Paragraph .28 of SOP 97-2 provides that:

> … if payment of a significant portion of the software licensing fee is not due until after expiration of the license or more than twelve months after delivery, the licensing fee should be *presumed* not to be fixed or determinable. However, this presumption may be overcome by evidence that the vendor has a standard business practice of using long-term or installment contracts and a history of successfully collecting under the original payment terms without making concessions.

(italics in original; underlining added). Paragraph .29 provides that if the presumption cannot be overcome "revenue should be recognized as payments from customers become due (assuming all other conditions for revenue recognition in this SOP have been satisfied)."

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The Engagement Team's FY 2004 Revenue Recognition Concerns

18. During the third quarter of FY 2004, GT concurring review partner on the engagement questioned Imergent's continuing revenue recognition conclusions in an e-mail to Respondent and other GT personnel. The concurring reviewer wrote:

> I am concerned that some of the Company's revenue recognition conclusions are becoming less plausible. The direction that the Company seems to be taking, and its actual experiences may not be reinforcing its previous revenue recognition positions. Specifically, the Company's 'bad debt' experience raises questions. Also, the nature of the follow-up activities and services that the Company is being forced to undertake to improve customer performance and payments seem to be issues for careful consideration as it relates to 'delivery'. [Imergent] seems to have a very high number of dissatisfied customers (or at least unsatisfied) as reflected in the high default rate and the low level of actual successful implementation and use of their products and services by their customers. Does the Company really understand what their customers are expecting when they buy these products and services?

(emphasis added). This e-mail provided additional notice to Respondent of the need for heightened skepticism and sufficient procedures to assess Imergent's collection history and bad debt experience.

19. Respondent knew that Imergent was stratifying its EPTAs into "A" and "B" categories based on customer credit scores to estimate its allowance for doubtful accounts, but not to determine whether revenue should be recognized. The engagement team, with Respondent's knowledge, however, suggested to Imergent in writing in January 2004 that if it could "meaningfully stratify" its EPTAs into groups with different performance histories, it should do so for purposes of determining, by strata, whether the EPTA fees were fixed or determinable and probable of collection. Imergent did not change its revenue recognition practices based on this suggestion.

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The FY 2004 Audit

20. According to work papers reviewed by Respondent, EPTA sales grew considerably in FY 2004, nearly doubling from $22.5 million in FY 2003 to $44.3 million in FY 2004. EPTA sales comprised nearly 55% of Imergent's total reported FY 2004 revenue of $81 million.

Probability of Collection

21. Respondent knew that Imergent had concluded that its FY 2004 EPTA sales were probable of collection based primarily on its historical collection experience. But Respondent failed to ensure that the engagement team sufficiently tested management's representations of its historical collection experience. In fact, during the 2004 audit, Respondent was aware of materially contradictory evidence as to the collection rates of Imergent's EPTAs, but failed to obtain reasonable assurance regarding the actual rates in light of this contradictory evidence.[8/]

22. The engagement team's analysis of the appropriateness of Imergent's revenue recognition policies is documented in a memorandum addressing revenue recognition (the "Revenue Recognition Memo") included in the FY 2004 audit work papers and reviewed by Respondent. In discussing SOS sales in the Revenue Recognition Memo, the engagement team asked "[i]s collection probable on sales under [EPTAs]?" In response, the memo states:

> The Company's position is that collection of the fee is probable since, on average, 70% of EPTA fees are paid. An analysis of the payment types and [EPTAs] delineated previously in this document shows that approximately 100% of cash and credit card payments are collected, approximately 98% of funded [EPTAs] are collected, and approximately 47% of non-funded [EPTAs] are collected. These percentages have been reasonably consistent and the Company is able to accurately estimate the percentage of bad debt likely to occur in a given classification of [EPTAs].

[8/] See AU § 333.04 ("If a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made").

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> CONCLUSION: The Company's position that the collection of the workshop fees is probable is appropriate. The Company recognizes bad debt expense in the period in which the bad debt is expected to have occurred. History has shown that payments under [EPTAs] are probable of collection, notwithstanding the fact that the bad debt percentage is very high on certain classes of [EPTAs]."

23. Respondent did not ensure that the EPTA collection percentages in the Revenue Recognition Memo were tested for reliability, even though the percentages were identical to the percentages in the previous year (and, for all but one figure, identical to the collection percentages from two years prior),[9/] and other information reviewed by Respondent showed a worsening collection history.

24. The FY 2004 work papers contain two documents analyzing Imergent's historical collection rates. They are: (1) a series of company-prepared spreadsheets analyzing Imergent's collections for the last six months of FY 2004 ("Six Month Analysis"),[10/] and (2) a company-prepared ratio analysis ("Ratio Analysis"). Both documents were reviewed by Respondent during the audit. Neither document provided sufficient competent evidential matter to support management's assertion that EPTA sales were probable of collection.[11/]

25. The Six Month Analysis did not provide a basis for concluding that EPTA sales were probable of collection because, among other things, it consisted of insufficiently tested management representations and included data that did not allow for a meaningful analysis of historical collection rates. In fact, the Six Month Analysis overstated certain of the EPTA collection rates in the analysis.

[9/] The purported collection percentages for FY 2003 and FY 2004 were identical, and differed in only one respect from those in FY 2002; *i.e.*, one number shown as 45% in FY 2002 work papers became 47% in the FY 2003 and FY 2004 work papers.

[10/] The Six Month Analysis is included in a GT work paper entitled "Allowance for Bad Debts Workbook."

[11/] See AU § 326.

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26. The Ratio Analysis contradicted Imergent's assertion that its EPTA sales were probable of collection and put Respondent on notice that Imergent's recent collection history did not support its asserted collection rates. The Ratio Analysis disclosed that, as of June 30, 2004, Imergent had written off 69% of EPTAs originated in FY 2003 and had written off 53% of EPTAs originated in FY 2002. In other words, the Ratio Analysis indicated that for the prior two fiscal years, Imergent wrote-off more than 50% of the total amount of EPTA sales. Further, the FY 2004 work papers include a Concluding Ratio Analysis, which was reviewed by Respondent and states that "installment contracts on average are about 47% collectible . . . ." Despite this contradictory information, Respondent failed to ensure that the engagement team sufficiently tested management's assertion that EPTA sales were probable of collection and that "on average, 70% of EPTA fees are paid."[12/]

27. During the FY 2004 audit, Respondent failed to ensure that the engagement team obtained sufficient competent evidential matter to evaluate Imergent's historical collection rate for EPTAs or otherwise evaluate the primary basis for management's assertion that Imergent's EPTA sales were probable of collection. Moreover, Respondent failed to ensure that the engagement team took steps to determine how, in light of the representations in the Ratio Analysis, Imergent maintained its assertion that all EPTA sales were probable of collection. Respondent improperly relied on management representations as a substitute for ensuring that sufficient procedures were performed to reasonably conclude on whether EPTA sales were probable of collection. Finally, despite knowing that Imergent grouped EPTA customers into categories with substantially different historical collection rates, Respondent failed to obtain sufficient competent evidential matter to accept Imergent's conclusion that the collection histories of all types and classes of EPTA sales could be combined to determine whether EPTA sales were probable of collection, and failed to assess adequately whether Imergent could properly recognize revenue on an accrual basis for sales to customers with inferior credit scores.

[12/] See AU § 326.25 ("In developing his or her opinion, the auditor should consider relevant evidential matter regardless of whether it appears to corroborate or to contradict the assertions in the financial statements. To the extent the auditor remains in substantial doubt about any assertion of material significance, he or she must refrain from forming an opinion until he or she has obtained sufficient competent evidential matter to remove such substantial doubt or the auditor must express a qualified opinion or a disclaimer of opinion.").

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Fixed or Determinable

28. In addition to satisfying the probability of collection requirement, Imergent had to establish that the EPTA sales fee was fixed or determinable before revenue could be recognized on an accrual basis. Respondent understood that an EPTA sales fee was presumed not to be fixed or determinable under SOP 97-2 because payment of a significant portion of the fee was not due until more than 12 months after delivery. However, Imergent could overcome this presumption if it had "a standard business practice of using long-term or installment contracts and a history of successfully collecting under the original payment terms without making concessions."[13/] Imergent represented to GT that it overcame the presumption.

29. Respondent was aware that Imergent concluded that it had a history of successfully collecting EPTA sales fees based on the same historical collection experience it used to assess whether its EPTA sales were probable of collection. Yet, as previously described, Respondent did not ensure that the engagement team sufficiently tested the historical collection experience of EPTAs. Thus, the engagement team failed to perform sufficient procedures to adequately assess whether Imergent had a history of successfully collecting under the original payment terms without making concessions. Consequently, the engagement team did not obtain sufficient competent evidential matter to evaluate management's assertion that the fees from EPTA sales were fixed or determinable.

Financial Statement Revenue Recognition Disclosures

30. In the footnotes to the FY 2004 financial statements, Imergent disclosed that "[d]uring fiscal years ended June 30, 1999 through 2004, the Company has collected or is collecting approximately 70% of all EPTAs issued to customers … Despite reasonable efforts, approximately 47% of all EPTAs not sold to third party financial institutions become uncollectible during the life of the contract." Respondent failed to ensure that the engagement team performed sufficient procedures to assess whether the collection rates disclosed in the financial statement footnotes were reasonably accurate.

[13/] SOP 97-2 Paragraph .28.

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31. Certain FY 2004 work papers, prepared under Respondent's supervision, document without specific citations that the 70% and 47% figures were purportedly traced to support elsewhere in the work papers. The only place in the work papers where similar figures are found is in the Revenue Recognition Memo. Tracing the figures to the Revenue Recognition Memo, however, did not provide sufficient competent evidential matter to assess their reasonableness because the Revenue Recognition Memo figures consist of untested management representations that were contradicted by other evidence in the work papers, including the 2004 Ratio Analysis and the Concluding Ratio Analysis.

Allowance for Doubtful Accounts

32. Imergent's FY 2004 financial statements disclose that its customers owed Imergent $27.9 million as of June 30, 2004. Imergent referred to these amounts due from customers as trade receivables and reflected the amounts as assets on their balance sheet. Because Imergent expected that some of its trade receivables would not be paid, it estimated how much would not be collected. This amount is referred to as an allowance for doubtful accounts. As of June 30, 2004, Imergent recorded an allowance for doubtful accounts of $9 million, meaning it expected to collect approximately $18.9 million of its trade receivables balance. Net trade receivables ($18.9 million) comprised approximately 47% of total assets as of June 30, 2004 and was described in the work papers as a significant issue. Respondent reviewed company-prepared schedules calculating the allowance.

33. As documented in work papers reviewed by Respondent, Imergent had a history of under-estimating its allowance for doubtful accounts. During FY 2003, Imergent determined that it had significantly underestimated its June 30, 2002 allowance. According to the work papers, Imergent learned during FY 2004 that it had again under-estimated its allowance for doubtful accounts estimate, this time the June 30, 2003 estimate.

34. Respondent knew that, during FY 2004, Imergent's management adopted a new methodology for estimating its allowance for doubtful accounts. The methodology used at year-end contained numerous new assumptions that were not tested by the engagement team for reasonableness. Under the new methodology, the allowance for doubtful accounts as a percentage of gross trade receivables decreased to 32% as of June 30, 2004 from 47% as of June 30, 2003. In documentation reviewed by Respondent, this trend was identified as being contrary to the engagement team's

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expectation that the allowance would be 51% of trade receivables as of June 30, 2004. The engagement team obtained insufficient evidence supporting the lower than expected allowance.[14/]

35. Respondent failed to ensure that adequate procedures were performed to (1) assess the reasonableness of the assumptions utilized in the new allowance methodology and (2) test the accuracy of the source data used by management to calculate the FY 2004 year-end allowance estimate.

Consideration of Fraud

36. The allowance for doubtful accounts was identified by the engagement team as a significant accounting estimate and a fraud risk. Respondent was advised of the audit committee chairman's concern that the allowance for doubtful accounts presented a fraud risk.

37. During the FY 2004 audit, Imergent provided an analysis, reviewed by Respondent, indicating that it had written off significantly more of its FY 2003 receivable balance than it had estimated in conjunction with the prior year audit. Respondent also knew that Imergent had underestimated its June 30, 2002 allowance for doubtful accounts. In addition, Respondent understood that the engagement team needed to perform procedures to assess whether, in light of data that became available during the course of the FY 2004 audit, significant accounting estimates reflected in the prior year financial statements indicate a possible bias on the part of management. Respondent, however, failed to ensure the performance of procedures to understand why Imergent underestimated its FY 2003 year-end allowance and whether the underestimation was the result of management bias.[15/] Moreover, Respondent failed to consider whether, in light of Imergent's underestimation of the prior year allowance estimate, Imergent's June 30, 2004 estimate was possibly influenced by management bias.

[14/] See AU § 333.02.

[15/] See AU § 316.64, *Consideration of Fraud in a Financial Statement Audit*.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanction agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Ray O Westergard is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

B. After two (2) years from the date of this Order, Ray O Westergard may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

_____

J. Gordon Seymour
Secretary

February 17, 2010

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Chintapatla Ravindernath,* *Respondent.*	PCAOB Release No. 105-2010-005 March 16, 2010

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is barring Chintapatla Ravindernath ("Ravindernath," or "Respondent") from being an associated person of a registered public accounting firm. The Board is imposing this sanction pursuant to PCAOB Rule 5300(b)(1), on the basis of its findings concerning Respondent's noncooperation with a Board investigation, by failing to comply with an Accounting Board Demand ("Demand") requiring, among other things, his testimony.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(3) against the Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, the Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

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III.

On the basis of Respondent's Offer in this matter, the Board finds that[1/]:

A. Respondent

1. Chintapatla Ravindernath, age 38, is a citizen and a resident of India, and has been a practicing accountant in Hyderabad, Andhra Pradesh, India and an Associate Member of the Institute of Chartered Accountants of India ("ICAI")[2/] since 1995 (License No. ACA-204494). At all relevant times, Ravindernath was a Senior Manager with the registered public accounting firm of Lovelock & Lewes, Chartered Accountants ("Lovelock"), and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Ravindernath resigned from Lovelock on or about January 29, 2010.

B. Respondent Failed to Cooperate with a PCAOB Investigation.

2. Pursuant to Section 105(b) of the Act and PCAOB Rules, the Board conducts investigations into acts or practices of registered public accounting firms and their associated persons that may violate any provision of the Act, the Rules of the Board, the provisions of securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the U.S. Securities and Exchange Commission ("Commission") issued under the Act, or professional standards. Section 105(b)(3)(A) of the Act authorizes the Board to sanction an associated person of a registered public accounting firm for refusing to testify in connection with a Board investigation.

3. As described below, Respondent failed to cooperate with the Board's investigation by failing to comply with a Demand requiring his testimony, issued to Respondent pursuant to PCAOB Rule 5102(b).

1/ The findings herein are made pursuant to the Respondent's Offer, and are not binding on any other person or entity in this or any other proceeding.

2/ The ICAI describes itself as "a statutory body established under the Chartered Accountants Act, 1949 . . . for the regulation of the profession of Chartered Accountants in India." www.icai.org.

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Background

4. Lovelock is one of five members of the PricewaterhouseCoopers International Limited network of firms that is located in India and registered with the Board. Lovelock participated in the audits of the March 31, 2005, 2006, 2007, and 2008 financial statements of Satyam Computer Services, Limited ("Satyam"). Satyam is an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. From April 2000, until March 2005, Respondent was the Deputy Manager for the Satyam audit engagement, and from April 2005, until February 2009, he was the Engagement Manager for the Satyam audit engagement.[3/]

6. As the Engagement Manager for the 2006, 2007, and 2008 Satyam audit engagements, Respondent had responsibility for, among other areas, supervising and reviewing audit work related to cash and accounts receivable.

7. On January 7, 2009, Satyam filed a Form 6-K with the Commission in which Satyam disclosed that its founder and then chairman revealed that he had inflated key financial results for Satyam, including overstating a cash balance by $1 billion, overstating profits for the past several years, overstating the amount of debt owed to Satyam, and understating Satyam's liabilities.

8. On January 8, 2009, the Board issued an Order of Formal Investigation regarding the audits and reviews of the financial statements of Satyam.

9. On January 14, 2009, Satyam reported to the Commission, on a Form 6-K, that Price Waterhouse had advised that all audit reports for the period 2000-2008 should no longer be relied upon.

Respondent's Refusal to Appear and Testify

10. On January 8, 2009, the Division sent Respondent a Demand which required him to appear for testimony on March 10, 2009.

11. The Division anticipated taking testimony from the Respondent concerning, among other things, his role in the audits of Satyam's financial statements.

[3/] The audit opinions on Satyam's financial statements were signed in the name of Price Waterhouse.

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12. After several attempts to accommodate Respondent with respect to the dates and location of testimony, including a delay to allow new counsel to become familiar with the matter after Respondent changed counsel, Respondent, through counsel, informed the Division in January 2010 that he would not comply with the Demand for testimony.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(i) of the Act and PCAOB Rule 5300(b)(1), Chintapatla Ravindernath is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

J. Gordon Seymour
Secretary

March 16, 2010

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Siva Prasad Pulavarthi,* *Respondent.*	PCAOB Release No. 105-2010-004 March 16, 2010

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is barring Siva Prasad Pulavarthi ("Prasad," or "Respondent") from being an associated person of a registered public accounting firm. The Board is imposing this sanction pursuant to PCAOB Rule 5300(b)(1), on the basis of its findings concerning Respondent's noncooperation with a Board investigation, by failing to comply with an Accounting Board Demand ("Demand") requiring, among other things, his testimony.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(3) against the Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, the Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

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III.

On the basis of Respondent's Offer in this matter, the Board finds that[1/]:

A. Respondent

1. Siva Prasad Pulavarthi, age 43, is a citizen and a resident of India, and has been a practicing accountant in Hyderabad, Andhra Pradesh, India and a Member of the Institute of Chartered Accountants of India ("ICAI")[2/] since 1995 (License No. ACA-204076). At all relevant times, Prasad was a Manager/Senior Manager, and beginning in April 2007, an Associate Director, with the registered public accounting firm of Lovelock & Lewes, Chartered Accountants ("Lovelock"), and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Prasad resigned from Lovelock on or about January 29, 2010.

B. Respondent Failed to Cooperate with a PCAOB Investigation.

2. Pursuant to Section 105(b) of the Act and PCAOB Rules, the Board conducts investigations into acts or practices of registered public accounting firms and their associated persons that may violate any provision of the Act, the Rules of the Board, the provisions of securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the U.S. Securities and Exchange Commission ("Commission") issued under the Act, or professional standards. Section 105(b)(3)(A) of the Act authorizes the Board to sanction an associated person of a registered public accounting firm for refusing to testify in connection with a Board investigation.

3. As described below, Respondent failed to cooperate with the Board's investigation by failing to comply with a Demand requiring his testimony, issued to Respondent pursuant to PCAOB Rule 5102(b).

[1/] The findings herein are made pursuant to the Respondent's Offer, and are not binding on any other person or entity in this or any other proceeding.

[2/] The ICAI describes itself as "a statutory body established under the Chartered Accountants Act, 1949 . . . for the regulation of the profession of Chartered Accountants in India." www.icai.org.

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Background

4. Lovelock is one of five members of the PricewaterhouseCoopers International Limited network of firms that is located in India and registered with the Board. Lovelock participated in the audits of the March 31, 2005, 2006, 2007, and 2008 financial statements of Satyam Computer Services, Limited ("Satyam"). Satyam is an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. From April 2000, until March 2005, Prasad was the Engagement Manager for the Satyam audit engagement. From April 2005, until March 2008, Prasad was the Client Relationship Manager for the Satyam audit engagement.[3/]

6. As the Engagement Manager for the 2005 Satyam audit engagement, Prasad had responsibility for, among other areas, supervising and reviewing audit work related to cash and accounts receivable.

7. On January 7, 2009, Satyam filed a Form 6-K with the Commission in which Satyam disclosed that its founder and then chairman revealed that he had inflated key financial results for Satyam, including overstating a cash balance by $1 billion, overstating profits for the past several years, overstating the amount of debt owed to Satyam, and understating Satyam's liabilities.

8. On January 8, 2009, the Board issued an Order of Formal Investigation regarding the audits and reviews of the financial statements of Satyam.

9. On January 14, 2009, Satyam reported to the Commission, on a Form 6-K, that Price Waterhouse had advised that all audit reports for the period 2000-2008 should no longer be relied upon.

Respondent's Refusal to Appear and Testify

10. On March 10, 2009, the Division sent Respondent a Demand which required him to appear for testimony on April 28, 2009.

11. The Division anticipated taking testimony from the Respondent concerning, among other things, his role in the audits of Satyam's financial statements.

[3/] The audit opinions on Satyam's financial statements were signed in the name of Price Waterhouse.

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12. After several attempts to accommodate Respondent with respect to the dates and location of testimony, including a delay to allow new counsel to become familiar with the matter after Respondent changed counsel, Respondent, through counsel, informed the Division in January 2010 that he would not comply with the Demand for testimony.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(i) of the Act and PCAOB Rule 5300(b)(1), Siva Prasad Pulavarthi is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour
_____
J. Gordon Seymour
Secretary

March 16, 2010

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of* *Robert T. Taylor, CPA and* *Robert T. Taylor, CPA* *Respondents.*	PCAOB Release No. 105-2010-006 April 27, 2010

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Robert T. Taylor, CPA (the "Firm") and barring Robert T. Taylor, CPA ("Taylor") (collectively, "Respondents") from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings concerning Respondents' violations of PCAOB rules and auditing standards in auditing the financial statements of an issuer client from 2006 to 2008.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against the Firm and Taylor.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers, the Board finds[1/] that:

A. Respondents

1. Robert T. Taylor, CPA, is a public accounting firm located in Bothell, Washington. At all relevant times, the Firm was licensed by the Washington State Board of Accountancy (License No. 0404). The Firm, formed in 1997, is registered with the Board pursuant to Section 102 of the Act and Board Rules. Other than Robert T. Taylor, the Firm has no partners or employees engaging in public company auditing.

2. Robert T. Taylor, 69, is a certified public accountant licensed under the laws of Washington State (License No. 02810). He is the Firm's sole proprietor and, at

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[1/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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all times relevant to this matter, was an associated person of the Firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and auditing standards in auditing the 2006, 2007 and 2008 financial statements of an issuer client, American Fiber Green Products, Inc. ("American Fiber"). As detailed below, Respondents failed to perform procedures to audit American Fiber's financial statements. In each audit year and in significant audit areas, Respondents failed to: (a) plan adequately for the audit; (b) perform audit procedures on the issuer's assets and liabilities; (c) consider whether certain assets still existed or were impaired; and (d) prepare and maintain sufficient audit documentation.

C. American Fiber

4. American Fiber is a Nevada corporation headquartered in Tampa, Florida. At all relevant times, its common stock was registered under Section 12(g) of the Securities Exchange Act of 1934 and, from April 2008, was quoted on the OTC Bulletin Board and the Pink Sheets. According to its public filings, the company reclaims fiberglass and produces fiberglass recreational products. At all relevant times, American Fiber was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. American Fiber initially engaged Respondents to audit its financial statements after the company was formed through a merger in 2004 of Amour Fiber Core, Inc. ("AFC") and American Leisure Products, Inc. ("ALP").[2/] Thereafter, American Fiber renewed Respondents' engagement to audit the company's financial statements for the years ending December 31, 2006, December 31, 2007 and December 31, 2008.[3/] In connection with the American Fiber engagements, Respondents issued audit

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[2/] AFC and ALP became wholly owned subsidiaries of American Fiber.

[3/] On February 11, 2010, American Fiber filed a Form 8-K stating that it had dismissed the Firm as their outside auditor.

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reports on American Fiber's 2006, 2007 and 2008 financial statements.[4/] Each report stated that the audit was conducted in accordance with PCAOB standards, expressed an unqualified audit opinion, and stated that, in the Firm's opinion, the company's financial statements were fairly presented in all material respects in conformity with U.S. Generally Accepted Accounting Principles ("GAAP").[5/] The audit reports were dated January 20, 2007[6/], March 22, 2007, March 28, 2008, and April 1, 2009 and were included as part of the following American Fiber filings: (a) the Form 10SB12G and the amendments filed respectively on February 22, 2007, April 12, 2007, June 18, 2007, July 23, 2007 and August 10, 2007; (b) the Form 10-KSB and the amendments filed respectively on April 16, 2007, June 19, 2007, July 23, 2007, and August 10, 2007; (c) the Form 10-KSB filed on March 31, 2008; and (d) the Form 10-K filed on April 15, 2009.[7/]

6. American Fiber reported in its financial statements filed with the Commission that its financial disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, were not effective.[8/] American Fiber's financial statements for the period ended December 31,

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[4/] American Fiber's financial statements include its activities and those of its wholly owned subsidiaries, AFC and ALP.

[5/] Each audit opinion included an explanatory paragraph indicating in substance that there is substantial doubt about the company's ability to continue as a going concern.

[6/] Taylor's signature does not appear on the January 20, 2007 audit report. Taylor cannot recall if he signed the audit report or not.

[7/] The Firm also issued an audit report dated January 20, 2007 included with American Fiber's Forms 10SB12G and 10SB12G/A filed with the Commission respectively on February 22, 2007, and April 12, 2007.

[8/] *See* American Fiber's Form 10-KSB and its amendments filed respectively on April 16, 2007, June 19, 2007, July 23, 2007, and August 10, 2007; Forms 10-QSB and its amendments filed respectively on May 21, 2007, June 19, 2007, July 23, 2007, August 10, 2007, August 20, 2007 and November 19, 2007; the Form 10-KSB filed on

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2006 stated that its disclosure controls and procedures were not effective due to limited internal resources and the lack of multiple levels of transaction review.[9/] In addition, the company's financial statements for the periods ended December 31, 2007 and December 31, 2008 continued to report that the disclosure controls and procedures were not effective.[10/]

D. Respondents Violated PCAOB Rules and Auditing Standards

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards and related professional practice standards.[11/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[12/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[13/] An auditor must also prepare audit documentation in sufficient detail to provide a clear understanding of its purpose, source and the

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March 31, 2008; the Form 10-QSB filed on May 15, 2008; the Form 10-Q filed on August 19, 2008 and November 20, 2008; and the Form 10-K filed on April 15, 2009.

[9/] *See* American Fiber's Form 10-KSB and its amendments filed respectively on April 16, 2007, June 19, 2007, July 23, 2007, and August 10, 2007.

[10/] *See* American Fiber's Forms 10-QSB and its amendments filed respectively on May 21, 2007, June 19, 2007, July 23, 2007, August 10, 2007, August 20, 2007 and November 19, 2007, Form 10-KSB filed on March 31, 2008; the Form 10-QSB filed on May 15, 2008; the Form 10-Q filed on August 19, 2008 and November 20, 2008; and the Form 10-K filed on April 15, 2009.

[11/] *See* PCAOB Rules 3100, 3200T.

[12/] *See* AU § 508.07, *Reports on Audited Financial Statements.*

[13/] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; and AU § 326, *Evidential Matter*.

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conclusions reached.[14/] In addition, the auditor must document the procedures performed, evidence obtained, conclusions reached with respect to relevant financial statement assertions, and clearly demonstrate that the work was in fact performed.[15/]

8. Audit work should be adequately planned.[16/] In planning an audit, an auditor should consider the nature, extent and timing of work to be performed and should prepare a written audit program.[17/] The audit program should set forth in reasonable detail the audit procedures that the auditor believes are necessary to accomplish the objectives of the audit.

9. Auditing standards require an auditor to obtain written representations from management for all financial statements and periods covered by the auditor's report as part of the auditing procedures.[18/] Specific management representations should include, among others, the completeness of the information provided, management's acknowledgment of its responsibility for the design and implementation of programs and control to prevent and detect fraud, and management's knowledge of fraud and allegations or suspicions of fraud.[19/] Moreover, restrictions on the scope of the audit, including a lack of sufficient competent evidential matter, may require the auditor to qualify or disclaim his audit opinion.[20/] As detailed below, Respondents failed to meet the aforementioned standards in connection with the audits of American Fiber's 2006, 2007 and 2008 financial statements.

[14/] *See* PCAOB Auditing Standard No. 3, paragraph 4, *Audit Documentation ("AS3")*.

[15/] *See* AS3, paragraph 6.

[16/] *See* AU §150.02; AU §311, *Planning and Supervision*.

[17/] See AU §311.05.

[18/] *See* AU §333.05, *Management Representations.*

[19/] *See* AU §333.06.

[20/] *See* AU §508.22-26.

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The 2006, 2007, and 2008 Audits

10. In each of the three audit years, Respondents' audit plan was a disclosure checklist for non-public companies. Respondents failed to plan for the risk of material error or fraud, failed to consider related party transactions to be an area of risk, and failed to adequately document the planning procedures.[21/]

11. Respondents also failed to obtain any written management representation for the financial statements and periods covered by the audit opinions in each of the three audit years.[22/]

12. Despite American Fiber's conclusion that its disclosure controls and procedures were not effective, Respondents did not assess how that disclosure impacted their audit procedures. For each of the three audit years, Respondents did not test the company's internal controls and did not document how that determination was reached[23/] or how the assessment of internal controls impacted the planning of the audit to determine the nature, timing and extent of the tests to be performed.[24/]

13. Respondents have acknowledged to the Division of Enforcement and Investigations ("Division") staff that they performed very few audit procedures in conducting the 2006, 2007 and 2008 audits of American Fiber and failed to comply with PCAOB standards. Respondents described the engagement with American Fiber as "review[ing] the changes in receivables and payables, conversions from debt to common stock, computation of interest on debt instruments, or in other words, a simple balance sheet review either on an interim basis and at year end with a review of notes to financial statements." In addition, Taylor stated that he "relied on … the previous years' audit figures and made inquiries as to the changes…other than that, I did

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[21/] *See* AU §§311.03; 311.05

[22/] *See* AU §333.05.

[23/] *See* AS3, paragraph 4.

[24/] *See* AU §319.01, *Consideration of Internal Control in a Financial Statement Audit.*

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nothing." While Respondents generally inquired of management about an item on the balance sheet if there was a change of 10% or greater from year-to-year for that item and performed limited procedures on that item, if the year-to-year difference for a balance sheet item was less than 10%, Respondents performed no audit procedures to test that item.

14. As described in detail below, Respondents failed to test significant balances and transactions reported in the financial statements of American Fiber. Specifically, Respondents failed to test the balances of notes receivable, accounts payable and deferred wages in the current periods. In addition, Respondents failed to test an asset purchase transaction as well as transactions involving stock issued for services.

15. In its 2006, 2007 and 2008 financial statements, American Fiber reported notes receivables of $78,605, $98,405 and $98,405, respectively. The notes receivable balances represented 52%, 63% and 61% of the total assets at the end of each of the respective years. The notes receivable balances consisted of related party notes all of which were past maturity. The notes earned interest which was recorded as a receivable. As reflected on the balance sheets, the interest receivable continued to increase during the relevant periods. Respondents did not assess whether the notes or the corresponding interest receivable were collectible or impaired. Respondents failed to test the existence of the notes during the current periods and failed to determine whether the values of the notes receivables included in the financial statements were appropriate.[25/]

16. In its 2006, 2007 and 2008 financial statements, American Fiber reported accounts payable of $284,499, $347,788 and $350,308, respectively. The accounts payable balances represented 15%, 17% and 16% of the total liabilities at the end of each of the respective years. Other than relying on management's representations, Respondents failed to test the balances of accounts payable, during the current periods. Respondents also failed to: (a) test the existence of the accounts payable; (b) test whether the company had the obligations for these liabilities; and (c) determine whether the values included in the financial statements were appropriate.

[25/] Respondents testified that they had reviewed the notes and obtained third party confirmation in a previous audit, but failed to perform additional audit procedures for the 2006, 2007 and 2008 audits.

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17. In its 2006, 2007 and 2008 financial statements, American Fiber reported deferred wages of $534,097, $608,397 and $682,697, respectively. The balances of deferred wages represented 29%, 29% and 32% of the total liabilities at the end of each of the respective years. Other than relying on management's representations, Respondents failed to verify the existence and completeness of the deferred wages balance and failed to determine whether the balances of deferred wages were appropriately valued.

18. American Fiber reported in its 2006 financial statements that the assets of ALP (Tooling) were added to the assets of AFC in a purchase transaction with a corresponding $50,000 capital contribution recorded as additional paid-in capital.[26/] Respondents acknowledged that they did not understand the transaction or assure that the transaction was recorded accurately, did not know what assets were added, did not test the transaction, and did not determine the adequacy of the disclosure.

19. In its 2007 and 2008 financial statements, American Fiber reported that it had issued stock for cash, services or debt. In 2007, American Fiber issued 20,400 shares of the company's common stock valued at $13,260 for cash and 30,000 shares valued at $25,500 for services.[27/] In 2008, American Fiber issued 2,120,188 shares of the company's common stock to reduce $107,009 of debt.[28/] During the 2007 and 2008 audits, Respondents relied on management's representations and failed to perform audit procedures to test these transactions. Respondents also failed to determine that these transactions existed and were appropriately valued. Additionally, they failed to determine the completeness of the stock transactions and whether other such similar transactions occurred. Respondents also failed to assess whether disclosure was required for these transactions in the company's financial statements.

[26/] *See* American Fiber's Form 10-KSB/A filed with the Commission on June 19, 2007.

[27/] *See* American Fiber's Form 10-KSB, filed with the Commission on March 31, 2008.

[28/] *See* American Fiber's Form 10-K filed with the Commission on April 15, 2009.

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20. In each of the three audit years, Respondents failed to document the audit procedures performed, the evidence obtained, and the conclusions reached with respect to relevant financial statement assertions.[29/] Respondents failed to document discussions with management and third parties, and failed to prepare and maintain adequate documentation of the audit procedures performed to show the evidence obtained and the conclusions reached.[30/]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Robert T. Taylor, CPA is revoked; and

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Robert T. Taylor is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

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J. Gordon Seymour
Secretary

April 27, 2010

29/ *See* AS3, paragraph 6.

30/ *See* AS3, paragraphs 4 and 6.

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of* *Traci Jo Anderson and* *Traci Jo Anderson, CPA* *Respondents.*	PCAOB Release No. 105-2010-007 August 12, 2010

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Traci Jo Anderson (the "Firm") and barring Traci Jo Anderson, CPA ("Anderson") (collectively, "Respondents") from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings concerning Respondents' violations of PCAOB rules and auditing standards in auditing the financial statements of three issuer clients from 2007 to 2009.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against the Firm and Anderson.

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II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents each have submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers, the Board finds[1/] that:

A. Respondents

1. Traci Jo Anderson is a public accounting firm located in Huntersville, North Carolina. At all relevant times, the Firm was licensed by the North Carolina State Board of Certified Public Accountant Examiners. The Firm, formed in 2003, is registered with the Board pursuant to Section 102 of the Act and Board Rules.

2. Anderson, 42, is and was at all relevant times a certified public accountant licensed by the North Carolina State Board of Certified Public Accountant Examiners (Certificate No. 30009) and the Florida Board of Accountancy (License No.

[1/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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AC0029543), as well as the Firm's sole proprietor and an associated person of the Firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Prior to forming the Firm, Anderson had no experience with the audits of issuers. The Firm's professional staff during the relevant period consisted of Anderson and a certified public accountant who worked with the Firm as an independent contractor.

B. Summary

3. This matter concerns Respondents' numerous and repeated violations of PCAOB rules and auditing standards in auditing the financial statements of HouseRaising, Inc. ("HouseRaising"), UpSNAP, Inc. ("UpSNAP"), and Envirosafe Corporation ("Envirosafe"). As detailed below, Respondents failed to comply with PCAOB auditing standards during the audit of the financial statements of these issuer clients. [2/]

[2/] The Firm has been the subject of two PCAOB inspections – the first between November 2006 and January 2007 ("2006 Board Inspection"), and the second in October 2008 ("2008 Board Inspection"). Following the first inspection, staff of the PCAOB's Division of Registration and Inspections ("Inspections staff") notified Respondents in writing of various audit deficiencies relating to the Firm's audits of HouseRaising and three other issuers, including the failure to perform sufficient procedures regarding the appropriate capitalization of software costs; the existence, completeness, and valuation of warrants; and the valuation of stock issued for services. Respondents' subsequent audit work for HouseRaising, UpSNAP, and Envirosafe reflected several deficiencies in these same audit areas. Also, the Board's April 24, 2008 report of its first inspection of the Firm specified certain defects in and criticisms of the Firm's quality control system, including the extent to which it provided reasonable assurance of technical competence, the exercise of due care or professional skepticism, the performance of audit procedures to test for evidence of possible material misstatements due to fraud, the identification of missing or incomplete financial statement disclosures, the conduct of all testing appropriate to a particular audit, and an effective arrangement for competent concurring partner reviews. Pursuant to Section 104(g) of the Act and PCAOB Rule 4009, Part II of that report was made public on July 7, 2009, following the Firm's failure to address those quality control defects and criticisms. Also, Part II of the report of the 2008 Board Inspection, issued June 29, 2009, was made public on August 2, 2010, following the Firm's failure to address the quality control defects and criticisms set out therein.

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4. Respondents violated PCAOB rules and auditing standards in auditing the fiscal year ("FY") 2006 financial statements of HouseRaising. These violations included failing to perform sufficient procedures related to (a) the capitalization of software costs, (b) the value of capitalized software, (c) outstanding and future warrants, (d) the value of stock issued for services, and (e) contract revenues. In addition, Respondents failed to prepare audit documentation as required by PCAOB Auditing Standard No. 3, *Audit Documentation* ("AS3").

5. Respondents violated PCAOB rules and auditing standards in auditing the FY 2007 and FY 2009 financial statements of UpSNAP. These violations included failing to perform sufficient procedures related to (a) certain assets and liabilities, (b) the value of goodwill, and (c) the value of stock issued for services. In addition, Respondents failed to prepare audit documentation as required by AS3.

6. Respondents violated PCAOB rules and auditing standards in auditing the FY 2006 and FY 2007 financial statements of Envirosafe. Respondents failed to adequately test the valuation of stock issued for services. In addition, Respondents failed to prepare audit documentation as required by AS3.

C. Respondents Violated PCAOB Rules and Auditing Standards

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards and related professional practice standards.[3/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[4/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[5/] An auditor must also prepare audit documentation in sufficient

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[3/] *See* PCAOB Rules 3100, 3200T.

[4/] *See* AU § 508.07, *Reports on Audited Financial Statements.*

[5/] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; and AU § 326, *Evidential Matter*.

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detail to provide a clear understanding of its purpose, source, and the conclusions reached.[6/] In addition, the auditor must document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions, and clearly demonstrate that the work was in fact performed.[7/]

Audit of HouseRaising, Inc.'s FY 2006 Financial Statements

8. At all relevant times, HouseRaising was a Delaware corporation headquartered in Charlotte, North Carolina. Its common stock was registered under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and was quoted on the OTC Bulletin Board and the Pink Sheets. HouseRaising's public filings disclose that it was in the business of selling, designing, and managing design/build and renovation projects and homebuilding solutions in the residential homebuilding market for homebuyers and homebuilders. At all relevant times, HouseRaising was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).[8/]

9. In September 2004, HouseRaising engaged Respondents to perform a review of its financial statements for the quarter ended June 30, 2004, and later to audit its financial statements for FY 2004 and for subsequent years. Respondents issued an audit report dated April 2, 2007 (included in HouseRaising's Form 10-KSB filed with the Commission on April 3, 2007). The report stated that the audit was conducted in accordance with PCAOB standards, expressed an unqualified audit opinion, and stated that, in the Firm's opinion, the company's financial statements were fairly presented in

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[6/] *See* AS3, paragraph 4.

[7/] *See* AS3, paragraph 6.

[8/] On February 21, 2008, HouseRaising disclosed in a Form 8-K filed with the Commission that its Board of Directors had authorized the filing of a voluntary petition for relief under Chapter 7 of the U.S. Bankruptcy Code in the U.S. Bankruptcy Court for the District of North Carolina and that it would "continue operating until the filing has been made." This was HouseRaising's last filing with the U.S. Securities and Exchange Commission ("Commission").

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all material respects in conformity with U.S. Generally Accepted Accounting Principles ("GAAP").[9/]

Capitalized Software

10. HouseRaising disclosed capitalized software in the amount of $13,722,956 as of December 31, 2006, representing approximately 92% of total assets. HouseRaising disclosed that its capitalized software assets included "certain external direct costs of materials and services consumed in developing internal-use software (System C) for home plans and designs, and operating systems and policies for homebuilders."[10/]

11. Respondents identified capitalized software as an audit area that presented significant risk, and identified "overstating the valuation of capitalized software" as a fraud risk. Respondents nevertheless failed to perform sufficient procedures to determine (a) whether software costs were appropriately capitalized, and (b) whether capitalized software was fairly valued.

12. Respondents understood that HouseRaising was capitalizing its software development costs pursuant to AICPA Statement of Position 98-1, *Accounting for the Costs of Computer Software Developed or Obtained for Internal Use* ("SOP 98-1"). SOP 98-1 applies to software developed to meet the entity's internal needs, not to software to be sold, leased, or otherwise marketed as a separate product or as part of a product or process.[11/] Respondents failed to adequately evaluate evidence regarding

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[9/] The Firm's April 2, 2007 report was also included in HouseRaising's Form 10-KSB/A for the year ended December 31, 2006, filed with the Commission on February 6, 2008.

[10/] HouseRaising FY 2006 Form 10-KSB, filed April 3, 2007, at 18.

[11/] SOP 98-1, paragraphs 6-8, 12-13. The accounting of costs in developing software to be sold, leased, or otherwise marketed as a separate product or as part of a product or process is set out in Statement of Financial Accounting Standards No. 86, *Accounting for the Costs of Computer Software to Be Sold, Leased, or Otherwise Marketed* ("SFAS No. 86."). *See* SOP 98-1, paragraphs 6, 15; SFAS No. 86, paragraph 2.

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whether System C was developed solely to meet HouseRaising's internal needs. For example, Respondents obtained documentation from HouseRaising's management indicating that HouseRaising intended to market System C to homeowners and homebuilders for a fee. Respondents were aware of the company's disclosure that it had signed agreements to give homebuilders access to System C. Respondents also obtained from HouseRaising's management a marketing plan related to System C. Respondents failed to evaluate this audit evidence or otherwise obtain sufficient competent evidence that HouseRaising had capitalized its software costs in conformity with GAAP.

13. Respondents also failed to perform sufficient procedures concerning the stage of System C's development. Other than rely on management's representations, Respondents failed to gather sufficient competent evidence that System C was in the application development stage.[12/]

14. HouseRaising capitalized approximately $3 million in software development costs in FY 2006. These capitalized costs included cash payments and stock issuances for services provided. Respondents identified the recipients of such payments and issuances, but failed to obtain sufficient competent audit evidence concerning whether these individuals performed work related to System C or, if so, what proportion of their work related to System C.

15. Respondents failed to perform procedures to test the value of HouseRaising's capitalized software. Respondents communicated to management the possibility of impairment and recommended that System C be appraised, but failed to do anything to determine whether an impairment analysis or appraisal was performed,

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[12/] *See* AU § 333, *Management Representations*. SOP 98-1 identifies three stages of computer software development: preliminary project stage, application development stage, and post-implementation/operation stage. *See* SOP 98-1, paragraphs 17-23. Internal and external costs incurred to develop internal-use software during the application development stage should be capitalized pursuant to SOP 98-1. *See* SOP 98-1, paragraph 21. Internal and external costs incurred during the preliminary project and post-implementation/operation stages should be expensed as they are incurred. *Id.* at paragraphs 20, 23.

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to perform an impairment analysis, or to otherwise test the valuation of HouseRaising's capitalized software.

Warrants

16. HouseRaising's FY 2006 financial statements disclosed the issuance or future issuance of 23,077,393 warrants. Those warrants represented the rights to acquire shares of common stock totaling approximately 45 percent of the number of common stock shares outstanding. Respondents identified warrants and their proper presentation as a significant issue in their audit of HouseRaising's FY 2006 financial statements. Respondents nevertheless failed to obtain sufficient competent audit evidence concerning the issuance, existence, completeness, or valuation of the warrants disclosed by HouseRaising. Respondents reviewed a shareholder list compiled by HouseRaising's stock transfer agent, but that list reflected holdings of outstanding shares, not issuances or holdings of outstanding warrants. Respondents also failed to gather sufficient competent evidence to determine the adequacy of HouseRaising's disclosures concerning warrants.[13/]

Stock for Services

17. HouseRaising disclosed the issuance in FY 2006 of $2,172,653 in common stock and warrants for services, an amount equaling approximately 21% of total stockholders' equity as of December 31, 2006.

18. Respondents identified stock for services as a significant issue for the audit, and expense accounts tied to stock compensation as an audit area that presented significant risk and for which "[b]asic procedures plus selected extended procedures" were appropriate. Respondents nevertheless failed to determine whether HouseRaising's disclosure concerning stock issued for services in its Form 10-KSB for FY 2006 complied with GAAP. SFAS 123(R), paragraph 64, states: "An entity with one or more share-based payment arrangements shall disclose information that enables users of the financial statements to understand: a. The nature and terms of such arrangements that existed during the period and the potential effects of those arrangements on shareholders b. The effect of compensation cost arising from share-

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[13/] *See* AU § 431, *Adequacy of Disclosure in Financial Statements*.

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based payment arrangements on the income statement c. The method of estimating the fair value of the goods or services received, or the fair value of the equity instruments granted (or offered to grant), during the period d. The cash flow effects resulting from share-based payment arrangements."[14/] HouseRaising failed to disclose such information in its FY 2006 Form 10-KSB. Respondents failed to identify or address the deficiency with the disclosure.[15/] HouseRaising subsequently received comment letters from the Commission concerning, in part, the adequacy of its disclosures concerning stock issued for services. HouseRaising thereafter filed a Form 10-KSB/A containing, among other things, restated disclosures relating to stock issued for services in FY 2006. Respondents failed to perform any procedures concerning the additional disclosures in the amended filing.[16/]

Revenue Recognition

19. HouseRaising's FY 2006 financial statements disclosed $1,249,221 in sales and $270,520 in gross profit from sales. HouseRaising also reported a net loss of $2,999,358 in FY 2006. Respondents identified revenue recognition as a significant issue and as an area of HouseRaising's financial statements that might be susceptible to material misstatement due to fraud. Respondents nevertheless failed to obtain sufficient competent evidence concerning amounts recognized as revenue by HouseRaising in FY 2006.

20. Approximately 88% of HouseRaising's sales in FY 2006 consisted of revenue from construction contracts. HouseRaising's FY 2006 financial statements disclosed that revenues and profits from the general management of construction contracts were recognized using the completed-contract method of accounting.[17/]

[14/] Statement of Financial Accounting Standards No. 123(R), *Share-Based Payment*, paragraph 64.

[15/] *See* AU § 431.

[16/] *See id*.

[17/] *See* AICPA Statement of Position 81-1 ("SOP 81-1"), *Accounting for Performance of Construction-Type and Certain Production-Type Contracts*.

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Respondents simply accepted management's representation that the use of the completed-contract method was appropriate without doing further work or analysis of the appropriateness of the accounting treatment.[18/] Respondents did not consider whether the alternative accounting method, specifically the percentage-of-completion method, was more appropriate in the circumstances. The percentage-of-completion method is preferable as an accounting policy under certain conditions[19/] and in circumstances in which reasonably dependable estimates can be made, and there is a presumption that entities in the contracting business have the ability to make estimates that are sufficiently dependable to justify the use of percentage-of-completion.[20/] Persuasive evidence to the contrary is necessary to overcome that presumption.[21/] Respondents did nothing to determine whether management's representation complied with the accounting guidance or whether the presumption in favor of percentage-of-completion was overcome. The completed-contract method may be used "as an entity's basic accounting policy in circumstances in which financial position and results of operations would not vary materially from those resulting from use of the percentage-of-completion method."[22/] Respondents did nothing to quantify or compare the results of the two methods.

18/ *See* AU § 333.

19/ SOP 81-1, paragraph 23.

20/ *Id.*, paragraph 24.

21/ *Id.*

22/ *Id.*, paragraph 31.

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Audit Documentation

21. Respondents failed to comply with the requirement of AS3 that audit documentation contain sufficient information to provide an understanding of the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached and to clearly demonstrate that the work was in fact performed. Respondents failed to document audit procedures performed and evidence obtained in virtually every area of the audit, including those areas Respondents identified as involving significant audit risk.[23/]

Audit of UpSNAP Inc.'s FY 2007 and FY 2009 Financial Statements

22. UpSNAP was a Nevada corporation headquartered in Davidson, North Carolina until September 2008, when it moved its headquarters to Alberta, Canada. At all relevant times, UpSNAP's common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board and the Pink Sheets. UpSNAP's public filings disclosed that the company was in the business of developing and distributing mobile search and entertainment platforms and content until September 2008, and thereafter, in the business of building and manufacturing homes, modular sites, ready-to-move homes, and modular camp sites in Canada. At all relevant times, UpSNAP was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

23. In January 2007, UpSNAP engaged Respondents to audit UpSNAP's FY 2007 financial statements. UpSNAP renewed its engagement of Respondents in April 2009 to audit its FY 2009 financial statements.[24/] Respondents issued audit reports on UpSNAP's financial statements dated December 17, 2007 (included in UpSNAP's Form 10-KSB filed with the Commission on January 15, 2008) and May 14, 2009 (included in UpSNAP's Form 10-K filed with the Commission on May 18, 2009). Each report stated that the audit was conducted in accordance with PCAOB standards, expressed an

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[23/] AS3, paragraphs 4, 6.

[24/] UpSNAP's 2007 fiscal year ended September 30, 2007. UpSNAP then changed its fiscal year, such that the next one ended January 31, 2009.

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unqualified audit opinion, and stated that, in the Firm's opinion, the company's financial statements were fairly presented in all material respects in conformity with GAAP.[25/]

FY 2007 Audit

24. As reflected in their audit report, Respondents audited UpSNAP's balance sheet as of September 30, 2007 and the related consolidated statements of operations, stockholders' equity (deficit) and comprehensive income, and cash flows for the years ended September 30, 2007 and 2006. Those financial statements reflected certain assets acquired and liabilities assumed by UpSNAP in an acquisition on January 6, 2006 of a company known as XSVoice, Inc. for an aggregate purchase price of $6,393,223. Respondents failed to obtain sufficient competent evidence to determine existence, valuation, or completeness of the assets acquired and liabilities assumed by UpSNAP.[26/] Respondents also failed to perform procedures to test the allocation of UpSNAP's purchase price to those assets and liabilities.

25. UpSNAP's FY 2007 financial statements disclosed goodwill in the amount of $4,677,862 as of September 30, 2007. Goodwill constituted approximately 77% of UpSNAP's total assets.[27/] Respondents identified valuation and impairment of goodwill as business and fraud risks. UpSNAP's management performed an impairment analysis of the goodwill by calculating the present value of UpSNAP's expected future cash flows over thirty years based on certain assumptions including an undiscounted cash flow in Year 1 of $900,000. Management concluded goodwill was not impaired after determining that the present value exceeded the carrying amount of goodwill. Respondents failed to perform any procedures to determine the source or

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[25/] Each audit report included an explanatory paragraph noting circumstances that raised substantial doubt about UpSNAP's ability to continue as a going concern.

[26/] Respondents failed to do so even after deciding not to inspect the predecessor auditor's work papers for cost reasons and determining instead to perform "additional procedures" in order to obtain "comfort" with UpSNAP's financial position, results of operations, and cash flows in previous years.

[27/] UpSNAP wrote off goodwill to zero in its interim financial statements for the quarter ended March 31, 2008.

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reliability of the assumptions underlying management's cash flow projection or whether those assumptions were reasonable.[28/] Respondents also failed to obtain an understanding of how management developed its cash flow projection.[29/] Respondents failed to evaluate whether the underlying assumptions were realistic and consistent with relevant factors including UpSNAP's economic circumstances and the risk associated with cash flows.[30/] For example, UpSNAP reported net losses in FY 2007 of $1,102,365 and in FY 2006 of $1,788,068, yet Respondents failed to evaluate the reasonableness of UpSNAP's assumption that the undiscounted cash flow in Year 1 of its impairment analysis would equal $900,000. As a result, Respondents failed to obtain sufficient competent evidential matter to provide them with a reasonable basis for forming an opinion concerning goodwill.[31/]

26. In addition, Respondents failed to evaluate whether UpSNAP's critical accounting policy concerning valuation and impairment of goodwill complied with GAAP. UpSNAP disclosed among the "Critical Accounting Estimates and Policies" in its Form 10-KSB for FY 2007 that it reviewed the carrying value of long-lived assets in accordance with SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*.[32/] Respondents understood that one of UpSNAP's critical accounting policies was the valuation of goodwill in accordance with SFAS No. 144. However,

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[28/] *See* AU § 342.04, *Auditing Accounting Estimates*; § 342.11.

[29/] *See* AU § 342.10.

[30/] *See* AU § 328.36, *Auditing Fair Value Measurements and Disclosures* ("To be reasonable, the assumptions on which the fair value measurements are based (for example, the discount rate used in calculating the present value of future cash flows), individually and taken as a whole, need to be realistic and consistent with" several listed factors including "the entity's economic circumstances" and "[t]he risk associated with cash flows, if applicable, including the potential variability in the amount and timing of the cash flows and the related effect on the discount rate.").

[31/] *See* AU § 326.22.

[32/] UpSNAP FY 2007 Form 10-KSB, filed January 15, 2008, at 21.

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Respondents failed to assess whether SFAS No. 144, which does not apply to goodwill, applied to the company's valuation of goodwill.[33/]

27. Respondents failed to comply with the requirement of AS3 that audit documentation demonstrate that the underlying accounting records agreed or reconciled with UpSNAP's FY 2007 financial statements.[34/] Respondents' audit documentation did not demonstrate that UpSNAP's underlying accounting records agreed or reconciled with the amounts disclosed in the cash flow statement or in the footnotes to the financial statements.

FY 2009 Audit

28. UpSNAP disclosed $431,653 in shares issued for equipment and $592,435 in conversion of shareholder loans to equity in FY 2009. UpSNAP also disclosed a total balance of stockholder's deficit of $121,429 as of January 31, 2009. Respondents did not obtain sufficient evidence to determine whether these stock issuances were appropriately valued or disclosed. Respondents' work papers concerning those items included only an audit program with various descriptions of procedures initialed, certain general ledger entries, a management schedule, and excerpts from the financial statements and footnotes being audited.

29. Respondents failed to comply with the requirement of AS3 that audit documentation demonstrate that the underlying accounting records agreed or reconciled with UpSNAP's FY 2009 financial statements.[35/] Respondents' audit documentation did not demonstrate that UpSNAP's underlying accounting records agreed or reconciled with the amounts disclosed in the cash flow statement or in the footnotes to the financial statements.

[33/] Respondents failed to consider the applicability or content of SFAS No. 142, *Goodwill and Other Intangible Assets*, or its requirement that "Goodwill shall be tested for impairment at a level of reporting referred to as a reporting unit." *See* SFAS No. 142, paragraph 18.

[34/] *See* AS3, paragraph 5(c).

[35/] Id.

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Audits of Envirosafe Corporation's FY 2006 and FY 2007 Financial Statements

30. Envirosafe was a Delaware corporation headquartered in Germantown, Maryland until early 2008, when it moved its headquarters to Guangzhou, People's Republic of China, and changed its name to China Education Technology Inc. At all relevant times, Envirosafe's common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board and the Pink Sheets. Envirosafe's public filings disclosed that before March 2008, it was in the business of manufacturing and selling healthcare/germicidal cleaning and bioremediation products, then ceased its existing business activities and began seeking a business combination, and that following March 2008, it was in the business of developing and selling educational and technology applications. At all relevant times, Envirosafe was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

31. In February 2006, Envirosafe engaged Respondents to audit its FY 2005 financial statements, and later its FY 2006 and FY 2007 financial statements as well. Respondents issued audit reports dated March 20, 2007 (included in Envirosafe's Form 10-KSB filed with the Commission on March 23, 2007) and April 10, 2008 (included in Envirosafe's Form 10-KSB filed with the Commission on April 11, 2008). Each report stated that the audit was conducted in accordance with PCAOB standards, expressed an unqualified audit opinion, and stated that, in the Firm's opinion, the company's financial statements were fairly presented in all material respects in conformity with GAAP.[36/]

FY 2006 Audit

32. Envirosafe's FY 2006 financial statements disclosed the issuance of 106,200,000 shares of common stock for services in FY 2006, over one-third of the 299,375,000 shares of Envirosafe common stock outstanding as of December 31, 2006. Those shares were reflected in Envirosafe's FY 2006 financial statements in the amount of $1,156,376. Envirosafe disclosed in its Form 10-KSB for FY 2006 that trading in its

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[36/] Each audit report included an explanatory paragraph noting circumstances that raised substantial doubt about Envirosafe's ability to continue as a going concern. The Firm's April 10, 2008 audit report was also included with Envirosafe's Forms 10-K/A filed with the Commission on August 13, 2008 and August 29, 2008.

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common stock had been "limited and sporadic" and that any market price for shares of its common stock "is likely to be very volatile." Respondents completed a "Fraud Risk Information Form" identifying valuation of stock compensation as an area of Envirosafe's financial statements that might be susceptible to material misstatement due to fraud, and "[v]alue of stock" as a means by which Envirosafe's "management could perpetrate and conceal fraudulent financial reporting." Respondents also completed a "Business Risk Identification and Planning Form" identifying stock based compensation as a risk related to the nature of the company's expenses. Respondents nevertheless failed to perform sufficient procedures to test the valuation of the stock issued for services.

FY 2007 Audit

33. Envirosafe's FY 2007 financial statements disclosed the issuance of 1,143,458 shares of common stock for services in FY 2007, which constituted more than half of the 2,141,375 shares of Envirosafe common stock outstanding as of December 31, 2007.[37/] Those shares were recorded in Envirosafe's 2007 financial statements in the amount of $357,774. Envirosafe disclosed in its Form 10-KSB for FY 2007 that trading in its common stock had been "limited and sporadic" and that any market price for shares of its common stock "is likely to be very volatile." Respondents completed a "Client Information Form" identifying "stock for compensation" as the subject of one of Envirosafe's significant accounting policies, and identified the same item as a "company agreement that has audit significance." Respondents also identified equity and stock compensation as a business risk related to Envirosafe's financing sources, valuation of stock compensation as an area of Envirosafe's financial statements that might be susceptible to material misstatement due to fraud, and "[v]alue of stock" as a means by which "management could perpetrate and conceal fraudulent financial reporting."

34. Respondents nevertheless failed to gather sufficient competent evidence to determine the valuation of that stock issued for services. Envirosafe issued stock for services in FY 2007 to at least one employee, Envirosafe's then CEO, and to multiple non-employees. With respect to stock issued to Envirosafe's CEO, Respondents failed

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[37/] Envirosafe authorized in FY 2007 a 300 for 1 reverse stock split of all its shares.

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to obtain competent evidence regarding the fair value of the stock or otherwise test management's valuation of that stock. With respect to stock issued to non-employees, Respondents failed to evaluate which of the fair value of the stock issued or of the services received was more reliably measurable. Respondents also failed to obtain evidence of either fair value of stock issued to or services received by non-employees, except to obtain a copy of a single contract between Envirosafe and one of the non-employee recipients without testing the price per share specified in that contract, or to otherwise test management's valuation of the stock issued to them.[38/]

35. Respondents failed to comply with the requirement of AS3 that audit documentation demonstrate that the underlying accounting records agreed or reconciled with Envirosafe's FY 2007 financial statements.[39/] Respondents' audit documentation did not demonstrate that Envirosafe's underlying accounting records agreed or reconciled with the amounts disclosed in the cash flow statement or in the footnotes to the financial statements.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

[38/] SFAS No. 123(R), *Share-Based Payment*, provides that a share-based payment transaction with employees shall be measured based on the fair value of the equity instruments issued. SFAS No. 123(R), paragraph 7. SFAS No. 123(R) also provides that a share-based payment transaction with non-employees shall be measured based on which is more reliably measurable: the fair value of the equity instruments issued, or the fair value of goods or services received. *Id.*

[39/] *See* AS3, paragraph 5(c).

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A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Traci Jo Anderson is revoked; and

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Traci Jo Anderson, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

_____

J. Gordon Seymour
Secretary

August 12, 2010

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of* *Jacqueline A. Higgins, CPA,* *Respondent.*	PCAOB Release No. 105-2010-008 December 3, 2010

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Jacqueline A. Higgins, CPA ("Higgins" or "Respondent"). The Board is imposing this sanction on the basis of its findings concerning Respondent's violations of PCAOB rules and auditing standards in connection with the improper removal, addition, and backdating of audit documentation prior to a Board inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against the Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

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III.

On the basis of Respondent's Offer, the Board finds[1/] that:

A. Respondent

1. Higgins, 27, of Quincy, Massachusetts, is a certified public accountant who is licensed under the laws of the State of New York (license no. 097381-1), and the Commonwealth of Massachusetts (license no. 27834). At all relevant times, Higgins was a manager in the Boston, Massachusetts office of the registered public accounting firm of Ernst & Young LLP ("E&Y"), and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). E&Y removed Higgins from the audit engagement team for the "Company," as defined below in paragraph four, in July 2010, and at that time Higgins ceased participating in issuer audit engagements.

B. Summary

2. E&Y has been the independent auditor for the Company since May 4, 2002. E&Y issued an audit report expressing an unqualified opinion on the Company's September 30, 2009 financial statements. Respondent was the manager for the audit of the Company's September 30, 2009 financial statements ("Audit"). Respondent was supervised by an E&Y engagement partner and an E&Y senior manager during the course of the Audit.

3. This matter concerns Respondent's violations of PCAOB rules and auditing standards. Respondent repeatedly violated both Rule 4006, *Duty to Cooperate with Inspectors*, and Auditing Standard No. 3 ("AS3"), *Audit Documentation*. Respondent improperly removed, added, and backdated working papers in advance of the Board's inspection of the Audit, in violation of Rule 4006. In violation of AS3, Respondent: (1) added documents to the working papers without indicating the dates that documents were added to the working papers, the names of the persons preparing the additional documentation, and the reason for adding the documentation months after the documentation completion date; and (2) removed a document from the working papers after the documentation completion date.

[1/] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

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C. Respondent Violated PCAOB Rules and Auditing Standards.

4. The Company is an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). In April 2010 the Board inspected E&Y's audit of the Company's September 30, 2009 financial statements.

5. PCAOB rules require that an associated person of a registered public accounting firm "shall cooperate with the Board in the performance of any Board inspection."[2/] This cooperation obligation "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes."[3/] PCAOB rules also require that associated persons of registered public accounting firms comply with the Board's auditing standards.[4/] Among other things, PCAOB auditing standards prohibit the deletion of audit documentation after the documentation completion date. PCAOB auditing standards also require that an auditor make certain written disclosures if the auditor adds audit working papers after the documentation completion date.[5/] As detailed below, Respondent violated PCAOB rules and auditing standards when she: (1) improperly removed, added, and backdated audit working papers; and (2) provided misleading audit documentation to the Board in connection with the Board's inspection of the Audit.

Respondent's Employment History at E&Y

6. Respondent graduated from college in May 2005, and joined E&Y as "staff" in September 2005. E&Y promoted Respondent to "senior" in October 2007. E&Y promoted Respondent to "manager" in October 2009.

[2/] PCAOB Rule 4006, *Duty to Cooperate with Inspectors*.

[3/] Drakeford & Drakeford, LLC, PCAOB Release No. 105-2009-002 (June 16, 2009) ¶ 8. See also Gately & Associates, LLC, SEC Release No. 34-62656 at 22-23 (August 5, 2010) (sustaining Board finding that respondents failed to cooperate with Board inspection).

[4/] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[5/] See AS3 ¶ 16.

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7. At the time E&Y promoted Respondent to manager, E&Y assigned Respondent to serve as the manager for the audit of the Company's September 30, 2009 financial statements.

8. Respondent's work on the Audit was supervised by an E&Y engagement partner ("Engagement Partner") and an E&Y senior manager ("Senior Manager"). The Engagement Partner had been a member of the audit engagement team since 2005. The Senior Manager had been a member of the audit engagement team since 2005, as well. The Engagement Partner was responsible for ensuring Respondent's compliance with PCAOB rules and auditing standards related to the Audit.

The Audit

9. E&Y audited the Company's September 30, 2009 financial statements. E&Y's audit report was dated November 23, 2009. The audit report expressed an unqualified opinion and stated that the Audit was conducted in accordance with PCAOB standards. The audit report stated that the Company's September 30, 2009 financial statements presented fairly, in all material respects, the Company's financial position, results of operations, and changes in net assets in conformity with U.S. Generally Accepted Accounting Principles ("GAAP"). The audit report was included in the Company's annual report filed with the U.S. Securities and Exchange Commission ("Commission") on November 27, 2009.

10. The audit report release date for the Audit was November 24, 2009.[6/] The documentation completion date, therefore, was January 8, 2010.[7/] Following the documentation completion date, audit documentation must not be deleted or discarded from the working papers.[8/] While information may be added to the working papers, the new documentation must disclose the date the information was added, the person

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[6/] See id. ¶ 14 (defining report release date as "date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements").

[7/] See id. ¶ 15 (defining documentation completion date as "a date not more than 45 days after the report release date").

[8/] Id. ¶ 16.

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Public Company Accounting Oversight Board

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preparing the additional documentation, and the reason for adding the information to the working papers after the documentation completion date.[9/]

Steps Taken in Advance of the Board's Inspection

11. On March 30, 2010, the Board notified E&Y that the Board's Division of Registration and Inspections ("Board's Inspection Division") would inspect the Audit. The Act "requires the Board to conduct a 'continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons . . . with [the Act], the rules of the Board, the rules of the Commission, or professional standards.'"[10/]

12. On or before March 31, 2010, the Engagement Partner, Senior Manager, and Respondent were notified that the Audit would be inspected by the Board's Inspection Division. Field work for the inspection was scheduled to commence the week of April 19, 2010.

13. On or before March 31, 2010, the Engagement Partner, Senior Manager, and Respondent each had received an email in which E&Y expressly instructed the members of the Audit engagement team that no modifications, additions, or deletions should be made to the working papers of the Audit in preparation for the Board's inspection.

Respondent Improperly Removed, Added, and Backdated Working Papers

14. On or about March 31, 2010, the Engagement Partner directed an E&Y staff person on the Company audit engagement team to retrieve the hard copy external working papers for the Audit ("external working papers"). The staff person retrieved the external working papers from the Records Center in E&Y's Boston office, and placed the working papers in a conference room in E&Y's Boston office.

[9/] Id.

[10/] Gately & Associates, LLC, SEC Release No. 34-62656 at 2 (August 5, 2010) (quoting Section 104(a) of the Act).

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15. On or about April 5, 2010, the Engagement Partner, Senior Manager, and Respondent began working together in this conference room, in the course of preparing for the upcoming Board inspection. The Engagement Partner directed Respondent to review the external working papers. In the course of this review, Respondent identified certain missing documents and informed the Engagement Partner and the Senior Manager about this issue. The Engagement Partner and the Senior Manager subsequently directed Respondent improperly to remove, add, and backdate documents in the external working papers.

16. First, Respondent reported to the Engagement Partner and the Senior Manager that a "Review Procedures Memorandum" was missing from the external working papers. The Engagement Partner and the Senior Manager directed Respondent to create and print out the missing document, and to backdate the document to November 30, 2009. The Engagement Partner and the Senior Manager directed Respondent to backdate her sign-off on this working paper to November 30, 2009, and to add this document to the external working papers.

17. Second, Respondent reported to the Engagement Partner that the tie-out of the financial statements contained in the external working papers was performed upon a pre-final set of financial statements. The Engagement Partner directed Respondent to remove this document from the external working papers, and to replace it with a newly created document which tied-out the final financial statements, and which the Engagement Partner directed Respondent to backdate to November 2009.

18. Third, Respondent reported to the Engagement Partner that the Average Forward Foreign Currency Contracts Calculation ("A3a Working Paper") was missing from the external working papers. The Engagement Partner directed Respondent to gather the missing document, backdate it to November 2009, and add it to the external working papers.

19. Finally, Respondent reported to the Senior Manager that three checklists were missing from the external working papers. The Senior Manager directed Respondent to assemble the missing checklists as a single document ("HH6.8 Working Paper") and to backdate her sign-off on this working paper to November 2009. The Senior Manager directed Respondent to add the document to the external working papers. The Senior Manager and Respondent reported to the Engagement Partner the facts and circumstances related to the creation of the HH6.8 Working Paper, and the Engagement Partner took no steps to cause the document to be properly dated, or to have it removed from the external working papers.

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Misleading Documents Provided to the Board During the Board's Inspection

20. Field work for the Board's inspection took place during the week of April 19, 2010. During field work, E&Y made the external working papers available to the Board's inspectors, including the improperly added documents which were placed in the external working papers shortly before the Board's inspection, and excluding the document removed from the external working papers by the Respondent after the documentation completion date. Respondent did not advise the inspectors that any of these documents were improperly added to the external working papers in April 2010, and that one document was removed from the external working papers after the documentation completion date.

21. During field work, Board inspectors requested copies of certain external working papers, including certain of the late-added documents. On April 22, 2010, Respondent emailed to a Board inspector a copy of the HH6.8 Working Paper. Respondent did not disclose to the Board inspector, however, that this document was improperly added to the external working papers in April 2010.

22. As a result of the conduct described above, Respondent violated Rule 4006, *Duty to Cooperate with Inspectors*, and AS3, *Audit Documentation*.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanction agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that, pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Jacqueline A. Higgins, CPA is censured.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

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J. Gordon Seymour
Secretary

December 3, 2010

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of J. Crane CPA, P.C. and James Crane,* *Respondents.*	PCAOB Release No. 105-2011-001 January 19, 2011

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is permanently revoking the registration of J. Crane CPA, P.C. (the "Firm" or "Crane, P.C.") and permanently barring James Crane ("Crane") (collectively, "Respondents") from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings concerning Respondents' noncooperation with a Board inspection, and for Crane, P.C.'s failures to file an annual report and pay an annual fee.

I.

On November 4, 2010, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Respondents. As required by Section 105(c)(2) of the Act, these proceedings were not public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

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III.

On the basis of Respondents' Offers, the Board finds[1/] that:

A. Respondents

1. Crane, P.C. is a public accounting firm that was organized as a personal corporation under the laws of the State of Massachusetts and located in Cambridge, Massachusetts. It was licensed under the laws of the State of Massachusetts to engage in the practice of public accounting (license no. 1037). The license expired on June 30, 2009. Crane, P.C. has been registered with the Board pursuant to Section 102 of the Act and Board rules since September 2007. Since its registration with the Board, Crane, P.C. has issued six audit reports for issuers. Since the Board commenced an inspection of Crane, P.C. on November 19, 2009, the Firm issued one audit report for an issuer.

2. Crane, formerly a Massachusetts resident now residing in China, is a certified public accountant who was licensed in Massachusetts (license no. 21722). The license expired on June 30, 2010. At all relevant times, Crane was the founder and president of Crane, P.C. and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). As described below, Crane was the sole representative of Crane, P.C. who communicated with the PCAOB's Division of Registration and Inspections ("Inspections") regarding its attempt to conduct an inspection of the Firm. Crane also signed Crane, P.C.'s registration application, including the Consent to Cooperate with the Board and Statement of Acceptance of Registration Condition.

[1/] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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3. In China, Crane holds himself out as the founder and president of J. Crane & Company ("Company").[2/] According to its website, J. Crane & Company, among other things, has expertise with companies operating in Asia and advises businesses who wish to be become publicly-traded companies in the United States. At the time the Board instituted disciplinary proceedings, Crane identified on the Company's website both that the Firm was a PCAOB-registered auditor and that he was the Chief Financial Officer of two public companies traded on the OTC Bulletin Board.

B. Respondents Failed To Cooperate with Inspections

4. Section 104 of the Act "requires the Board to conduct a 'continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons . . . with [the Act], the rules of the Board, the rules of the [Securities and Exchange] Commission, or professional standards."[3/] Indeed, "[t]he Board's periodic inspections, and full cooperation therewith by registered firms, are pivotal to the Board's ability to enhance investor protection and the accuracy of issuer auditor reports through its oversight of registered accounting firms."[4/] Therefore, PCAOB Rule 4006, *Duty to Cooperate With Inspectors*, provides that "[e]very registered public accounting firm, and every associated person of a registered public accounting firm, shall cooperate with the Board in the performance of any Board inspection." Pursuant to Rule 4006, cooperation includes "cooperating and complying with any request, made in furtherance of the Board's authority and responsibilities under the Act to . . . provide access to, and the ability to copy, any record in the possession, custody, or control of such firm or person, and . . . provide information by oral interviews, written responses, or otherwise." As described below, Respondents violated Rule 4006 during 2010 by failing to provide any of the information requested by Inspections and preventing the Board from inspecting Crane, P.C.'s audits of issuers and system of quality control.

[2/] *See* http://www.jcraneco.com/about.html.

[3/] Gately & Associates, LLC, SEC Release No. 34-62656 at 2 (Aug. 5, 2010) (quoting Section 104(a) of the Act).

[4/] Id., at 3.

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5. Between November 19, 2009 and December 4, 2009, Inspections staff communicated with Crane, P.C. by telephone and emails in an attempt to plan its inspection of the Firm and request that Crane contact Inspections to provide updated information concerning Crane, P.C. On December 4, 2009, Crane spoke with an Inspections staff member about the upcoming inspection, and on December 9, 2009, Crane requested that the inspection be scheduled for mid-February 2010 or later.

6. On December 23, 2009, Inspections informed Crane that it planned to inspect Crane, P.C. on March 15, 2010. On December 28, 2009, Inspections sent a letter to Crane requesting that he send a completed Issuer Information Form to Inspections by February 1, 2010, and requesting that he send a completed Data Request Form and selected engagement records to Inspections by March 8, 2010.

7. Respondents never provided the Issuer Information Form, the completed Data Request Form, or the selected engagement records to Inspections. Having not been provided these materials, Inspections could not begin the inspection on March 15, 2010, as planned.

8. On May 11, 2010, Crane requested that the inspection be rescheduled for a period between July 17, 2010, and August 13, 2010. On May 18, 2010, Inspections notified Crane that it had rescheduled the inspection for July 26, 2010. Again, Respondents never provided the Issuer Information Form, the completed Data Request Form, or the selected engagement records to Inspections. Having not been provided these materials, Inspections could not begin the inspection on July 26, 2010, as planned.

9. To date, Respondents still have not provided these materials to Inspections and Respondents have prevented Inspections from conducting an inspection of any of the Firm's issuer audits and system of quality controls.

10. During the period in which Crane did not provide documents and information to Inspections, he and Crane, P.C. apparently continued to perform audits, as evidenced by an audit report signed by Crane, P.C. for an issuer client and dated July 14, 2010.[5/]

[5/] On July 14, 2010, Left Behind Games, Inc. filed with the Securities and Exchange Commission ("Commission") a Form 10-K for the period ended March 31, 2010, which included an audit report signed by Crane, P.C. and dated July 14, 2010.

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11. During 2010, Respondents repeatedly failed to cooperate with Inspections in that they failed to comply with requests made by Inspections to conduct an inspection of Crane, P.C. and provide access to records, including the Issuer Information Form, the completed Data Request Form, and selected engagement records. As a result, the Board could not assess the degree to which Respondents complied with the Act, the rules of the Board, the rules of the Commission, or professional standards.

C. Crane, P.C. Failed To File an Annual Report and Pay an Annual Fee in Violation of Sections 102(d) and 102(f) of the Act and PCAOB Rules 2200 and 2202

12. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Rule 2200, Crane, P.C. failed to file an annual report.

13. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Crane, P.C. failed to pay its annual fee.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of J. Crane CPA, P.C. is permanently revoked; and

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B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), James Crane is permanently barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

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J. Gordon Seymour
Secretary

January 19, 2011

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of Price Waterhouse, Bangalore, Lovelock & Lewes, Price Waterhouse & Co., Bangalore, Price Waterhouse, Calcutta, and Price Waterhouse & Co., Calcutta,

Respondents.

PCAOB Release No. 105-2011-002

April 5, 2011

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring the registered public accounting firms Price Waterhouse, Bangalore, Lovelock & Lewes, Price Waterhouse & Co., Bangalore, Price Waterhouse, Calcutta, and Price Waterhouse & Co., Calcutta (collectively, "PW India," or "Respondents," each a "Respondent"); (2) temporarily limiting the activities, functions, and operations of PW India, including by prohibiting PW India from accepting SEC Issuer Referred Engagement Work for new clients for a period of six months; (3) requiring PW India to engage an independent monitor; (4) requiring PW India to adopt and implement certain policies and to undertake certain actions related to PW India's system of quality control; (5) requiring PW India to provide additional professional education and training to its associated persons; and (6) imposing a civil money penalty jointly and severally in the amount of $1,500,000 as to Price Waterhouse, Bangalore, and Lovelock & Lewes.

The Board is imposing these sanctions on the basis of its findings concerning: (1) Price Waterhouse, Bangalore's and Lovelock & Lewes's violations of PCAOB rules and auditing standards, and Section 10A of the Securities Exchange Act of 1934 ("Exchange Act"); in auditing the 2005, 2006, 2007, and 2008 (the "relevant time period") financial statements of Satyam Computer Services, Limited ("Satyam," or the "Company"); (2) Price Waterhouse, Bangalore's and Lovelock & Lewes's violations of Rule 4006 and PCAOB auditing standards in connection with a Board inspection; and (3) PW India's violations of PCAOB rules and quality control standards.

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Public Company Accounting Oversight Board

ORDER

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against the Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, each Respondent has executed and submitted an Offer of Settlement (collectively, the "Offers," each an "Offer") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over each Respondent and the subject matter of these proceedings, which is admitted, each Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), as set forth below.

III.

On the basis of Respondents' Offers in this matter, the Board finds[1/] that:

A. Respondents

1. Price Waterhouse, Bangalore ("PW Bangalore") is a public accounting firm organized as a partnership under the laws of the Republic of India, and headquartered

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[1/] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set forth in Section 105(c)(5) of the Act. The Board finds that Respondents' conduct described in this Order meets the condition set forth in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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in Bangalore, Karnataka, India. PW Bangalore is registered with the Institute of Chartered Accountants of India ("ICAI") (registration no. FRN 007568S). PW Bangalore is registered with the Board under Section 102 of the Act and PCAOB Rules. PW Bangalore is a member firm of PricewaterhouseCoopers International Limited ("PwC IL"). During the relevant time period, PW Bangalore signed the audit opinions on the financial statements of Satyam.

2. Lovelock & Lewes ("Lovelock") is a public accounting firm organized as a partnership under the laws of the Republic of India, and headquartered in Kolkata, West Bengal, India. Lovelock is registered with the ICAI (registration no. FRN 301056E). Lovelock is registered with the Board under Section 102 of the Act and PCAOB Rules. Lovelock is a member firm of PwC IL. During the relevant time period, PW Bangalore used and relied upon Lovelock personnel to work on the audits of Satyam's financial statements.

3. Price Waterhouse & Co., Bangalore ("PW Co. Bangalore") is a public accounting firm organized as a partnership under the laws of the Republic of India, and headquartered in Bangalore, Karnataka, India. PW Co. Bangalore is registered with the ICAI (registration no. FRN 007567S). PW Co. Bangalore is registered with the Board under Section 102 of the Act and PCAOB Rules. PW Co. Bangalore is a member firm of PwC IL. PW Co. Bangalore did not participate in the audits of Satyam's financial statements.

4. Price Waterhouse, Calcutta ("PW Calcutta") is a public accounting firm organized as a partnership under the laws of the Republic of India, and headquartered in Kolkata, West Bengal, India. PW Calcutta is registered with the ICAI (registration no. FRN 301112E). PW Calcutta is registered with the Board under Section 102 of the Act and PCAOB Rules. PW Calcutta is a member firm of PwC IL. PW Calcutta did not participate in the audits of Satyam's financial statements.

5. Price Waterhouse & Co., Calcutta ("PW Co. Calcutta") is a public accounting firm organized as a partnership under the laws of the Republic of India, and headquartered in Kolkata, West Bengal, India. PW Co. Calcutta is registered with the ICAI (registration no. FRN 304026E). PW Co. Calcutta is registered with the Board under Section 102 of the Act and PCAOB Rules. PW Co. Calcutta is a member firm of PwC IL. PW Co. Calcutta did not participate in the audits of Satyam's financial statements.

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6. The five PW India firms, along with five other India-based member firms of PwC IL,[2/] operate a domestic Indian network of related audit firms. PW India and the other members of this domestic Indian network operate their audit practice under resource sharing arrangements that facilitate the provision of audit services as a network of related audit firms. With respect to the PW India firms, pursuant to these sharing arrangements, Lovelock and PW Calcutta have both partners and staff who perform audit procedures, and provide staffing for their own audit engagements as well as for the audit engagements of the other PW India firms. The partners of the remaining three PW India firms, PW Bangalore, PW Co. Bangalore, and PW Co. Calcutta, undertake audit engagements, oversee the audit work conducted by engagement personnel, and sign audit opinions.

7. The assurance practice of the PW India firms has common leadership, including the Assurance Leader, Risk and Quality Leader, Learning and Education Leader, Independence Partner, and Chief Ethics Officer. All of the PwC Network Firms[3/] in India share the same Territory Senior Partner and Managing Partner.

8. The PwC Network Firms located in India share office space and telephone numbers.

B. Issuer

9. Satyam is a corporation organized under the laws of the Republic of India, with its headquarters in Hyderabad, Andhra Pradesh, India. As disclosed in its public filings, Satyam is a global information technology solutions provider. Satyam's American Depositary Shares, evidenced by American Depositary Receipts ("ADRs"), are registered with the United States Securities and Exchange Commission ("SEC" or "Commission") under the Securities Act of 1933. At all relevant times, Satyam's ADRs were traded on the New York Stock Exchange.[4/] Satyam is required to file periodic

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[2/] The five other member firms of PwC IL located in India are not registered with the Board and, therefore, are not within the scope of the term "PW India."

[3/] PwC IL member firms are collectively referred to as "PwC Network Firms."

[4/] On September 24, 2010, Satyam filed a Form 6-K with the Commission in which Satyam disclosed that it had notified the New York Stock Exchange that it planned to delist its ADRs, in light of Satyam's inability timely to file its audited financial

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reports under Section 15(d) of the Exchange Act. During the relevant time period, Satyam was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

10. PW Bangalore served as Satyam's independent registered public accounting firm from June 30, 2000, until February 12, 2009. During the period that it served as Satyam's auditor, PW Bangalore used Lovelock engagement personnel to work on the audits of Satyam's financial statements. In audit reports dated April 21, 2005, April 21, 2006, April 27, 2007, and August 8, 2008, PW Bangalore expressed unqualified opinions on Satyam's financial statements for the years ended March 31, 2005 ("2005"), March 31, 2006 ("2006"), March 31, 2007 ("2007"), and March 31, 2008 ("2008"), respectively. Each of these audit reports stated that, in PW Bangalore's opinion, Satyam's financial statements presented fairly, in all material respects, the Company's financial position in conformity with U.S. Generally Accepted Accounting Principles ("GAAP"). Each audit report also stated that the underlying audit was conducted in accordance with PCAOB standards.

11. On January 7, 2009, Satyam filed a Form 6-K with the Commission in which Satyam disclosed that its founder and then chairman stated that key financial results for Satyam had been manipulated, including overstating cash by $1 billion, overstating profits for the past several years, overstating the amounts owed to Satyam, and understating Satyam's liabilities.

12. On January 8, 2009, the Board issued an Order of Formal Investigation regarding the audits and reviews of Satyam's financial statements.

13. On January 14, 2009, Satyam reported to the Commission, on a Form 6-K, that PW Bangalore had advised Satyam that all audit reports for the period 2000-2008 should no longer be relied upon.

14. On February 12, 2009, PW Bangalore resigned as Satyam's auditor.

15. On March 16, 2010, the Board issued orders barring two former Lovelock senior managers, who worked on the Satyam audit engagement, from associating with registered public accounting firms, after the senior managers failed to comply with

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statements with the Commission. In October 2010, Satyam's ADRs began being quoted on the OTC Bulletin Board and the Pink Sheets.

ORDER

Accounting Board Demands requiring their testimony in the Board's formal investigation of the Satyam audit engagement.[5/]

C. Summary

16. This matter concerns a billion-dollar overstatement of the assets of Satyam that PW Bangalore (Satyam's independent registered public accounting firm) and Lovelock (the provider of the audit personnel PW Bangalore used on the engagement) failed to discover. PW Bangalore and Lovelock failed to identify this material overstatement of Satyam's assets, in part, because of the flawed audit procedures used to test the existence and valuation of Satyam's reported cash balance. During fiscal years 2005, 2006, 2007, and 2008, Satyam management represented to the PW Bangalore partners and Lovelock staff who worked on the audit (collectively, the "Satyam engagement team" or "engagement team") that the Company had hundreds of millions of dollars in cash held on deposit at six banks. In the most recent audit year, 2008, Satyam represented to the engagement team that the cash on deposit at these six banks exceeded $1 billion, which constituted approximately half of Satyam's total reported assets.

17. PW Bangalore and Lovelock were required, among other things, to test the existence and valuation of Satyam's reported cash balance. In order to test the cash balance during the 2005, 2006, 2007, and 2008 Satyam audits, the engagement team planned to confirm cash with third parties. The audit procedures that the Satyam engagement team actually performed, however, failed to test the existence and valuation of this asset and, moreover, did not comply with PCAOB standards governing the confirmation process. The engagement team did not make direct contact with the six banks to confirm the bank balances that Satyam reported in its financial statements. Instead, and in violation of PCAOB auditing standards related to confirming cash, the engagement team relied exclusively on information provided by Satyam management. Indeed, the engagement team relied on Satyam management to mail out confirmation requests to Satyam's banks, and to return purported confirmation responses to the engagement team. On January 7, 2009, the chairman and chief executive officer of Satyam admitted that Satyam had been materially inflating its cash balances for several years, and that the 2008 cash balance was just $70 million.

[5/] In the Matter of Siva Prasad Pulavarthi, PCAOB Release No. 105-2010-004 (March 16, 2010); and In the Matter of Chintapatla Ravindernath, PCAOB Release No. 105-2010-005 (March 16, 2010).

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18. The failures in the cash confirmation process on the Satyam engagement were symptomatic of a larger problem at PW India. In audit engagements at each of the five member firms of PW India, auditors planned to test the existence and valuation of cash balances by performing confirmations, and then failed to control the cash confirmation process by relying on audit clients to send cash confirmation requests to banks and to return cash confirmation responses to the auditors. PW India's quality control system failed to detect that, for several years, and on multiple audit engagements, personnel at each of the PW India firms were not complying with PCAOB standards governing the cash confirmation process. Despite annual quality reviews at PW India, the first time that PW India's quality control monitoring system detected this non-compliance was in October 2008.

19. This matter also involves the failure of PW Bangalore and Lovelock to audit Satyam's accounts receivable balances in accordance with PCAOB standards. The engagement team relied on Company management to send confirmation requests associated with accounts receivable balances. The engagement team also failed to develop and perform audit procedures adequate to address identified control weaknesses that indicated heightened risks related to accounts receivable.

20. PW Bangalore and Lovelock also violated Section 10A of the Exchange Act, by failing to include in the Satyam audit engagement procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts.

21. Finally, this matter concerns the actions taken by associated persons acting on behalf of PW Bangalore and Lovelock, after learning that the 2007 Satyam audit engagement would be inspected by the Board. Before PCAOB inspectors began their field work, and half of a year after the documentation completion date, as required by Auditing Standard No. 3 ("AS3"), *Audit Documentation,* members of the Satyam engagement team added documents to the audit working papers without disclosing the date the documents were added, the person preparing the documents, and the reason for adding these documents, in violation of AS3. The Satyam engagement team provided these documents to PCAOB inspectors in a misleading manner that suggested the documents were part of the original audit documentation, in violation of PCAOB Rule 4006.

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D. PW Bangalore and Lovelock Violated PCAOB Rules and Auditing Standards, and Section 10A of the Exchange Act.

22. PCAOB rules require that registered public accounting firms and their associated persons comply with the Board's auditing and related professional practice standards.[6/] PCAOB auditing standards require that "[s]ufficient competent evidential matter is to be obtained . . . to afford a reasonable basis for an opinion regarding the financial statements under audit."[7/] PCAOB auditing standards require that "[d]ue professional care is to be exercised in the planning and performance of the audit."[8/] "Due professional care requires the auditor to exercise *professional skepticism*. Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence."[9/] PCAOB auditing standards require that the auditor's report contain an opinion on the financial statements taken as a whole and contain a clear indication of the character of the auditor's work.[10/] The auditor can determine that he or she is able to issue an audit report containing an unqualified opinion only if the auditor has conducted the audit in accordance with PCAOB standards, and the financial statements have been prepared in conformity with GAAP.[11/]

The Satyam Engagement

The Audit of Cash

23. In Satyam's 2005, 2006, 2007, and 2008 financial statements, the Company reported, among other assets, balance sheet line items entitled (a) "cash and cash equivalents," and (b) "investments in bank deposits" (collectively, the "cash" line items). In 2005, Satyam reported cash of $541 million, constituting 61 percent of total reported assets. In 2006, Satyam reported cash of $697 million, constituting 59 percent

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6/ See PCAOB Rules 3100, and 3200T.

7/ AU § 326.01, *Evidential Matter*.

8/ AU § 230.01, *Due Professional Care in the Performance of Work*.

9/ Id. § 230.07.

10/ AU § 508.04, *Reports on Audited Financial Statements*.

11/ Id. § 508.07.

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of total reported assets. In 2007, Satyam reported cash of $920 million, constituting 57 percent of total reported assets. In 2008, Satyam reported cash of $1.11 billion, constituting 50 percent of total reported assets. The vast majority of the cash purportedly was on deposit at six banks.

24. PCAOB auditing standards state that the "audit program should set forth in reasonable detail the audit procedures that the auditor believes are necessary to accomplish the objectives of the audit."[12/] In the course of planning the audits of Satyam's 2005, 2006, 2007, and 2008 financial statements, the engagement team planned to test the existence and valuation of Satyam's reported cash balance by seeking confirmations from third parties, specifically from banks. The audit programs for the 2005, 2006, 2007, and 2008 audits explicitly acknowledged that the engagement team should maintain control of the process of sending confirmation requests and receiving confirmation responses relating to the confirmation of cash. The audit plans for the 2005, 2006, 2007, and 2008 Satyam audits never changed, and the working papers for each of those years document that the engagement team confirmed cash balances for all banks at which Satyam had "major" accounts.

25. Despite the fact that the engagement team planned to confirm cash, and documented in the working papers that it had confirmed cash, the audit work performed by the engagement team did not comply with the PCAOB auditing standards governing confirmations.

26. PCAOB auditing standards include specific requirements relating to an auditor's use of "confirmation," which is "the process of obtaining and evaluating a direct communication from a third party in response to a request for information about a particular item affecting financial statement assertions."[13/] Confirmation "is undertaken to obtain evidence from third parties about financial statement assertions made by management" consistent with the presumption that "'[w]hen evidential matter can be obtained from independent sources outside an entity, it provides greater assurance of reliability for the purposes of an independent audit than that secured solely within the entity.'"[14/] Confirmation may be used for a variety of items including accounts

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[12/] AU § 311.05, *Planning and Supervision*.

[13/] AU § 330.04, *The Confirmation Process*.

[14/] Id. § 330.06 (*quoting, in part,* AU § 326.21).

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receivable, debt and encumbrances, and cash balances. PCAOB standards require that during "the performance of confirmation procedures, the auditor should maintain control over the confirmation requests and responses. Maintaining control means establishing direct communication between the intended recipient and the auditor to minimize the possibility that the results will be biased because of interception and alteration of the confirmation requests or responses."[15/]

27. The engagement team failed to maintain control over the process of sending the confirmation requests to the banks for, among other things, the confirmation of cash. Instead, members of the engagement team signed the confirmation requests, gave the requests to employees of Satyam, and relied on Satyam to send the confirmation requests to the banks. This violated PCAOB standards, which required the engagement team to maintain control of the cash confirmation request process, by establishing direct communications between the auditor and the banks.[16/] These violations of PCAOB standards occurred during the audits of Satyam's 2005, 2006, 2007, and 2008 financial statements.

28. The engagement team also failed to maintain control over the cash confirmation response process. In 2005, 2006, 2007, and 2008, Satyam gave the engagement team what the Company represented to be confirmation responses received from six banks. These confirmation responses covered approximately 93 percent of Satyam's reported cash for each audit year. After receiving the purported confirmation responses from the Company, the engagement team made no attempt to establish direct contact with the banks to confirm the accuracy of the amounts reflected on the confirmation responses, even though the vast majority of Satyam's reported cash was on deposit at these six banks. This violated PCAOB standards, which required the engagement team to maintain control of the confirmation response process, by establishing direct communications between the auditor and the banks.[17/] These violations occurred during the audits of Satyam's 2005, 2006, 2007, and 2008 financial statements.

[15/] Id. § 330.28.

[16/] Id.

[17/] Id.

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Potentially Conflicting Audit Evidence and Other Warning Signs Related to Cash

29. The Satyam engagement team also failed to perform any follow-up after receiving potentially conflicting audit evidence. During the 2005, 2006, 2007, and 2008 audits, the engagement team received confirmation responses, in the requested format, directly from the branches of certain banks. The engagement team also received "confirmations responses" purportedly from other branches of the same banks. The purported confirmation responses, however, were given to the engagement team by Satyam management, and were not provided in the requested format. The bank-provided confirmation responses reflected significantly lesser cash balances than Satyam management represented to be held in fixed deposits at the same banks, and significantly lesser cash balances than what was reflected in the purported bank confirmations that Satyam provided to the engagement team. The engagement team could have, but did not, contact the banks directly to attempt to determine the amounts that Satyam had on deposit with the banks. The engagement team took no steps to reconcile this potentially conflicting audit evidence, in violation of PCAOB standards.[18/]

30. For example, during the 2008 Satyam audit, Company management provided the engagement team with what was purported to be a confirmation response from the Mumbai branch of a bank. This document indicated that Satyam had approximately $176 million of fixed deposits with the bank. During the same audit, the engagement team received directly from the Hyderabad branch of the same bank a confirmation response indicating that Satyam had no fixed deposits with the bank. The engagement team took no steps to investigate further this potentially conflicting audit evidence.

31. Prior to PW Bangalore releasing its opinion on Satyam's 2008 financial statements, a partner from a PwC Network Firm located outside of India, provided the Satyam engagement team with written comments on the Satyam audit working papers which should further have alerted the engagement team to the fact that their cash confirmation procedures did not comply with PCAOB auditing standards.

[18/] See AU § 326.25, *Evidential Matter* ("auditor should consider relevant evidential matter regardless of whether it appears to corroborate or to contradict the assertions in the financial statements. To the extent the auditor remains in substantial doubt about any assertion of material significance, he or she must refrain from forming an opinion until he or she has obtained sufficient competent evidential matter to remove such substantial doubt").

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32. In May 2008, in response to questions raised by the "foreign filing reviewer"[19/] of Satyam's draft 2008 Form 20-F, partners at PW India, and partners from two other PwC Network Firms suggested that the engagement partner responsible for the Satyam engagement request that a partner from a PwC Network Firm located outside of India (the "PwC Network Firm Partner") review the electronic working papers for the 2008 Satyam engagement.

33. In July 2008, one month before PW Bangalore released its unqualified opinion on Satyam's 2008 financial statements, the PwC Network Firm Partner reviewed the electronic working papers for the 2008 Satyam audit engagement, and provided the Satyam engagement team with written comments based on his review, including comments on the working papers related to the confirmation of cash. Among other comments, the PwC Network Firm Partner advised that the engagement team "can only take credit for [cash] confirmations we send [to] and receive directly [from the banks]." Likewise, the PwC Network Firm Partner noted that the Company had a significant balance of fixed deposits, and advised the engagement team to "document that confirmations have been received [from the banks] for such amounts."[20/]

34. Despite these explicit warnings regarding requirements related to cash confirmation procedures, the Satyam engagement team did nothing further to ensure

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[19/] Under Rule 3400T(b), *Interim Quality Control Standards*, audit firms must comply with portions of the Requirements of Membership of the AICPA SEC Practice Section ("SECPS"). Audit firms associated with international firms are required to seek the adoption of policies and procedures consistent with the objectives set forth in Appendix K, SECPS § 1000.45 ("Appendix K"). See SECPS § 1000.08(n). Those objectives include having policies and procedures for certain filings of SEC registrants which are the clients of foreign associated firms to be reviewed by persons knowledgeable in PCAOB standards. Id. § 1000.45.01(a).

[20/] The PwC Network Firm Partner did not share his comments about the cash confirmations on the Satyam engagement with PW India personnel beyond the members of the Satyam engagement team. PW Bangalore and Lovelock's quality control system did not require that someone outside of the engagement team be made aware of such comments in order to ensure that any audit quality issues would be properly resolved prior to the issuance of the audit opinion.

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that the confirmation procedures the engagement team relied upon in auditing Satyam's cash were performed in compliance with PCAOB standards.

The Audit of Accounts Receivable

35. During the relevant time period, Satyam's former senior management recorded fictitious receivables by exploiting weaknesses in the internal controls of the Company's accounts receivable system. Specifically, the Company's invoicing system allowed for the manual entry of customer invoices via the intervention of a "super user," acting outside the regular controls of the billing and invoicing process. Satyam's former senior management used this super user function to create thousands of false invoices totaling over $1 billion during the period of the fraud.

36. In connection with the audit of Satyam's 2007 financial statements, PW India's System and Process Assurance ("SPA") personnel, working under the supervision of the Satyam engagement team, tested the Company's internal controls, including the Company's Information Technology ("IT") internal controls. This was the first time that Satyam's IT controls were required to be tested under Section 404 of the Act. This testing revealed over 170 deficiencies in controls, including eight deficiencies that the engagement team determined were "significant." These significant deficiencies should have indicated a heightened risk with respect to receivables. The Satyam engagement team was aware of these control deficiencies during the 2007 and 2008 Satyam audit engagements, but failed to recognize the risk they posed, and did not modify the nature, timing and extent of audit procedures in the 2007 and 2008 audits to take these risks into consideration.[21/] The Satyam engagement team failed to develop audit procedures that addressed the increased risk of a material misstatement of the accounts receivable balance.

37. For both the 2006 and 2007 audits, the Satyam engagement team did not maintain control of the accounts receivable confirmation request process, and instead relied on Satyam's management to send confirmation requests. The Satyam engagement team received no responses to these confirmation requests, but made no attempt to follow up on the nonresponses with second confirmation requests. Although

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[21/] AU §§ 312.16 and 312.17, *Audit Risk and Materiality in Conducting an Audit* (auditor should assess risk of material misstatement and should consider results of this assessment in determining the nature, timing, and extent of audit procedures).

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the Satyam engagement team planned to confirm accounts receivable balances in both 2006 and 2007, the engagement team failed to comply with PCAOB auditing standards governing the confirmation process.[22/]

38. For the 2006-2008 Satyam audits, the Satyam engagement team performed alternative procedures to test receivables through the verification of subsequent receipts. However, no audit procedures were performed to ensure that the subsequent receipts were reconciled to individual invoices outstanding at fiscal year end. Additionally, despite the heightened risk posed by identified internal control deficiencies in both 2007 and 2008, the subsequent cash receipts testing was performed as of a date other than the fiscal year end date. These procedures did not provide the engagement team with sufficient competent evidential matter to verify the existence of receivables at fiscal year end.[23/]

Section 10A of the Exchange Act

39. The Satyam engagement team received: (1) cash confirmations, in the requested format, directly from certain branches of Satyam's banks; as well as (2) purported confirmation responses from other branches of the same banks, not in the requested format, that were given to the engagement team by Satyam management. The directly-received confirmation responses reflected significantly lower cash balances than the Satyam-provided confirmation responses. The Satyam engagement team, as well, was aware of significant deficiencies in Satyam's internal controls that indicated a heightened risk of fraud existed.

40. These warning signs should have, but did not, cause PW Bangalore and Lovelock to perform additional audit procedures to address the heightened risk of material misstatement of Satyam's cash and accounts receivable balances. PW Bangalore and Lovelock violated Section 10A(a) of the Exchange Act by failing to perform audit "procedures designed to provide reasonable assurance of detecting illegal

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[22/] See AU §§ 330.28 ("auditor should maintain control over the confirmation requests and responses"), and 330.30 (auditor generally should follow up on nonresponses to confirmation requests).

[23/] AU § 326.01.

acts that would have a direct and material effect on the determination of financial statement amounts."[24/]

E. PW Bangalore and Lovelock Violated PCAOB Rule 4006 and AS3.

41. PCAOB rules require that registered public accounting firms and their associated persons "shall cooperate with the Board in the performance of any Board inspection."[25/] This cooperation obligation "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes."[26/] Moreover, PCAOB auditing standards include requirements for audit documentation, including a "documentation completion date," which is the date (not more than 45 days after the audit report release date) when a "complete and final set of audit documentation should be assembled for retention."[27/] PCAOB auditing standards require that, after the documentation completion date, documents must not be added to audit working papers unless the additional documentation states the date it was added, the person who prepared the additional documentation, and the reason for adding it.[28/]

42. PW Bangalore released its audit opinion on Satyam's 2007 financial statements on April 27, 2007. The documentation completion date, therefore, was June 11, 2007: 45 days after the report release date.[29/] Following the documentation completion date, information could not be added to the working papers for this audit

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[24/] Exchange Act § 10A(a)(1).

[25/] PCAOB Rule 4006, *Duty to Cooperate with Inspectors*.

[26/] In the Matter of Drakeford & Drakeford, LLC and John A. DellaDonna, CPA, PCAOB Release No. 105-2009-002 (June 16, 2009) ¶ 8. See also In the Matter of Gately & Associates, LLC and James P. Gately, CPA, SEC Release No. 34-62656 at 22-23 (August 5, 2010) (sustaining Board finding that respondents failed to cooperate with Board inspection).

[27/] AS3 ¶ 15.

[28/] Id. ¶ 16.

[29/] Id. ¶ 15.

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without identifying the date the documentation was added, the person who prepared it, and the reason for adding it.[30/]

43. Five months after the documentation completion date, in November 2007, PW Bangalore and Lovelock learned that the Board intended to conduct an inspection of PW Bangalore, the Board's first inspection of a PW India firm, and that the Board had selected the 2007 Satyam audit engagement for inspection. The field work for the Board's inspection was set to commence in mid-February 2008.

44. During the period of time leading up to the arrival of Board inspectors in India, the engagement team created certain documents, and gathered other documents, none of which previously were in the working papers. The engagement team added these documents to the hard-copy working papers which were made available to Board inspectors. None of the documentation added to the working papers stated the date the documentation was added, the person who prepared it, or the reason for adding this additional documentation, in violation of AS3.

45. In responding to the Board's inspection demands for working papers from the 2007 Satyam audit, members of the Satyam engagement team made available to the Board documents that had been added to the audit documentation only after PW Bangalore and Lovelock learned that the Board would inspect the 2007 Satyam audit engagement. Acting through certain associated persons, PW Bangalore and Lovelock made these documents available to the Board in a misleading manner that suggested the documents were part of the original audit documentation. As a result of this conduct, PW Bangalore and Lovelock violated PCAOB Rule 4006.

F. PW India Violated the Board's Rules and Quality Control Standards

PCAOB Standards Governing Quality Control

46. "Because of the public interest in the services provided by and the reliance placed on the objectivity and integrity of CPAs," PCAOB quality control standards require that a registered public accounting firm "have a system of quality control for its accounting and auditing practice."[31/] PW India failed to have a system of quality control

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30/ Id. ¶ 16.

31/ QC § 20.02.

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that provided reasonable assurance that audit personnel were complying with professional auditing standards. PCAOB standards state that an audit firm shall have a system of quality control for its audit practice.[32/] A quality control system is a process that provides a firm with reasonable assurance that firm personnel are complying with applicable professional auditing standards and the firm's standards of quality.[33/] A firm's system of quality control should, as well, provide a firm with reasonable assurance that the segments of the firm's audit engagements performed by affiliated firms are performed in compliance with PCAOB standards.[34/]

47. One element of quality control relates to engagement performance, in order to provide reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[35/] Another element of quality control is monitoring, in order to provide reasonable assurance that the firm's quality control policies and procedures are suitably designed and are being effectively applied.[36/]

PW India's Quality Control System

48. The five PW India firms participate in a jointly managed system of quality control. During the relevant period, one PW India audit partner was responsible for audit risk and quality throughout PW India (the "Risk and Quality Partner"). In this capacity, the Risk and Quality Partner oversaw the monitoring element of quality control as it related to engagement performance at PW India.

49. Part of the PW India quality control system included inspections and the monitoring of engagement performance. This system included annual quality reviews of selected PW India partners. Each PW India partner was reviewed at least once every three years. The resulting review reports were issued to the Risk and Quality Partner.

32/ Id. § 20.01.

33/ Id. § 20.03.

34/ Id. § 20.06.

35/ Id. § 20.17.

36/ Id. §§ 20.20, and 30.03.

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PW India's General Practice for Confirming Cash

50. In the course of auditing the existence and valuation of cash balances, PW India auditors routinely planned to perform confirmations, but engaged in a practice that was not reasonably assured to provide sufficient audit evidence, and did not comply with PCAOB auditing standards governing cash confirmations. This general practice was followed on one or more occasions by assurance partners at each of the five PW India firms, including the Risk and Quality Partner during the relevant period.

51. Consistent with this general practice, PW India auditors did not maintain control of the cash confirmation process. PW India engagement teams relied on audit clients to send confirmation requests to banks, and to transmit confirmation responses from the banks back to PW India engagement teams.

PW India's Quality Control System Failed to Detect this General Practice

52. Prior to October 2008, the quality control and monitoring process at PW India failed to detect that the general practice regarding cash confirmation procedures at each of the PW India firms was not in compliance with PCAOB standards. Moreover, at no time did PW India's quality control and monitoring process detect violations related to the cash confirmation process used on the 2005, 2006, 2007, and 2008 Satyam audits.

53. This general practice continued for multiple years, on multiple audits, in multiple PW India firms. Moreover, the Risk and Quality Partner knew that on certain of his own audits, his engagement teams were not controlling the cash confirmation process in compliance with the relevant PCAOB auditing standards. The Risk and Quality Partner understood that this failure was not being identified by PW India's quality control system.

54. By failing to identify this general practice regarding cash confirmation procedures at each of the PW India firms, the quality control system at PW India did not provide reasonable assurance that audit personnel were complying with professional auditing standards.[37/]

[37/] PW India purported to use the audit methodology employed by PwC Network Firms, which contains written policies and procedures for performing an audit consistent with PW India's standards of quality. This methodology explicitly required that "[c]onfirmations must be sent out under our control, and replies sent directly to us."

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. In considering appropriate sanctions, the Board considered PW India's cooperation during the course of the Board's investigation, as well as the remedial acts voluntarily undertaken by PW India prior to the issuance of this Order. The Board also took into account the amount of funds paid by PW Bangalore and Lovelock in the matter of Lovelock & Lewes, Price Waterhouse, Bangalore, Price Waterhouse & Co., Bangalore, Price Waterhouse, Calcutta, and Price Waterhouse & Co., Calcutta, SEC Release No. 34-64184 (April 5, 2011), in determining the appropriate amount of the civil penalty to impose on these firms. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), PW Bangalore, Lovelock, PW Co. Bangalore, PW Calcutta, and PW Co. Calcutta are hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,500,000 is imposed upon PW Bangalore and Lovelock. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. PW Bangalore and Lovelock shall be jointly and severally responsible to ensure the payment of this civil money penalty within 45 days of the issuance of this Order by: (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order, made payable to the Public Company Accounting Oversight Board, delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and submitted under a cover letter which identifies PW Bangalore and Lovelock as Respondents in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: J. Gordon Seymour, General Counsel and

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In addition to failing to detect violations of PCAOB standards governing confirmations, as described above, PW India's quality control system also failed to detect the same violations of its own standards of quality, as they relate to the confirmation process.

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Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

C. Pursuant to Sections 105(c)(4)(C), (F), and (G) of the Act, and PCAOB Rules 5300(a)(3), (6), (7), and (9),[38/] the Board ORDERS that:

1. Acceptance of New SEC Issuer Audits. From the date of this Order, PW India shall not accept any new SEC Issuer Audits prior to the Interim Certificate of Compliance Date (defined at Paragraph IV(C)(10)). The term "SEC Issuer Audit(s)" is defined to mean an engagement to audit the consolidated financial statements filed with the Commission of an "Issuer" as that term is defined in Section 2(a)(7) of the Sarbanes-Oxley Act of 2002. Following the later of March 31, 2012 or the Interim Certificate of Compliance Date, PW India shall conduct any new SEC Issuer Audit pursuant to the Interim Conditions set forth in Paragraph IV(C)(3) until the Final Certificate of Compliance Date (defined at Paragraph IV(C)(11)). Until the Final Certificate of Compliance Date, PW India agrees that the Lead Engagement Partner ("Lead Partner") on any SEC Issuer Audit must be deemed not unacceptable to the Independent Monitor (defined at Paragraph IV(C)(9)) before PW India commences work on any SEC Issuer Audit.

2. Acceptance of SEC Issuer Referred Engagement Work. PW India shall not accept SEC Issuer Referred Engagement Work for a new client for a period of six months following the date of this Order. The term "SEC Issuer Referred Engagement Work" is defined to mean instances in which PW India: (a) conducts a full scope audit and provides, or should provide, consistent with Applicable Professional Standards (defined at Paragraph IV(C)(3)(a)), an interoffice opinion for an SEC Issuer-affiliated entity in connection with the audit of the SEC Issuer's consolidated financial statements filed with the Commission; or (b) provides audit work for an SEC Issuer-affiliated entity in connection with the audit of the SEC Issuer's consolidated financial statements filed with the Commission that constitutes ten percent or more of the SEC Issuer's consolidated assets, revenues, or expenses, as measured by the SEC Issuer's most recent fiscal year financial statements filed with the Commission. The term SEC Issuer Referred Engagement Work excludes Indian statutory audits for SEC Issuer-affiliated clients, SAS 70 reports (or, after June 15, 2011, SSAE No. 16 reports), and Shared

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[38/] In determining to accept Respondents' Offers, the Board further considered PW India's representation that it has not accepted any new SEC Issuer Audits or SEC Issuer Referred Engagement Work since January 2009.

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Service Center Engagements (as defined in Paragraph IV(C)(13)). The term "new client" shall mean an SEC Issuer or a component of an SEC Issuer where PW India: (i) has not provided any audit or review services to the SEC Issuer or any of its components after January 1, 2010 through the date of the Order; and (ii) seeks to provide audit or review services to the SEC Issuer or any of its components after the date of the Order. After a period of six months following the date of this Order and until the Final Certificate of Compliance Date, PW India shall conduct SEC Issuer Referred Engagement Work for new clients pursuant to the Interim Conditions set forth in Paragraph IV(C)(3).

3. Interim Conditions. From April 1, 2011 until the Final Certificate of Compliance Date, PW India shall conduct SEC Issuer Referred Engagement Work for current clients pursuant to the conditions set forth below ("Interim Conditions"). Upon expiration of the relevant restricted periods specified in Paragraphs IV(C)(1) and IV(C)(2) above and until the Final Certificate of Compliance Date, PW India agrees that any new SEC Issuer Audit and any SEC Issuer Referred Engagement Work for a new client shall be subject to the following Interim Conditions:

a. Staffing and Selection of Lead Partners, Engagement Managers, and Quality Review Partners. PW India's Assurance Leadership Team ("ALT"), a group which shall include among others PW India's Assurance Leader and Risk & Quality Leader, shall select, as part of meeting their quality control requirements, the Lead Partner, Engagement Manager, and Quality Review Partner ("QRP"), if required, for each SEC Issuer Audit and SEC Issuer Referred Engagement Work after taking into account his or her respective performance on SEC Issuer Audits, SEC Issuer Referred Engagement Work, and SEC Issuer-related client engagements that do not meet the thresholds described in Paragraph IV(C)(2) (collectively, "SEC Issuer-Related Audit Engagements") as indicated by the results of the Real Time Review and Engagement Compliance Review ("ECR") programs (Paragraph IV(C)(8)) and the real time review program undertaken by PW India during 2010. PW India undertakes to engage the engagement partner from the PwC Network Firm which is the lead auditor of the relevant SEC Issuer client ("Global Engagement Partner") to review the selection of any Lead Partner, Engagement Manager, and QRP before the commencement of any SEC Issuer Referred Engagement Work. PW India shall provide the Global Engagement Partner with a summary of the results of the engagement quality review conducted in October 2010, any ECR conducted subsequent to the date of this Order, and any real time review conducted during 2010 for each engagement on which the partner or manager served as Lead Partner or Engagement Manager and shall provide the Global

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Engagement Partner with access to any other relevant information upon request. PW India agrees that, in the event the Global Engagement Partner informs PW India that he or she objects to the selection of the Lead Partner, Engagement Manager or QRP, to perform such work, PW India will select an alternative candidate that meets the conditions described in this Paragraph.

A QRP shall be assigned for all SEC Issuer Referred Engagement Work that meets the 10 percent of assets, revenues, or expenses threshold in Paragraph IV(C)(2). For SEC Issuer Referred Engagement Work that does not meet the 10 percent of assets, revenues, or expenses threshold, a QRP will be assigned, if requested by the Global Engagement Partner. The scope of the QRPs' role on such work shall be consistent with PCAOB Auditing Standard No. 7, *Engagement Quality Review*.

Any PW India partner or manager who served as the Lead Partner or Engagement Manager on any engagement that received an overall finding of unsatisfactory due to departures from Applicable Professional Standards[39/] in connection with the engagement quality review conducted in October 2010 or any ECR performed subsequent to the date of this Order shall not be permitted to perform any SEC Issuer Audit or SEC Issuer Referred Engagement Work as a Lead Partner or Engagement Manager for a period of two fiscal years following the date of an overall finding of "unsatisfactory." Provided, however, that if PW India believes that an individual partner or manager whose engagement received an "unsatisfactory" rating should be exempt from the two-year practice restriction, then PW India, through its Assurance Leader, may make a written submission to the Independent Monitor explaining the reasons therefore and the Independent Monitor shall have the authority to exempt the individual partner or manager if he or she believes it is appropriate to do so. In no event, however, shall a partner or manager who receives an overall rating of "unsatisfactory" due to departures from Applicable Professional Standards in two consecutive quality reviews be exempt from the two-year practice restriction.

If a partner has an engagement on which he or she served as Lead Partner assessed as unsatisfactory due to departures from Applicable Professional Standards in an engagement quality review or ECR, that partner shall not be permitted to serve as a QRP on any SEC Issuer Audit or SEC Referred Work Engagement for a period of two fiscal years following the date of an overall finding of "unsatisfactory."

[39/] The term "Applicable Professional Standards" means "professional standards" as defined in Section 2(a)(10) of the Act and PCAOB Rule 1001(p)(vi).

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PW India shall comply with the conditions described in this Paragraph on a continuing basis until the Final Certificate of Compliance Date.

b. Training. In addition to the training-based undertakings set forth in Paragraph IV(C)(4), PW India agrees to require the Lead Partner, QRP, and Engagement Manager to complete at least: (a) eight hours of ethics training on an annual basis; and (b) 40 hours of specialized training in U.S. GAAP, PCAOB standards,[40/] and IFRS before initiating any SEC Issuer Audit or SEC Issuer Referred Engagement Work and at least 16 hours of such training in each subsequent year that such work is performed. Training programs completed after June 2010 shall be credited towards satisfying the 40 hour specialized training requirement of this Paragraph. The specialized training requirements of this Paragraph may also satisfy the specialized training hours requirements of Paragraph IV(C)(4)(d). All other PW India audit staff on any SEC Issuer Audit or SEC Issuer Referred Engagement Work shall be subject to the training undertakings set forth in Paragraph IV(C)(4).

c. Consultations. PW India undertakes to review all consultations with PW India's National Office concerning Applicable Professional Standards required by PW India's consultation policy ("Required Consultations") involving any SEC Issuer Referred Engagement Work with the Global Engagement Partner.

Before accepting any SEC Issuer Audit, PW India undertakes to develop a process for review of all Required Consultations by an auditor from a PwC Network Firm outside of India. Such process must be reviewed and deemed acceptable by the Independent Monitor.

PW India further undertakes to resolve all Required Consultations in a manner consistent with PW India policies and procedures prior to the issuance of any opinion, report, or engagement completion document by PW India.

d. Pre-opinion Reviews. PW India undertakes, prior to the issuance of any opinion, report, or engagement completion document by PW India, to: (i) engage the

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[40/] References in Commission rules and staff guidance and in the federal securities laws to GAAS or to specific standards under GAAS, as they relate to issuers, should be understood to mean the standards of the PCAOB plus any applicable rules of the Commission. See Release Nos. 33-8422; 34-49708; FR-73 at http://www.sec.gov/rules/interp/33-8422.htm.

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Global Engagement Partner, or his or her partner or manager designee, to conduct a review of any PW India SEC Issuer Referred Engagement Work; and (ii) conduct a Real Time Review (Paragraph IV(C)(8)) of all SEC Issuer Audits.

4. Training and Professional Development. PW India shall evaluate its existing professional development policy and shall make such revisions deemed necessary in order to adopt, implement, and enforce written policies and procedures designed to provide its audit professionals with reasonable training and education to minimize the risk of future violations of Applicable Professional Standards and United States federal securities laws and regulations. PW India agrees that such training and education shall include subjects relevant to the audits of SEC Issuer-Related Audit Engagements. To that end, PW India shall require that all audit professionals complete a training curriculum in the areas of traditional core audit and accounting, Applicable Professional Standards, professional skepticism, behavioral change management, technical audit competence, ethics standards, electronic and hard-copy audit documentation standards (including, as they relate to PCAOB inspections), acceptable and appropriate third-party confirmation procedures, and other relevant technical audit training.

a. Training Programs. Prior to March 31, 2011 and until the Final Certificate of Compliance Date, PW India agrees and undertakes to provide annually, two-week training programs covering the above-referenced audit topics as well as training and presentation skills to select PW India audit professionals who thereafter will lead the training of other PW India audit professionals. After March 31, 2011, only PW India audit professionals who have successfully completed a two-week training program will be permitted to lead the training of other PW India audit professionals.

b. Mandatory Annual Training. Prior to December 31, 2011 and until the Final Certificate of Compliance Date, PW India agrees and undertakes to require that all audit professionals complete an annual three-day program that includes training on the following topics: (i) audit basics; (ii) new audit and accounting standards; (iii) emerging issues in the profession; (iv) specific audit and accounting challenges identified in prior years' PW India audits; and (v) the role of the engagement quality reviewer.

c. Professional Skepticism Training. Prior to December 31, 2011, PW India agrees and undertakes to require that all audit professionals complete an eight-hour program that covers acceptable and appropriate professional skepticism and fraud detection. The course will be offered annually thereafter to new hires, through the Final Certificate of Compliance Date.

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d. Specialized Training. In addition to the training and education described in Paragraphs IV(C)(4)(b) and IV(C)(4)(c), all PW India audit professionals must complete successfully the following core audit curriculum and specialized training before they commence audit work for any SEC Issuer Audit or SEC Issuer Referred Engagement Work for financial statements after March 31, 2011:

(i) Minimum of 24 Hours of Audit-Related Training. The audit-related training requirement shall address the following topics: (1) assessing risks of material misstatements and developing responsive audit plans; (2) determining and documenting appropriate sampling methods and sample sizes, selecting samples, and evaluating and documenting results; (3) audit documentation; (4) obtaining and evaluating sufficient competent evidential matter; (5) acceptable and appropriate third-party confirmation procedures; (6) professional skepticism and corroboration of management's representations; (7) technical audit training; and (8) fraud detection. Training courses completed after June 2010 shall be credited towards satisfying the specialized audit training requirements of this Paragraph.

(ii) Minimum of 12 Hours of Specialized Training and Examination. Of the 24 hours of required audit-related training described above, a minimum of 12 hours shall involve live training taught by senior audit professionals from PwC Network Firms located outside of India, including those who have been seconded to PW India, who are experienced in auditing SEC Issuers and shall cover U.S. GAAP and PCAOB standards. The live training shall be followed by an examination of the topics covered. PW India audit professional must complete a minimum of six hours of such live training before they commence audit work for any SEC Issuer Audit or SEC Issuer-Referred Engagement work in each subsequent year.

e. Additional Training Programs. PW India agrees to consult with the Independent Monitor in designing its training and education program, and to submit to the Independent Monitor a detailed proposal within 60 days after retention of the Independent Monitor that describes the content and implementation of the training and education program. PW India undertakes and agrees to provide such additional training and workshops for its audit professionals on topics that include, but are not limited to: IFRS training; additional workpaper documentation standards; behavioral instruction; audit planning; PW India audit partner and manager supervisory training; audit quality training for all PW India audit partners; and other training deemed necessary to rectify deficiencies identified during the Quality Control Management Review and Engagement Compliance Review programs (described in Paragraph IV(C)(8)). The Independent

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Monitor shall review PW India's proposal describing the content and implementation of the training and education program; and such program must be deemed not unacceptable to the Independent Monitor.

5. Ethical Code of Conduct and Associated Training. PW India has represented that it has a Code of Ethical Business Conduct (the "Ethics Code") that defines standards of behavior for PW India audit professionals. PW India undertakes to: (a) adopt procedures designed to ensure that the Ethics Code is disseminated to PW India audit professionals; (b) conduct appropriate ethics training; (c) review the Ethics Code on a regular basis and update it as needed; (d) adopt an appropriate system of penalties to discourage and punish any violations of the Ethics Code; and (e) adopt procedures designed to verify, on a regular basis, compliance with the Ethics Code. In addition, PW India shall provide annual ethics training to PW India audit professionals deemed most likely to perform SEC Issuer-Related Audit Engagements.

6. Staffing

a. Audit Infrastructure Support. PW India undertakes to increase the size and improve the expertise of its audit support personnel by adding full-time or full-time equivalent senior professionals (*i.e.*, managers and above) trained in and knowledgeable of U.S. GAAP and PCAOB standards from within PW India and from PwC Network Firms located outside of India in all areas of audit support.

b. Engagement Staffing. PW India shall undertake to alter the structure of its engagement teams on SEC Issuer-Related Audit Engagements. Such measures shall include: (i) policies and procedures designed to address the detection and resolution of potential issues concerning the quality of audit work performed by senior audit professionals; (ii) policies and procedures designed to ensure the QRP's role is in compliance with PCAOB Auditing Standard No. 7; (iii) greater emphasis on partner and manager time and attention; (iv) regular coaching of junior audit professionals by experienced senior audit professionals; and (v) as indicated below, recruitment of client service partners and other senior audit professionals from PwC Network Firms outside India to increase the size and improve the expertise of PW India's audit personnel.

c. Secondment. PW India undertakes to increase the number of senior audit professionals seconded from PwC Network Firms located outside of India that are trained in and knowledgeable of U.S. GAAP and PCAOB standards who will, among other responsibilities, be involved in the training of PW India audit professionals most

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likely to perform SEC Issuer-Related Audit Engagements. PW India also shall initiate an audit engagement exchange program for junior audit professionals to and from PW India with a particularized focus on the performance of integrated audit procedures on the financial statements of clients affiliated with an SEC Issuer.

7. Undertakings Concerning Audit Quality Management System. Prior to December 31, 2011, PW India shall revise as may be necessary, and then engage in steps to implement and enforce, such policies and procedures so as to provide reasonable assurance that PW India will comply with its obligations under professional, regulatory and firm requirements with respect to SEC Issuer-Related Audit Engagements. To that end, PW India agrees and undertakes to provide to the Independent Monitor for review and recommendation, its policies and procedures, including evidence of their implementation, concerning the following:

a. Completion of Planning Prior to the Commencement of Audit Fieldwork. Such policies and procedures shall provide reasonable assurance that, prior to the commencement of any significant audit procedures: (i) working papers identify all significant risks requiring additional testing; (ii) working papers identify all significant accounts and disclosures and their relevant assertions; (iii) working papers document the risks of material misstatements, and that the planned nature, timing, and extent of testing are finalized and reviewed and approved by the Lead Partner, and, when appropriate, the QRP; and (iv) working papers are tailored to address identified risks of material misstatement.

b. Third-Party Confirmations. Such policies and procedures shall be designed to provide reasonable assurance that all audit personnel perform third-party confirmation procedures in compliance with PCAOB standards.

c. Consultations. Such policies and procedures shall set forth consultation procedures and documentation requirements regarding procedures for the external review of PW India National Office Required Consultations, as well as for the resolution of such consultations.

d. Documentation. Such policies and procedures shall be designed to provide reasonable assurance that PW India's SEC Issuer-Related Audit Engagements comply with AS3. Such procedures shall emphasize that documentation must be prepared in sufficient detail for an experienced auditor, without prior knowledge of the engagement, to be able to reperform the work and require that any additions made after

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the documentation date[41/] must identify the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it. Additionally, PW India shall adopt a policy making it mandatory that a Lead Partner on an SEC Issuer-Related Audit Engagement review each audit area designated by the engagement team as having a significant risk of material misstatement (whether due to fraud or error) for compliance with both PCAOB standards and related rules and firm policies and procedures**.**

e. Detection and Reporting of Illegal Client Activity ("Section 10A Compliance"). Such policies and procedures shall be designed to provide reasonable assurance that PW India complies with Section 10A of the Exchange Act, including without limitation, for each audit subject to Section 10A, procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts, and to comply with all requirements under the standards of the Commission, the PCAOB, and Section 10A to evaluate and report suspected illegal acts.

f. Engagement Quality Control. Such policies and procedures shall be designed to provide reasonable assurance that PW India complies with PCAOB Auditing Standard 7, *Engagement Quality Review*.

g. Audit Opinions. Such policies and procedures shall be designed to provide reasonable assurance that the firm signing the audit report or opinion for an SEC Issuer-Related Audit Engagement shall uniquely identify itself by, at a minimum, its PCAOB-registered name, and the location of the registered office.

8. Audit Quality Environment

a. Real Time Reviews. From the date of the Order through at least the Interim Certificate of Compliance Date, PW India shall engage senior audit professionals from PwC Network Firms located outside of India with experience in both U.S. GAAP and PCAOB standards to lead pre-opinion reviews of certain SEC Issuer-Related Audit Engagements ("Real Time Reviews"). All SEC Issuer Audits and a sample of other SEC Issuer-Related Audit Engagements, including at least one other SEC Issuer-Related Audit Engagement for each partner serving as Lead Partner on such an engagement, shall be subject to a Real Time Review each year. These

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[41/] AS3 ¶ 15.

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reviews shall be designed to identify areas for improvement and to provide support to PW India audit engagement teams working on SEC Issuer-Related Audit Engagements. SEC Issuer Referred Engagement Work is subject to the pre-opinion reviews described in Paragraph IV(C)(3)(d) and shall be excluded from the Real Time Reviews.

b. Engagement Compliance Review. PW India shall engage senior audit professionals from PwC Network Firms located outside of India with experience in both U.S. GAAP and PCAOB standards to review selected, completed PW India SEC Issuer-Related Audit Engagement working papers as part of the ECR program in order to assess PW India's compliance with Applicable Professional Standards. The ITL will select the engagements for review, which selection shall be part of the ECR planning and scope subject to review and recommendation by the Independent Monitor. As part of their engagement by PW India, these senior audit professionals shall develop an engagement quality review program designed to measure and assess compliance with Applicable Professional Standards and PW India partner performance on SEC Issuer-Related Audit Engagements through annual post-opinion evaluations of selected SEC Issuer-Related Audit Engagements. The ECR program will also identify remedial needs on an ongoing basis. As described further in Paragraph IV(C)(9), the planning and scope of the ECR program shall incorporate recommendations made by the Independent Monitor. The ECR program shall be overseen by an Independent Team Leader ("ITL") experienced in U.S GAAP and PCAOB standards and will continue on an annual basis until the Final Certificate of Compliance Date. All SEC Issuer Audits and SEC Issuer Referred Engagement Work shall be included as part of the annual ECR.

c. Quality Control Management Review. PW India shall engage senior audit professionals from PwC Network Firms located outside of India experienced in PCAOB standards to devise and implement a quality control review program to measure and assess whether, and to what extent, PW India has in place systems, policies, and procedures to provide reasonable assurance that its audit personnel comply with applicable professional standards and PW India's standards of quality as defined by PCAOB Quality Control Standards[42/] when performing work on SEC Issuer-Related Audit Engagements (herein referred to as "Quality Control Management Review or

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[42/] References to "PCAOB Quality Control Standards" mean, collectively, QC § 20, QC § 30, QC § 40, all amendments thereto, and any subsequently enacted related standards of the PCAOB.

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"QCMR").[43/] As described further in Paragraph IV(C)(9), PW India's QCMR program shall include an annual review of completed audit work measured against a series of key performance indicators that shall be developed, assessed, and updated on an ongoing basis. The planning and scope of the QCMR shall be overseen by the ITL and shall incorporate recommendations made by the Independent Monitor. The QCMR program shall continue on an annual basis until the Final Certificate of Compliance Date.

9. Undertakings Related to Reporting Requirements and the Role of the Independent Monitor

a. Independent Monitor Selection and Retention. PW India shall retain and pay for an independent third-party not unacceptable to PCAOB staff and Commission staff who has experience with public company reporting in the United States and is knowledgeable with Applicable Professional Standards ("Independent Monitor") to review PW India's compliance with the undertakings set forth in this Order. Within 60 days after the entry of this Order, PW India shall submit to PCAOB staff and Commission staff a proposal setting forth the identity, qualifications, and proposed terms of retention of the Independent Monitor. PW India may not retain as the Independent Monitor any individual or entity that has provided legal, auditing, or other services to, or has had any affiliation with, Satyam, PwC IL, or any PwC Network Firm during the prior two years.

PW India agrees that its engagement agreement with the Independent Monitor shall require the Independent Monitor to agree that, for the period of engagement and for a period of two years from completion of the engagement, the Independent Monitor shall not enter into any employment, consultant, attorney-client, auditing, or other professional relationship with Satyam, PwC IL, or any PwC Network Firm, or any of their present or former affiliates, directors, officers, employees, or agents acting in their capacity as such, and shall require that any firm with which the Independent Monitor is affiliated or of which the Independent Monitor is a member, or any person engaged to

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[43/] Subject to review and recommendation of the Independent Monitor, PW India also may develop procedures and measurements designed to review and evaluate the firm's quality control compliance with International Standard on Quality Control 1, which PW India represents may prove relevant in determining PW India's overall quality control environment.

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assist the Independent Monitor in performance of the Independent Monitor's duties under the Order not, without prior written consent of the PCAOB staff and Commission staff, enter into any employment, consultant, attorney-client, auditing, or other professional relationship with Satyam, PwC IL, or a PwC Network Firm, or any of their present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

The term of the Independent Monitor shall expire upon the Final Certificate of Compliance Date. PW India shall not have the authority to terminate the Independent Monitor before the Final Certificate of Compliance Date without the prior written approval of the PCAOB staff and the Commission staff.

b. Role and Responsibilities Overview. As set forth in this Order, the Independent Monitor's roles and responsibilities shall include: (i) pre-appointment review of new members of PW India's Assurance Leadership Team and Lead Partners on SEC Issuer-Audits – such individuals shall not be unacceptable to the Independent Monitor; (ii) approving the appointment of the ITL; (iii) reviewing and recommending revisions to the audit Quality Management System policies and procedures of PW India; (iv) reviewing and recommending revisions to PW India's ECR and QCMR programs and compliance work plans; (v) reporting upon PW India's progress after review and evaluation of PW India's semi-annual and annual reports set forth herein; (vi) assessing and recommending remedial steps deemed necessary to correct any deficiencies identified in the semi-annual and annual reports; (vii) preparing an annual written report concerning PW India's progress in implementing the undertakings; (viii) making findings as set forth in Paragraphs IV(C)(10) and IV(C)(11); and (ix) taking such reasonable steps as, in his or her view, may be necessary to fulfill his or her obligations set forth in this Order.

c. Monitoring Compliance with Undertakings. Within 60 days after retention of an Independent Monitor, PW India shall submit to the Independent Monitor a work plan that describes the manner in which PW India intends to set forth quantifiable goals in which it may measure its ongoing implementation of, and compliance with, the undertakings set forth in this Order. PW India undertakes to permit the Independent Monitor 30 days to make recommendations to its work plan and agrees to make a good faith effort to address and incorporate all such recommendations. PW India shall work cooperatively with the Independent Monitor to resolve any disagreements to the satisfaction of the Independent Monitor. If a matter that the Independent Monitor

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believes is within his or her responsibility cannot be resolved, at the request of the Independent Monitor, PW India shall promptly provide written notice to the Independent Monitor and the PCAOB staff and Commission staff. Any disputes between PW India and the Independent Monitor with respect to the work plan shall be decided by the PCAOB staff and the Commission staff, and PW India shall abide by their decision.

For the period from the effective date of this Order to the Final Certificate of Compliance Date, PW India agrees and undertakes periodically, at no less than six-month intervals, to provide a written report to the Independent Monitor regarding PW India's progress regarding the implementation of, and compliance with, the undertakings set forth in this Order. On an annual basis, PW India shall provide the Independent Monitor with a written report that explains the circumstances surrounding any failure to meet specific quantifiable goals set forth in the work plan (as well as the specific audit involved, if any) and shall provide a detailed description of what steps, if any, PW India has taken and shall take to remedy any such failure. PW India's follow-up reviews shall incorporate comments provided by the Independent Monitor on PW India's prior reviews and reports. As part of PW India's compliance with the undertakings set forth in this Order, the Independent Monitor shall also assess and report annually to PCAOB staff and Commission staff whether PW India is complying with the undertakings regarding SEC Issuer Audits and SEC Issuer Referred Engagement Work.

d. Monitoring Compliance with PW India's Quality Control Management Review and Engagement Compliance Review. Within 60 days after retention of an Independent Monitor, PW India undertakes to engage the ITL to submit to the Independent Monitor the QCMR and ECR proposed plans.

PW India agrees and undertakes that, until the Final Certificate of Compliance Date, the ITL and the two individuals with direct responsibility for the QCMR and ECR (the "Review Team Leaders") shall be senior audit professionals from a PwC Network Firm outside India with experience in U.S. GAAP and PCAOB standards that has not participated in any quality review of PW India prior to September 2010. The ITL must be approved by the Independent Monitor and deemed not unacceptable to both PCAOB staff and Commission staff.

PW India undertakes to engage the ITL to permit the Independent Monitor 60 days to make recommendations to its QCMR and ECR proposed plans and engages the ITL to make a good faith effort to incorporate all such recommendations. PW India shall engage the ITL to work cooperatively with the Independent Monitor to resolve any

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disagreements to the satisfaction of the Independent Monitor. If the matter cannot be resolved, at the request of the Independent Monitor, PW India, through the ITL, shall promptly provide written notice to the Independent Monitor and the PCAOB staff and Commission staff. Any disputes between PW India or the ITL and the Independent Monitor with respect to the QCMR and ECR proposed plans shall be decided by the PCAOB staff and the Commission staff, and their decision shall be final.

(i) Quality Control Management Review Reports. For the period from the effective date of this Order to the Final Certificate of Compliance Date, PW India agrees and undertakes to provide, through the ITL, an annual written report to the Independent Monitor that assesses – and provides documented and supportable findings – as to whether, and to what extent, there is reasonable assurance that PW India's quality controls with respect to SEC Issuer-Related Audit Engagements are in compliance with PCAOB Quality Control Standards. PW India shall undertake follow-up reviews each year until the Final Certificate of Compliance Date, incorporating comments provided by the Independent Monitor on PW India's prior reviews and reports, to further monitor and assess PW India's quality controls.

(ii) Engagement Compliance Review Reports. For the period from the effective date of this Order to the Final Certificate of Compliance Date, PW India agrees and undertakes to provide, through the ITL, an annual written report to the Independent Monitor that assesses and provides documented and supportable findings as to whether, and to what extent, PW India's audits of SEC Issuer-Related Audit Engagements are compliant with Applicable Professional Standards.[44/] Such assessments and findings shall include, but not be limited to, documents sufficient to support the results developed from all engagement reviews from which the report is based. PW India shall undertake follow-up reviews each year until the Final Certificate of Compliance Date, incorporating comments provided by the Independent Monitor on PW India's prior reviews and reports, to further monitor and assess PW India's engagement quality.

(iii) Independent Monitor Annual Report. Within 90 days of receiving the ECR or QCMR report, whichever is later, and for the period from the effective date of this Order to the Final Certificate Date, the Independent Monitor shall prepare an annual report ("IM Report") that assesses whether the QCMRs and ECRs were conducted according to

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[44/] The ITL may opt to issue a single, aggregate report that covers the annual results of both the QCMR and the ECR.

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reasonable procedures and indicates whether the Independent Monitor supports the findings and conclusions set forth in the QCMR and ECR reports. The Independent Monitor may extend the time period for the IM Report for up to thirty calendar days upon prior written notice to PW India, PCAOB staff, Commission staff, and the ITL. Within 30 days of receiving the IM Report, PW India may prepare a written response to the IM Report. If the Final Certificate of Compliance does not take effect within three years of the date of the Order, each IM Report thereafter shall include an assessment regarding whether, and to what extent, PW India continues to make substantial progress toward satisfying the undertakings set forth in this Order.

(iv) Remedial Measures Resulting from Annual Review Reports. To the extent that the annual ECR and QCMR reports, or the resulting IM Report, identify deficiencies or instances of non-compliance with respect to the standards articulated therein, PW India shall submit to the Independent Monitor a Remedial Plan within 60 days of its receipt of the IM Report. PW India shall permit the Independent Monitor 30 days to make recommendations to the remedial plan. PW India shall require the ITL to consult with the Independent Monitor and make a good faith effort to incorporate the remedial plan recommendations into the subsequent period's ECR and QCMR, as appropriate, and PW India shall require the ITL to work cooperatively with the Independent Monitor to resolve any disagreements to the satisfaction of the Independent Monitor. If the matter cannot be resolved, at the request of the Independent Monitor, PW India, through the ITL, shall promptly provide written notice to the Independent Monitor and the PCAOB staff and Commission staff. Any disputes between the ITL and the Independent Monitor with respect to the remedial plan shall be decided by the PCAOB staff and the Commission staff, and their decision shall be final.

(v) Reporting Requirements. PW India's Assurance Leader shall sign all QCMR, ECR, and Remedial Plan reports, attesting that he or she has read and understood their content and certifying satisfaction with any undertakings addressed, findings reached, and remedial steps required in the reports. PW India shall provide copies of all written reports described in this Paragraph to the appropriate PCAOB staff and Commission staff designees no later than 10 days from the date of completion.

(vi) Documentation Requirements. PW India agrees and undertakes to prepare and preserve a copy of all written plans, reports, and responses in connection with the undertakings set forth in this Order. In addition, PW India shall maintain sufficient documentation to provide a clear understanding of its purpose, sources of support, and conclusions that form the basis of all reports set forth in this Order. PW India agrees and

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undertakes that all such documentation shall be made available to the Independent Monitor and, upon reasonable request, to PCAOB staff and Commission staff. All such documentation will be retained for two years following the Final Certification of Compliance Date.

10. Interim Certificate of Compliance. Upon a finding by the Independent Monitor that PW India: (i) has developed an acceptable process for the review of Required Consultations (Paragraph IV(C)(3)(c)) for SEC Issuer Audits by an auditor experienced in U.S. GAAP and PCAOB standards from a PwC Network Firm located outside of India; (ii) has demonstrated significant progress toward completion of the undertakings set forth in this Order; and (iii) has evidenced reasonable assurances from the QCMRs and ECRs that there are no significant deficiencies or instances of material non-compliance with respect to an SEC Issuer Audit or SEC Issuer Referred Engagement Work completed and reviewed for the previous fiscal year, PW India's Chairman and Assurance Leader shall certify in writing that it has satisfied each of the above specified conditions ("Interim Certificate of Compliance"). The Interim Certificate of Compliance shall identify each of the relevant reports in which PW India demonstrated written evidence of satisfaction in the form of a narrative supported by exhibits sufficient to demonstrate compliance. The Interim Certificate of Compliance and supporting material shall be submitted to the appropriate Commission Division of Enforcement and PCAOB Division of Enforcement designee (the "Designees"). Upon receipt of the Interim Certificate of Compliance and any supporting material that the ITL and Independent Monitor deem necessary to support that Certificate, the Designees may make reasonable requests for further documents evidencing compliance and PW India agrees to provide the requested documents to the Designees and the Independent Monitor. Within the earlier of 30 days of receipt of the requested documents or 120 days after receipt of the Interim Certificate of Compliance, the Independent Monitor must either affirm or withdraw his or her initial findings regarding the Interim Certificate of Compliance in writing, a copy of which shall be provided to PW India, the ITL, and the Designees. The Interim Certificate of Compliance takes effect upon confirmation by both Designees that they have received the Independent Monitor's affirmation of findings in writing ("Interim Certificate of Compliance Date"), but in any event the Interim Certificate of Compliance Date shall not be before March 31, 2012.

11. Final Certificate of Compliance. Upon findings by the Independent Monitor that: (i) PW India has complied with the undertakings set forth in this Order; (ii) PW India has evidenced reasonable assurance that its quality controls in place for SEC Issuer-Related Audit Engagements are in compliance with PCAOB Quality Control Standards;

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and (iii) PW India has evidenced reasonable assurances that there are no significant deficiencies or instances of material non-compliance with respect to all of the SEC Issuer-Related Audit Engagements completed and reviewed for the previous two fiscal years, PW India's Chairman and Assurance Leader shall certify in writing that it has satisfied each of the above specified conditions (the "Final Certificate of Compliance"). The Final Certificate of Compliance shall identify each of the relevant reports in which the Independent Monitor has found that PW India demonstrated written evidence of compliance in the form of a narrative supported by exhibits sufficient to demonstrate compliance. The Final Certificate of Compliance and supporting material shall be submitted to the Designees. Upon receipt of the Final Certificate of Compliance and the relevant reports, the Designees may make reasonable requests for further documents evidencing compliance and PW India shall provide the requested documents to the Designees and the Independent Monitor. Within the earlier of 60 days of the Designees' receipt of the requested documents or 120 days after the Designees' receipt of the Final Certificate of Compliance, the Independent Monitor must either affirm or withdraw his or her initial findings regarding the Final Certificate of Compliance in writing, a copy of which shall be provided to PW India, the ITL, and the Designees. The Final Certificate of Compliance takes effect upon confirmation by both Designees that they have received the Independent Monitor's affirmation of findings in writing. ("Final Certificate of Compliance Date").

12. PCAOB Inspections. PW India shall provide the Independent Monitor with (a) inspection comment forms and responses, and (b) draft and final inspection reports, in PW India's possession pertaining to all PCAOB inspections of PCAOB-registered PW India firms that may occur from the date of this Order to the Final Certificate of Compliance Date. The goal of this undertaking is to provide the Independent Monitor with an opportunity to review and identify any criticisms or potential defects in PW India's quality control system that would indicate PW India has failed to evidence reasonable assurance that its quality controls in place for SEC Issuer-Related Audit Engagements are in compliance with PCAOB Quality Control Standards. If the Independent Monitor concludes that the results of a PCAOB inspection of a PCAOB-registered PW India firm are inconsistent with his or her findings made in connection with Paragraph IV(C)(11), the Final Certificate of Compliance Date will not take effect until the Independent Monitor provides a written report to PW India, the ITL, and the Designees that explains how the Independent Monitor has reconciled any such inconsistencies to his or her satisfaction.

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13. From the date of this Order and until the Final Certificate of Compliance Date, PW India agrees and undertakes that its Shared Service Center Engagements shall be subject to the following conditions: (a) all working papers prepared by PW India shall be provided to the Global Engagement Partner or his or her designee; (b) the Global Engagement partner shall engage a senior audit professional from a PwC Network Firm located outside of India to oversee and control the execution of the Shared Service Center Engagement; and (c) the Global Engagement Partner shall assume all responsibility for the Shared Service Center Engagement. The term "Shared Service Center" shall mean an outsourcing facility that is a component of, or a third-party vendor to, an SEC Issuer and which operates, controls, and processes the SEC Issuer's group financial transactions. The term "Shared Service Center Engagement" shall mean an audit engagement in which the Global Engagement Partner for an SEC-issuer group that is audited by a PwC Network Firm instructs PW India to audit the controls and processing of group financial transactions by a Shared Service Center. Where PW India audits a Shared Service Center's own financial statements and that engagement meets the definition of SEC-Issuer Referred Engagement Work, such engagement shall be subject to the limitations on acceptance of SEC-Issuer Referred Engagement Work set forth in Paragraph IV(C)(2), and the Interim Conditions set forth in Paragraph IV(C)(3).

In determining whether to accept the Offers, the Board has considered these undertakings. PW India agrees that if the Board staff believe that PW India has not satisfied these undertakings within a reasonable time, said staff may petition the Board to reopen the matter to determine whether additional sanctions are appropriate.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

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J. Gordon Seymour
Secretary

April 5, 2011

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS In the Matter of Chisholm, Bierwolf, Nilson & Morrill, LLC, Todd D. Chisholm, CPA, and Troy F. Nilson, CPA, *Respondents.*	PCAOB Release No. 105-2011-003 April 8, 2011

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Chisholm, Bierwolf, Nilson & Morrill, LLC (the "Firm" or "CBNM"), and barring Todd D. Chisholm, CPA ("Chisholm") and Troy F. Nilson, CPA ("Nilson") (collectively, "Respondents") from being an associated person of a registered public accounting firm.[1/] The Board is imposing these sanctions on the basis of its findings that: (a) Chisholm and the Firm violated PCAOB rules, quality control standards, and auditing standards in connection with audits of three issuer clients between 2006 and 2007, noncooperation with a Board inspection, and noncooperation with a Board investigation; and (b) Nilson and the Firm violated PCAOB rules and auditing standards in connection with audits of two issuer clients between 2007 and 2008, noncooperation with a Board inspection, and noncooperation with a Board investigation.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, fair and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rules 5200(a)(1) and (3) against Chisholm, Bierwolf, Nilson & Morrill, LLC, Todd D. Chisholm and Troy F. Nilson.

[1/] Nilson may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

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II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers and information obtained by the Board in this matter, the Board finds[2/] that:

A. Respondents

1. Chisholm, Bierwolf, Nilson & Morrill, LLC is a Utah limited liability company with offices in Salt Lake City, Utah, and Bountiful, Utah.[3/] The Firm is licensed by the Utah State Board of Public Accountancy (License No. 5593082-2603). In 2003, the Firm registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. The Firm issued 52 audit reports for fiscal years ending in 2006 and 49 audit reports for fiscal years ending in 2007. During this time, the Firm's public audit practice had two partners, Chisholm and Nilson, and between five and nine professional staff. The Firm's

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[2/] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5)(A), which provides that such sanctions may be imposed in the event of: (a) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (b) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3/] The Firm formed in 2000 as "Bierwolf Nilson & Associates PC." Due to changes in partnership structure, the Firm's name changed to "Chisholm, Bierwolf and Nilson, LLC" in 2004, and finally to "Chisholm, Bierwolf, Nilson & Morrill, LLC" in 2009.

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public audit clients are small issuers that generally trade on the OTC Bulletin Board or the Pink Sheets.

2. Todd D. Chisholm, 48, is a certified public accountant licensed in the State of Utah (License No. 163643-2601). At all relevant times, Chisholm was the Firm's managing partner, and was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. Troy F. Nilson, 45, is a certified public accountant licensed in the State of Utah (License No. 266146-2601). At all relevant times, Nilson was a partner at the Firm and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

4. This matter concerns violations by Chisholm and the Firm of PCAOB rules, quality control standards, and auditing standards in connection with audits of three issuer clients between 2006 and 2007, and violations by Nilson and the Firm of PCAOB rules and auditing standards in connection with audits of two issuer clients between 2007 and 2008. In each of these audit reports, the Firm expressed an unqualified audit opinion, and stated that the audit was conducted in accordance with PCAOB standards, and that the company's financial statements were fairly presented in all material respects in conformity with U.S. Generally Accepted Accounting Principles ("GAAP"). As detailed below, Respondents failed to perform sufficient audit procedures in connection with the issuance of these audit reports in violation of PCAOB rules and auditing standards, and failed to appropriately supervise the work of audit assistants. Respondents' failure to ensure that sufficient audit procedures were performed on the audits resulted from a poor system of quality control, including inappropriate reliance on inexperienced audit assistants, excessive partner workload and deficient audit documentation practices.

5. In addition, Respondents violated PCAOB rules by failing to cooperate with a Board inspection of the Firm in 2007 by adding, and directing the Firm's assistants to add, audit documentation to audit files in advance of the Board inspection. The Respondents engaged in this conduct after the audits' respective document completion dates. Furthermore, Respondents failed to cooperate with a Board investigation of the Firm by altering audit documentation prior to providing that documentation to the staff of the Division of Enforcement and Investigations ("Division staff" or "Division") during the course of a Board investigation relating to the above-referenced audits.

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C. Chisholm and the Firm Violated PCAOB Rules and Quality Control Standards

6. PCAOB rules require that a registered public accounting firm comply with certain quality control standards.[4/] A firm should establish policies and procedures to encompass, among other things, (a) personnel management, (b) acceptance and continuance of clients and engagements, and (c) engagement performance.[5/] These policies and procedures should be communicated to the firm's personnel,[6/] and the firm should implement monitoring procedures to obtain reasonable assurance that its system of quality control is effective.[7/] In addition, PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation of Board standards by that firm.[8/] As described below, the Firm violated the Board's quality control standards in several respects, and Chisholm directly and substantially contributed to those violations.

Personnel Management

7. PCAOB standards provide that policies and procedures should be established to provide the Firm with reasonable assurance that, among other things, (1) those hired possess the appropriate characteristics to enable them to perform competently, and (2) work is assigned to personnel having the degree of technical training and proficiency required in the circumstances.[9/] PCAOB standards further provide that the more able and experienced the personnel assigned to an engagement are, the less direct supervision is needed.[10/] The Firm failed to comply with these standards.

4/ See PCAOB Rules 3100, 3400T.

5/ Quality Control ("QC") § 20.07.

6/ QC § 20.23.

7/ QC § 30.03.

8/ See PCAOB Rule 3502.

9/ QC § 20.13.

10/ QC § 20.11.

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8. At the time of the Firm's 2006 issuer audit engagements, several of the Firm's audit assistants, who performed the majority of work on the audits, had no more than 2 years of auditing experience. These audit assistants were often hired directly out of college with little or no audit experience. Nevertheless, at all relevant times, the Firm failed to train assistants how to audit in accordance with PCAOB standards, thereby failing to reasonably ensure that the Firm's audits were performed in accordance with PCAOB standards.

Acceptance and Continuance of Clients and Engagements

9. PCAOB standards require a firm to "[u]ndertake only those engagements that the firm can reasonably expect to be completed with professional competence."[11/] In calendar years 2006 and 2007, the Firm failed to comply with this standard by accepting more engagements than the Firm's partners and staff could appropriately manage and conduct. Specifically, Chisholm and Nilson each served as auditor with final responsibility for approximately 25 engagements, including domestic and international clients. During the same period, they each served as concurring reviewer on substantially all of each other's engagements.

10. The large number of clients severely limited the amount of time and attention that Chisholm and Nilson, the Firm's only audit partners, could spend providing supervision to audit assistants. As a result, planning for many audits consisted of little more than referring audit assistants to standardized audit programs and checklists, which failed to take into account, among other things, specific audit risks for each engagement.

11. The Firm's typical practice with respect to staffing audit engagements entailed one audit assistant teaming up with either Chisholm or Nilson. Consequently, the large number of issuer audit engagements prevented Chisholm and Nilson from providing appropriate supervision of audit procedures. Audit assistants with limited audit experience were often left to decide for themselves what audit procedures should be performed in an audit. Further, Chisholm and Nilson failed to properly evaluate whether the audit reports issued by the Firm were supported by sufficient competent evidential matter.

[11/] QC § 20.15.

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Engagement Performance

12. PCAOB standards provide that a firm should develop policies and procedures to provide it with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[12/] The Firm heavily relied on audit assistants who possessed little or no prior auditing or accounting experience. There were no policies and procedures in place to ensure that the staff performed procedures necessary to comply with PCAOB standards, or even knew what those standards required.

Chisholm's Substantial Contribution to Quality Control Violations

13. Chisholm was the managing partner of the Firm during the relevant time period and was principally responsible for setting the tone at the top.[13/] As the managing partner, Chisholm was responsible for designing, implementing and monitoring the Firm's system of quality control.[14/] Accordingly, Chisholm had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. He also was responsible for ensuring that the Firm staffed its issuer audit engagements with audit staff who had sufficient professional competence and were properly supervised. Chisholm was aware of the minimal training and inexperience of the Firm's audit staff. Notwithstanding their lack of adequate training and experience, he staffed his audit engagements and allowed the Firm to staff other issuer audit engagements with that staff. Further, Chisholm knew that the level of supervision that he and Nilson provided to the audit staff was not sufficient to overcome their lack of training and experience. All of the Firm's conduct described in paragraphs 8 through 12 above was either conduct of Chisholm's or omissions to act for which Chisholm was responsible. With respect to all such acts and omissions, Chisholm knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's quality control failings described above, which constituted violations of the Board's quality control standards. Chisholm thereby violated PCAOB Rule 3502.

12/ QC § 20.17.

13/ Chisholm was also responsible for personnel decisions at the Firm and his compensation was considerably higher than that of the other partners, including Nilson's.

14/ QC § 20.20.

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D. Respondents Violated PCAOB Rules and Auditing Standards

14. In connection with the preparation and issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards and related professional practice standards.[15/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[16/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[17/]

15. Respondents failed to meet these standards in connection with the audits of four issuers, specifically the audits of the financial statements of: Hendrx Corp. ("Hendrx") for calendar years 2006 and 2007; Powder River Petroleum International, Inc. ("Powder River") for calendar years 2006 and 2007; AlphaTrade.com ("AlphaTrade") for calendar year 2007; and Jade Art Group Inc. ("Jade Art") for calendar year 2008. As detailed below, (a) Chisholm and the Firm violated PCAOB rules and auditing standards in connection with audits of three issuer clients between 2006 and 2007, noncooperation with a Board inspection, and noncooperation with a Board investigation, and (b) Nilson and the Firm violated PCAOB rules and auditing standards in connection with audits of two issuer clients between 2007 and 2008, noncooperation with a Board inspection, and noncooperation with a Board investigation.

1. Chisholm and the Firm's Audit Violations

a. Audits of Hendrx's 2006 and 2007 Financial Statements

16. Hendrx is a Nevada corporation with its principal office in Vancouver, Canada. Its common stock is registered with the Securities and Exchange Commission ("Commission") under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and is traded on the OTC Bulletin Board and the Pink Sheets. The company's

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15/ See PCAOB Rules 3100, 3200T.

16/ See AU § 508.07, *Reports on Audited Financial Statements.*

17/ See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; and AU § 326, *Evidential Matter*.

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public filings disclose that in 2004 it acquired 100% of the issued shares of Eastway Global Investment LTD, a British Virgin Islands corporation, and its wholly-owned operating subsidiary, Fujian Yuxin Electronic Equipment Co., based in the People's Republic of China. Hendrx's public filings disclose that it is engaged in the research, development, manufacture and distribution of water generation, filtration and purification devices. At all times relevant to this Order, Hendrx was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

17. The Firm audited Hendrx's 2006 financial statements and issued an audit report dated March 11, 2007, which was included in Hendrx's Form 10-KSB filed with the Commission on April 3, 2007.[18/] The Firm also audited Hendrx's 2007 financial statements and issued an audit report dated February 18, 2008, which was included in Hendrx's Form 10-K filed with the Commission on April 14, 2008. Chisholm was the audit engagement partner with final responsibility for both the 2006 and 2007 audits, while Nilson served as the concurring review partner.

18. Audit field work occurred primarily at the issuer's main operating facility in the People's Republic of China. Chisholm, who does not speak or understand Chinese, relied on Firm assistants with Chinese language skills to identify audit issues, communicate with management and third-parties, and analyze documents provided by the issuer.

i. Audit of Hendrx's 2006 Financial Statements

19. Hendrx's 2006 financial statements disclose goodwill in the amount of $31,854,137, representing 74% of total assets. Goodwill should be tested for impairment at least annually, and more frequently if events occur or circumstances change that would, more likely than not, reduce the fair value below its carrying amount.[19/] Chisholm and the Firm failed to perform sufficient audit procedures to determine whether management had appropriately tested goodwill for impairment. Even though Hendrx's financial statements disclose that its primary valuation technique for determining goodwill impairment was a discounted cash flow analysis, there is no

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[18/] On May 29, 2007, the issuer filed a Form 10-KSB/A for this same reporting period. The amendments contained in the 10-KSB/A were not related to the audited financial statements.

[19/] Impairment is the condition that exists when the carrying amount of goodwill exceeds its implied fair value. See SFAS 142, "*Goodwill and Other Intangible Assets,*" ¶¶ 18, 26 and 28.

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audit evidence indicating that Chisholm and the Firm obtained and reviewed such analysis.[20/] Moreover, Chisholm and the Firm failed to consider audit evidence indicating that current year revenues had declined by 50%, which contradicted management's representations concerning an expected increase in the demand for its product. Instead, Chisholm and the Firm, in violation of PCAOB standards, simply relied on management representations that goodwill should not be impaired.[21/]

20. In relying exclusively on management representations, Chisholm and the Firm also failed to consider other events and circumstances indicating the potential for impairment of goodwill, including (i) technical issues associated with Hendrx's primary product, (ii) impairment of the value of patents granted under the laws of the People's Republic of China ("Chinese Patents"), which related to Hendrx's primary product, and (iii) legal disputes concerning ownership rights in the Chinese Patents.[22/]

21. By accepting management's representation that goodwill was not impaired, Chisholm and the Firm also failed to obtain sufficient competent evidential matter to provide reasonable assurance that management's accounting estimates in determining the fair value of goodwill—which could have been material to the financial statements—had been developed, were reasonable under the circumstances, were presented in conformity with applicable accounting principles, and were properly disclosed.[23/] Chisholm and the Firm also failed to obtain an understanding as to how Hendrx developed its estimate concerning the fair value of goodwill, either by reviewing and testing the process used by management to develop the estimate, or by developing an independent expectation of the estimate to corroborate the reasonableness of management's estimate.[24/]

22. Hendrx's 2006 financial statements disclose that the Chinese Patents, which were included in intangible assets, had a net book value of $1,238,093. Hendrx relied on a report prepared by a Chinese firm to appraise and assess the fair market value of its patents. Based on an appraisal prepared by the Chinese firm, Hendrx wrote

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[20/] See AU § 326, AU §230.

[21/] See AU §§ 333.02; 333.04, *Management Representations*.

[22/] See AU § 230.

[23/] See AU § 342.07, *Auditing Accounting Estimates*.

[24/] See AU § 342.10.

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down the value of the Chinese Patents by $358,350, representing a 12% net loss for the year ended December 31, 2006. Chisholm and the Firm failed to perform sufficient audit procedures to evaluate if Hendrx's reliance on the report was appropriate. Chisholm and the Firm failed to evaluate appropriately the professional qualifications of the firm that prepared the appraisal to determine whether the firm possessed the necessary skill or knowledge to perform the appraisal, including whether the firm possessed any professional certification, license, or other recognition of the firm's competence as appraisers, the firm's reputation and standing in the views of its peers and others familiar with the firm's capability or performance, or the firm's experience in the type of appraisal work under consideration.[25/] Chisholm and the Firm also failed to obtain an understanding of the nature of the work performed by the firm that prepared the appraisal, including the objectives and scope of the firm's work, and any relationship with Hendrx.[26/] Finally, Chisholm and the Firm also failed to obtain an understanding of the methods and assumptions used by the firm that prepared the appraisal, to make appropriate tests of data provided to the firm, and to evaluate whether the findings with respect to the Chinese Patents supported the related assertions in the financial statements.[27/]

ii. Audit of Hendrx's 2007 Financial Statements

23. Chisholm and the Firm violated various PCAOB auditing standards in the course of the 2007 Hendrx audit. During the 2007 audit, Chisholm and the Firm again failed to evaluate sufficiently management's reliance on the Chinese firm's report with respect to the appraisal of the fair value of the Chinese Patents.[28/]

24. Chisholm and the Firm also repeated the failures of the prior year's audit in connection with Hendrx's goodwill. During the 2007 audit, Chisholm and the Firm failed to perform sufficient audit procedures to test management's determination concerning the impairment of goodwill. Chisholm and the Firm initially determined that goodwill should be impaired by 50%. Without any apparent basis or audit evidence,

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[25/] See AU§336.08, *Using the Work of a Specialist.*

[26/] See AU § 336.09.

[27/] See AU § 336.12.

[28/] See AU §§ 336.08, 336.09, 336.12.

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Chisholm ultimately compromised with management that goodwill should be impaired by only 25%.[29/]

25. During the 2007 audit, Chisholm and the Firm also failed to perform a retrospective review of management's previous estimates of the fair value of goodwill and intangible assets to determine whether management's judgments and assumptions relating to the estimates indicated possible bias on the part of management and were reasonable.[30/]

26. Finally, Chisholm and the Firm failed to perform sufficient audit procedures related to the confirmation of certain accounts receivable selected for confirmation during the 2007 audit. Accounts receivable represented 17.5% of total current assets in Hendrx's 2007 financial statements. The engagement team failed to maintain control over the confirmation process and instead relied on the issuer's Chinese operating subsidiary's personnel to receive responses directly from the intended recipients and forward them to Firm auditors by email. Chisholm and the Firm took no steps to assure that the confirmations responses received were accurate, and relied on such confirmation responses to substantiate all of the confirmed accounts receivables of the operating subsidiary.[31/]

b. Audit of AlphaTrade.com's 2007 Financial Statements

27. AlphaTrade.com ("AlphaTrade") is a Nevada corporation based in Vancouver, Canada. Its common stock is registered with the Commission under Section 12(g) of the Exchange Act and is traded on the OTC Bulletin Board. In its public filings, the company states that it began as a web stock quote service that developed into a digital media marketing agency. At all relevant times, AlphaTrade was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii) .

28. The Firm audited AlphaTrade's 2007 financial statements. Chisholm was the auditor with final responsibility for the audit, and had supervisory responsibility for the assistants assigned to the engagement. Audit field work occurred at the issuer's

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[29/] See AU § 326; AU § 328, *Auditing Fair Value Measurements and Disclosures*, and AU § 230.

[30/] See AU § 316.64, *Consideration of Fraud in a Financial Statement Audit*.

[31/] See AU § 330.28, *The Confirmation Process.*

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facility in Vancouver, Canada. On January 18, 2008, the Firm issued an audit report which was included in the Form 10-K filed by AlphaTrade on April 2, 2008.

29. Chisholm and the Firm violated PCAOB standards during the 2007 audit of AlphaTrade. Chisholm and the Firm failed to exercise due professional care in the performance of the audit by failing to identify and address a departure from GAAP.[32/] The Firm's work papers contained all relevant agreements pertaining to AlphaTrade's advertising services, which included service periods extending beyond 2007 year end and into 2008. In exchange for these services, AlphaTrade accepted upfront payments in the form of equity securities issued by its customers. AlphaTrade was required to recognize revenue at the point in time in which revenue was realized or realizable and earned in accordance with GAAP, and to defer revenue relating to services to be provided in periods subsequent to its financial statements for which the related compensation had been received or recorded.[33/] Although the agreements pertaining to the issuer's advertising services featured elements requiring deferred revenue, the Firm did not determine that AlphaTrade should have been deferring revenue it was not deferring under these agreements.

30. During the audit of AlphaTrade's 2008 financial statements matters arose that led Chisholm and the Firm to review the prior year's audit documentation with respect to AlphaTrade's revenue agreements. During that review, the Firm realized that AlphaTrade had improperly recognized revenue under these agreements, as described above. As a result of this discovery, the issuer subsequently restated its 2007 financial statements, which reduced reported revenues by $885,600 (approximately 15%) and increased reported net loss by the same amount, or 24%. The Firm thus issued a revised unqualified audit opinion dated March 17, 2009.

[32/] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. Any descriptions in this Order of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflect the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures in this Order, however, should not be understood as an indication that the Securities and Exchange Commission has considered or made any determination concerning the issuer's compliance with GAAP.

[33/] See Statement of Financial Accounting Concepts No. 5, "*Recognition and Measurement in Financial Statements of Business Enterprises - Recognition Criteria*," ¶¶ 83-84.

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31. According to GAAP, at each reporting period, securities classified as available-for-sale are required to be assessed to determine whether a decline in fair value is other than temporary. If there is a decline in fair value that is other than temporary, then the cost basis of the security shall be written down to fair value and the amount of the write-down shall be accounted for as a realized loss, as opposed to inclusion in other comprehensive income.[34/] In AlphaTrade's 2007 financial statements, total marketable securities available-for-sale constituted $664,090 (approximately 56%) of AlphaTrade's total assets. Chisholm and the Firm failed to perform any audit procedures to evaluate whether the decline in fair value of marketable securities available-for-sale was other than temporary.[35/] For all equity securities available-for-sale as of December 31, 2007 the fair value was 29% of cost basis; about one-half of those securities had been held greater than one year, for which fair value was only 6% of the original cost basis. Chisholm and the Firm failed to consider these factors indicating that the decline in fair value was other than temporary.[36/]

c. Audit of Powder River's 2006 Financial Statements

32. Powder River Petroleum International, Inc., formerly known as Powder River Basin Gas Corp. ("Powder River"), was an Oklahoma corporation with its principal office in Alberta, Canada. At all relevant times, Powder River's common stock was

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[34/] See SFAS No. 115, "*Accounting for Certain Investments in Debt and Equity Securities,*" ¶ 16. See also Staff Accounting Bulletin Topic 5.M., "Other than Temporary Impairment of Certain Investments in Equity Securities," which provides the following examples of factors that, individually or in combination, indicate that a decline in value of an equity security classified as available-for-sale is other than temporary: (a) the length of time and the extent to which the market value has been less than cost, (b) the financial condition and near-term prospects of the issuer, and (c) the intent and ability of the holder to retain its investment in the issuer for a period of time sufficient to allow for any anticipated recovery in market value.

[35/] AlphaTrade filed restated 2007 financial statements for a second time on April 22, 2010, to recognize a 25% increase to its net loss resulting from a write-down for other than temporary impairment. Included with the second restated financial statements was a revised audit opinion by the Firm dated March 23, 2010. Since AlphaTrade had dismissed the Firm as its independent auditor on April 16, 2009, the Firm was not AlphaTrade's independent registered public accounting firm at the time of this second restatement.

[36/] See AU § 230.

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registered with the Commission under Section 12(g) of the Exchange Act and was traded on the OTC Bulletin Board and Pink Sheets. Powder River was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Until placed into receivership in 2008, Powder River's public filings reported that it was in the business of acquiring, developing and reselling working interests in oil and gas properties.[37/] The company disclosed that it used the proceeds of such sales to acquire additional working interests and to develop oil fields for actual petroleum production. Powder River sold these working interests to various third-party purchasers ("Third Parties") through an intermediary investment group in Singapore, Oilpods Singapore Pte, Ltd ("Intermediary"), who marketed the working interests to the Third Parties in exchange for commissions. Sales of these working interests, net of commission, accounted for 95% of the issuer's total revenues in 2006, or $13,174,394.[38/]

33. The Firm audited Powder River's 2006 financial statements. Chisholm was the auditor with final responsibility for the audit, and exercised supervisory responsibility for Firm assistants assigned to the engagement, while Nilson was the concurring review partner. Audit field work occurred at the issuer's offices in Alberta, Canada. On March 7, 2007, the Firm issued an audit report on Powder River's 2006 financial statements which was included in the Form 10-KSB filed by Powder River with the Commission on April 3, 2007.

[37/] Oil and gas producing companies at times obtain exploration and development capital through the sale of "working interests" (or "operating interests") to third-parties, who provide capital in exchange for an entitlement to future earnings from the production and sale of oil and gas on the properties being developed. Owners of working interests bear most or all of the cost of development and operation of the property. See *AICPA Audit and Accounting Guides - Audits of Entities with Oil and Gas Producing Activities*, ¶¶ 1.15 and 1.30.

[38/] Powder River's 2006 financial statements, which were included in the Form 10-KSB filing, disclosed its revenue recognition policy for the sale of working interests as follows: "The Company is also in the business of selling working interest to an investment group in Singapore. As the Company finds and purchases new properties, it makes arrangements to sell partial working interests to various individuals referred by the Singapore group. The revenues are recorded as operating revenues, net of any commission or other costs associated with earning the revenues. The related percentage of capitalized cost of the property sold is also removed from the oil and gas property account and offset against the proceeds to calculate the net revenue recorded in the operating revenues."

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34. During the audit of Powder River's 2006 financial statements, Chisholm and the Firm violated various PCAOB standards, including a failure to perform sufficient audit procedures with respect to revenues recognized from the sale of working interests in oil and gas properties. Although Chisholm and the Firm were aware of a 9% guaranteed return owed by Powder River to the Third Parties, they failed to evaluate the impact of the guarantee on the accounting treatment for those sales. Chisholm and the Firm should have considered: (a) whether the 9% guaranteed return, which was not disclosed in Powder River's 2006 financial statements, ought to have been disclosed; and (b) whether the associated sales of working interests should have been accounted for as a borrowing as opposed to revenue.[39/] Chisholm and the Firm also failed to perform any procedures with respect to commissions owed to the Intermediary, which were netted against revenues and approximated 22% of total gross revenues from property and working interest sales.[40/]

35. Chisholm and the Firm also failed to consider, or exercise professional skepticism in evaluating, whether information obtained during the audit represented risk factors for fraud.[41/] This information included: (i) the high percentage of revenues (95%) from the sale of working interests in contrast to the minor amount of revenue realized through petroleum production (the remaining 5%), (ii) the issuer's commitment to pay a 9% return to the Third Parties irrespective of success or failure in the development of oil fields, and (iii) the ambiguous roles of the parties involved in the purchases and sales of working interests.[42/]

[39/] Certain transactions, sometimes referred to as conveyances, are in substance borrowings repayable in cash or its equivalent and shall be accounted for as borrowings. See SFAS 19, "*Financial Accounting and Reporting by Oil and Gas Producing Companies*," ¶ 42-47.

[40/] See AU § 326 and AU § 230.07.

[41/] See AU §§ 316.13, and 316.31 - 316.34.

[42/] On September 2, 2008, Powder River filed a Form 8-K with the Commission disclosing that the Intermediary and certain Third Parties had filed suit against Powder River and its CEO. According to the Form 8-K filing, which incorporated the initial report of the court-appointed receiver, the Intermediary and the Third Parties alleged that the issuer and the CEO engaged in gross negligence and fraud in a number of respects, including (a) failing to drill or perform promised re-completion work on leases, (b) hiring an operator with a criminal and regulatory history of investor fraud, (c) failing to take steps to preserve company assets, (d) taking actions which caused the

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36. Chisholm and the Firm inappropriately relied on uncorroborated representations by management in understanding the arrangements among the issuer, the Intermediary and the Third Parties,[43/] notwithstanding contradictory evidence.[44/] Chisholm and the Firm also inappropriately relied on testing and analysis of the sale of working interests prepared by a consultant hired by the issuer. Consequently, Chisholm and the Firm failed to exercise due professional care.[45/]

37. Generally, estimates of oil and gas reserves for financial reporting purposes are prepared by specialists, such as petroleum reservoir engineers and geologists. During the 2006 audit, Chisholm and the Firm relied on the work of specialists who had been retained by the issuer with respect to estimates of oil and gas reserves.[46/] Specifically, in assessing impairment and evaluating depletion expense with respect to capitalized costs of oil and gas properties, Chisholm and the Firm

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unreasonable loss of company assets, (e) withholding funds due to Powder River from affiliated entities controlled by the CEO, (f) transferring company assets without an exchange of reasonably equivalent value, (g) filing misleading reports with regulators, and (h) paying the CEO an exorbitant salary and bonuses that were not justified under the circumstances. At the time of this Order, that matter remained pending in the District Court of Tulsa County (State of Oklahoma), docket number CJ-2008-4855.

[43/] See AU § 333.04.

[44/] Some audit evidence suggested that the Intermediary acted as Powder River's sales agent. Other audit evidence indicated that the Intermediary itself purchased working interests from Powder River, and then resold the working interests to the Third Parties.

[45/] See AU § 230.07.

[46/] Estimates of oil and gas reserves are made by specialists for entities as a part of their ongoing business practices. Information about reserves typically may include, among other things, estimates of: (i) the reserves quantities; (ii) the future-producing rates from such reserves; (iii) the future net revenue from such reserves; and (iv) the present value of such future net revenue. The exact type and extent of such information must necessarily take into account the purpose for which it is being prepared and, correspondingly, statutory and regulatory provisions, if any, that are applicable to its intended use. See *AICPA Audit and Accounting Guides - Audits of Entities with Oil and Gas Producing Activities*, Appendix B, ¶ 1.1.

obtained and relied on only a few pages from each of the specialists' reports. Further, Chisholm and the Firm took no steps to evaluate the professional qualifications of the specialists to determine if they possessed the necessary skill or knowledge to perform the work, nor did they obtain an understanding of the nature of the specialists' work, including the objectives and scope of that work.[47/] Chisholm and the Firm failed to evaluate the specialists' relationship with the issuer.[48/] Finally, Chisholm and the Firm failed to perform procedures to obtain an understanding of the methods and assumptions used by the specialists, to make appropriate tests of the data provided to and used by the specialists, or to evaluate whether the specialists' findings supported the related assertions in the financial statements.[49/]

2. Nilson and the Firm's Audit Violations

a. Audit of Powder River's 2007 Financial Statements

38. The Firm audited Powder River's 2007 financial statements. Nilson served as the auditor with final responsibility for the 2007 audit, and exercised supervisory responsibility for the Firm assistants assigned to the engagement.[50/] Audit field work occurred at the issuer's offices in Alberta, Canada. On March 19, 2008, the Firm issued an audit report which was included in the Form 10-KSB filing made by Powder River on April 14, 2008.

39. Nilson and the Firm violated PCAOB standards during the 2007 Powder River audit. This was Nilson's first year as the auditor with final responsibility for the Powder River audit, and Nilson had limited experience in performing audits related to the oil and gas industry. Despite these facts, Nilson failed to gain a sufficient understanding of the client's business or to obtain the technical competency needed to perform an audit in that industry.[51/] To prepare for the audit, Nilson merely relied on Chisholm's general descriptions of the client's business operations and financial

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[47/] See AU § 336.08, AU § 336.09.

[48/] See AU § 336.10.

[49/] See AU § 336.12.

[50] The Firm represented that due to audit partner rotation rules, Chisholm rotated off of the engagement following the 2006 audit.

[51/] See AU §§ 230.05 and 230.06.

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condition, and on the prior year's audit documentation. During the 2007 Powder River audit, planning consisted of little more than reference to the prior year's audit work papers, and referring Firm assistants to standardized audit programs and checklists. No steps were taken to identify the risks of material error or fraud and thereby develop a tailored audit plan.

40. Nilson and the Firm failed to obtain sufficient competent audit evidence regarding Powder River's sales of working interests. Nilson and the Firm relied on uncorroborated representations made by Powder River's management concerning Powder River's 2007 revenues.[52/] Specifically, Nilson and the Firm failed to obtain a sufficient understanding of the arrangements for revenues generated from the sales of working interests, including the impact on revenue of the 9% return on investment guaranteed by Powder River to the Third Parties. Nilson, without sufficient understanding of the industry and related revenue recognition methodologies to provide adequate supervision, relied on a Firm assistant to audit revenues.

41. Powder River's 2007 financial statements disclosed net accounts receivable of approximately $1.2 million, which included an outstanding receivable from the Intermediary in the amount of $510,000 (approximately 42% of total accounts receivable). Nilson and the Firm failed to obtain sufficient competent evidential matter to support this material outstanding receivable. Nilson and the Firm requested a confirmation from the Intermediary, and after the Intermediary failed to provide a response to the confirmation request, Nilson and the Firm failed to perform alternative procedures. Instead, Nilson and the Firm solely relied on an amount represented by management as owed by the Intermediary.[53/] Similarly, Nilson and the Firm failed to perform any audit procedures with respect to commissions earned by the Intermediary for the sales of working interests which, as noted above, were netted against revenues and accounted for approximately 23% of total gross revenues from working interest sales.

42. During the 2007 audit, Nilson and the Firm failed to consider or exercise professional skepticism in evaluating whether information obtained during the audit represented risk factors for fraud. This information included: (i) the high percentage of revenues from the sale of working interests (in contrast to the minor amount of revenue realized through oil production), (ii) the issuer's commitment to pay a 9% return to the Third Parties irrespective of the success or failure in the development of oil fields, and

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[52/] See AU § 326 and AU § 333.

[53/] See AU §§ 330.31 - 330.32, AU § 333.02.

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(iii) the ambiguous roles of the parties involved in the purchases and sales of working interests.[54/]

43. During the 2007 audit, Nilson and the Firm inappropriately relied on the same few pages from the specialists' reports used during the 2006 audit in assessing impairment and evaluating depletion expense with respect to capitalized costs of oil and gas properties. As with the 2006 audit, Nilson and the Firm failed to take any steps to evaluate the professional qualifications of the specialists to determine if they possessed the necessary skill or knowledge to perform the work, and also failed to assess their relationship with the client and obtain an understanding of the nature of the work performed as required by PCAOB standards.[55/] Nilson and the Firm failed to obtain an understanding of the methods and assumptions used by the specialists, make appropriate tests of data provided to and used by the specialists, and evaluate whether the specialists' findings supported the related assertions in the financial statements.[56] Compounding these failures was the fact that the reserve reports relied on by Nilson and Firm were the same reports used for the 2006 audit, even though such reports should have been updated at least annually.[57/]

44. Finally, Nilson and Firm failed to obtain sufficient competent evidential matter regarding amounts disclosed in the financial statements as notes payable and

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[54/] See AU § 316.13, and 316.31 to 316.34.

[55/] See AU §§ 336.08, 336.09 and 336.10.

[56/] See AU § 336.12.

[57/] See *AICPA Audit and Accounting Guides - Audits of Entities with Oil and Gas Producing Activities*, ¶2.88 ("Oil and gas companies should revise reserve estimates whenever there is an indication of the need for revision, at least annually"). See also, *id*., at ¶5.106 (Capital Cost Limitations), which provides the following: "The full cost method prescribes a ceiling test for capitalized costs. The auditor should review the components of the cost ceiling computation to determine that they are computed in accordance with the prescribed guidelines. The rationale behind the ceiling test is that oil and gas property costs should be recoverable from the underlying assets. Therefore, any capitalized costs—net of accumulated [depletion, depreciation, and amortization] and related deferred income taxes—in excess of the ceiling are written off to expense. In those situations where costs approach or exceed the ceiling, it may be advisable to consider consultation with independent outside specialists."

represented by management to be outstanding from an installment sales agreement.[58/] The agreement related to Powder River's acquisition of a leasehold in an oilfield which was recorded as an asset within "Net Oil and Gas Properties" on Powder River's 2007 financial statements. According to the December 31, 2007 financial statements, the balance shown as notes payable under this agreement was $5,025,000, or 47%, of total liabilities. When the Firm did not receive a response to its request for a confirmation concerning the unpaid balance, Nilson and the Firm performed alternative procedures, tracing installment payments to bank statements. Nilson and the Firm failed to exercise due professional care in performing this procedure, as they failed to identify from the bank statements that Powder River made these installment payments to an entity that was not the counterparty under the installment agreement.[59/] Moreover, the copy of the installment agreement contained in the audit documentation clearly stated that the final installment payment under the agreement had been due by December 15, 2006. Nilson and the Firm failed to investigate the circumstances surrounding these contradictions and corroborate management's representations that the installment agreement had been modified and the terms extended.[60/]

b. Audit of Jade Art Group, Inc.'s 2008 Financial Statements

45. Jade Art Group, Inc. ("Jade Art") is a Nevada corporation with its principal place of business in the People's Republic of China. Its common stock is traded on the OTC Bulletin Board and Pink Sheets. In its public filings, the company states that in 2008, it formed a wholly-owned Chinese subsidiary, JiangXi SheTai Jade Industrial Company Limited, to engage in the sale and distribution of raw jade throughout China. At all relevant times, Jade Art was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

46. The Firm audited Jade Art's 2008 financial statements. Nilson was the auditor with final responsibility for the audit, and exercised supervisory responsibility for the Firm assistants assigned to the engagement. Nilson and Firm assistants performed audit field work at the issuer's offices in China. On May 15, 2009, the Firm issued an audit report, which was included in the Form 10-K filed with the Commission on May 18, 2009.

58/ See AU § 326.

59/ See AU § 230.

60/ See AU § 333.04.

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47. Nilson and the Firm violated PCAOB standards during the 2008 Jade Art audit. Planning consisted of little more than referring Firm assistants to standardized audit programs and checklists. Nilson provided insufficient guidance to Firm assistants assigned to the audit beyond providing the standardized audit programs and checklists. Nilson improperly delegated to Firm assistants with insufficient audit experience the decisions about what audit procedures should be performed.[61/]

48. Nilson and the Firm violated additional PCAOB auditing standards during the 2008 Jade Art audit. The issuer disclosed that it had engaged in a non-monetary exchange transaction in which it had exchanged its rights in a wood-carving subsidiary for the exclusive right to distribute certain amounts of raw jade from a mining operation at specified prices. Generally, GAAP requires that the cost of the jade distribution right be determined by the fair value of the wood-carving subsidiary surrendered in that exchange, unless the fair value of the jade distribution right received was more clearly evident.[62/] In Jade Art's 2008 financial statements, the fair value of this distribution right comprised 98% of its total assets and was based on an appraisal of the wood-carving business relinquished in the exchange.

49. To test the amounts recorded by the issuer in the non-monetary exchange, Nilson and the Firm relied on unverified, unsigned documents that they understood to be translations of reports originally prepared by a Chinese appraisal organization. Nilson and the Firm took no steps to evaluate the professional qualifications of the appraisal organization to determine that it possessed the necessary skill or knowledge to perform the appraisals and reach the conclusions described in the appraisals. Nilson and the Firm did not assess the appraisal organization's professional certifications, license, or other recognition of its competence. Nilson and the Firm did not inquire as to the organization's reputation and standing in the views of its peers and others familiar with its past performance, nor did they inquire as to the organization's experience in the type of work under consideration, all as required by PCAOB standards.[63/] Nilson and the Firm failed to obtain an understanding of the methods and assumptions used by the appraisal organization, to make appropriate tests of data provided to and used by the appraisal organization, or to evaluate whether the appraisal

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[61/] See AU § 311.11.

[62/] See Statement of Financial Accounting Standards No. 153, *Exchanges of Nonmonetary Assets*, and Accounting Principles Board Opinion No. 29, *Accounting for Nonmonetary Transactions.*

[63/] See AU §§ 336.08.

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organization's findings supported the related assertions in the financial statements. Nilson and the Firm failed to obtain an understanding of the nature of the work performed by the appraisal organization, including the objectives and scope of that work, and did not assess whether the organization had a relationship with the client.[64/] Finally, Nilson and the Firm failed to obtain copies of the original appraisal reports or any evidence that the documents on which they relied were true or complete translations of the original reports that they purported to represent.[65/]

50. Nilson and the Firm failed to obtain sufficient competent evidential matter regarding the amortization by Jade Art of the intangible distribution right. Specifically, Nilson and the Firm failed to determine whether the intangible distribution right was being amortized over the useful life to the reporting entity and whether the method of amortization reflected the pattern in which the economic benefits of the intangible asset were being consumed. Nilson and the Firm accepted Jade Art management's representation that the distribution right should be amortized on a straight line basis over 25 years, even though according to the contract, the life of the distribution right was 50 years.[66/]

51. During planning, Nilson and the Firm concluded that deteriorating business conditions in China warranted an evaluation of potential impairment of the intangible asset representing Jade Art's distribution right.[67/] Despite this conclusion, the Firm performed no audit procedures to test for the impairment of the intangible asset.[68/]

[64/] See AU § 336.09.

[65/] See AU § 326.21.

[66/] See AU § 326, and Financial Accounting Standard 142, *Goodwill and Other Intangible Assets,* ¶11 (Determining the Useful Life of an Intangible Asset).

[67/] According to SFAS 142, ¶15, an intangible asset that is subject to amortization shall be reviewed for impairment in accordance with SFAS 144, "*Accounting for the Impairment or Disposal of Long-Lived Assets*," which requires long lived assets to be tested for recoverability whenever events or changes in circumstances indicate that their carrying amounts may not be recoverable. Such events or changes in circumstances include, but are not limited to, current period operating or cash flow losses or a projection or forecast that demonstrates continuing losses associated with the use of the long lived asset.

[68/] See AU § 328.20 to 328.22.

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52. Nilson and the Firm failed to perform sufficient audit procedures to test Jade Art's costs of goods sold. Nilson and the Firm inappropriately relied on a substantive analytical review of month-to-month gross profit without either assessing the appropriateness of the resulting gross profit percentage or developing expectations to be used in connection with the analytical procedure.[69/]

E. Respondents Failed to Adequately Supervise Firm Assistants

53. PCAOB standards require that audit field work "be adequately planned."[70/] In planning an audit, "the auditor should consider the nature, extent, and timing of work to be performed and should prepare a written audit program (or set of written audit programs) for every audit."[71/] PCAOB standards require the auditor with final responsibility for the audit to direct the efforts of assistants who are involved in accomplishing the objectives of the audit, determine whether those objectives were accomplished, remain informed of significant problems encountered, and review the work performed, all commensurate with the complexity of the subject matter and the qualifications of the assistants.[72/]

54. Respondents violated these standards during the audit engagements described above. In each engagement, planning consisted of little more than referring Firm assistants to standardized audit programs and checklists. In addition, Respondents provided insufficient guidance to Firm assistants assigned to the audits beyond providing the standardized audit programs and checklists. Respondents improperly delegated decisions as to what audit procedures should be performed to Firm assistants with limited audit experience.[73/]

69/ See AU § 329.09 - .22, *Analytical Procedures.*

70/ See AU § 311.01, *Planning and Supervision.*

71/ See AU § 311.05.

72/ See AU § 311.11.

73/ See AU § 311.11.

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F. Respondents Engaged in Multiple and Repeated Violations of PCAOB Auditing Standard No. 3

55. Auditing Standard No. 3, *Audit Documentation*, ("AS No. 3") requires that an auditor prepare audit documentation in sufficient detail to document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions, and to demonstrate clearly that the work was in fact performed.[74/] Prior to the report release date, the auditor must have completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report. A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (documentation completion date).[75/] Circumstances may require additions to audit documentation after the report release date. While information and documentation may be added after that date, any added information or documentation must indicate the date the information was added, the name of the person who added the additional documentation, and the reason for adding it.[76/]

56. In the summer of 2007, Respondents received notice that the Board's Division of Registration and Inspections ("Inspections") planned to inspect the Firm in the fall of 2007. In preparation for the Board's inspection, Chisholm and Nilson, and at their instruction, Firm assistants, created and added audit documentation to the audit files that were subject to the inspection months after the audits' respective document completion dates. Chisholm and Nilson created and added audit documentation to the audit files to create the misleading appearance that the Firm had performed, documented and signed-off on audit procedures prior to the issuance of the audit opinions and the audit completion dates. Chisholm and Nilson did not document, or instruct the assistants to document, in the audit files that (1) the audit documentation described above had been created or changed after the documentation completion dates, or (2) certain audit procedures had been performed after the audit report release dates.

57. At the direction of Chisholm and Nilson, several Firm assistants spent hundreds of hours between August and October 2007 creating and adding this audit documentation to audit files that were subject to the Board's inspection. Among other

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74/ See AS No. 3, ¶¶ 4 and 6.

75/ See AS No. 3, ¶ 15.

76/ See AS No. 3, ¶ 16.

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documentation, audit programs and checklists were created and added to the 2006 audit files. For example, Chisholm, Nilson and Firm assistants created and added approximately 10 documents to the 2006 Powder River audit file and approximately 20 documents to the 2006 Hendrx audit file, all well after the audits' respective document completion dates. In addition, Firm assistants created and added audit documentation to at least 16 other audit files that were subject to the Board's 2007 inspection, months after the audits' respective document completion dates.

58. In a number of instances, Chisholm's and Nilson's efforts included directing Firm assistants to add information to the audit files to create the appearance that Firm auditors had performed certain audit procedures that had not, in fact, been performed during the audits. Specifically, under Chisholm and Nilson's supervision, Firm assistants performed audit procedures, including clearing engagement partner comments and reconciling the working trial balances provided by an issuer client to the published financial statements.

59. From October 29, 2007 to November 2, 2007, and from November 12, 2007 to November 15, 2007, PCAOB inspectors reviewed audit files for five issuer clients at the Firm's offices in Utah, including the 2006 audits of Powder River and Hendrx. During the inspection process, Chisholm and Nilson provided the altered audit documentation described above to Inspections without any clarification or explanation of the aforementioned changes and additions.

60. In addition, Respondents violated AS No. 3 with respect to the Firm's audit of AlphaTrade's 2007 financial statements. As described above, in 2009, the Firm identified information that led to the restatement of the AlphaTrade's 2007 financial statements. During that process, Respondents reviewed the Firm's 2007 audit documentation and discovered that, during the 2007 audit, the engagement team failed to determine that AlphaTrade improperly accounted for deferred revenues.[77/] As a result, Respondents caused certain information to be added to the audit documentation for accounts receivable that suggested that the engagement team had performed certain steps during the 2007 audit concerning accounts receivable. Respondents failed to specify the date on which these changes were made to the audit

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[77/] Respondents advised AlphaTrade of the error. As a consequence, on March 9, 2009, AlphaTrade filed a Form 8-K announcing that it intended to restate its 2007 financial statements. In a 10-K/A filed on March 23, 2009, AlphaTrade restated its financial statements, which included a revised audit opinion of the Firm dated March 17, 2009.

documentation, the name of the person making the changes, and the reasons for the changes.

G. Respondents Violated PCAOB Rule 4006 and Failed to Cooperate with the Board's Investigation

1. Noncooperation in Connection with a Board Inspection

61. PCAOB rules require registered firms and their associated persons to cooperate in the performance of any Board inspection.[78/] This obligation to cooperate includes "an obligation not to provide misleading documents or information in connection with the Board's inspection processes…."[79/] Respondents' conduct in creating and altering audit documentation in anticipation of a Board inspection violated PCAOB Rule 4006.

62. As detailed above, Respondents and Firm assistants (acting at the Respondents' instruction) created and added information to over a dozen audit files, including those related to Powder River and Hendrx, long after the audit report release dates in preparation for the 2007 PCAOB inspection of the Firm. Respondents and Firm assistants did so without specifying the dates the information was added, the names of the persons adding the information, and the reasons for adding the information. Audit documentation was added to the audit files in advance of a Board inspection to create the misleading appearance that the Firm had performed, documented and signed-off on audit procedures prior to the issuance of the audit opinions and the audit completion dates. In doing so, Respondents' conduct violated PCAOB Rule 4006.

2. Noncooperation In Connection with the Board's Investigation

63. The Act authorizes the Board to impose disciplinary sanctions for a registered firm's or associated person's noncooperation with a Board investigation.[80/]

[78/] See PCAOB Rule 4006.

[79/] *In the Matter of Drakeford & Drakeford, LLC and John A. DellaDonna, CPA*, PCAOB Release No. 105-2009-002, at 4.

[80/] See Section 105(b)(3) of the Act.

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Board rules include procedures for implementing that authority.[81/] Noncooperation with a Board investigation includes knowingly making any false material declaration or making or using any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration.[82/] As described below, Respondents failed to cooperate with a Board investigation by submitting audit documentation to the Division that they knew to contain false declarations.

64. On August 1, 2008 and May 6, 2009, as part of an informal inquiry, the Division requested that Respondents produce certain work papers, correspondence, billing information and other documents concerning particular engagements ("Document Requests"). Respondents subsequently provided certain material to the Division. On June 29, 2009, July 23, 2009, August 5, 2009 and October 26, 2009, as part of a formal investigation, the Division issued Accounting Board Demands ("ABDs") to Respondents for documents and for other materials. On July 31, 2009, Respondents, through their counsel, informed Division staff that Respondents were relying in part on their prior production in response to the Document Requests of August 1, 2008 and May 6, 2009 to fulfill their obligation to produce documents under the ABDs of June 29, 2009 and July 23, 2009. Thereafter, Respondents produced to the staff additional documents called for by the ABDs.

65. In response to and in preparation for providing audit documentation to the Division in response to the Document Requests and ABDs, Respondents, and at their instruction, Firm assistants, created and added audit documentation to the audit files that were subject to the Document Requests and ABDs, in addition to those files that had been subject to the previous inspection. Respondents produced to Division staff audit documentation that had been created or changed months after the documentation completion dates for the respective audits. The changes to the audit documentation were not annotated with the actual dates of the changes, the identities of the persons who made the changes, or the reasons for the changes.

66. Chisholm and Nilson knew this effort to create and complete audit documentation was designed to mislead the Division to conclude that such audit documentation had in fact been created during the various audits, and not subsequent to the release of the audit reports and documentation completion dates. As a result, Respondents failed to cooperate with a Board investigation.

81/ See PCAOB Rules 5110 and 5200(a)(3).

82/ See PCAOB Rule 5110(a)(2).

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Sections 105(b)(3) and 105 (c)(4)(A) of the Act and PCAOB Rules 5300(a)(1) and 5300(b)(1), the registration of Chisholm, Bierwolf, Nilson & Morrill, LLC is permanently revoked;

B. Pursuant to Sections 105(b)(3) and 105(c)(4)(B) of the Act and PCAOB Rules 5300(a)(2) and 5300(b)(1), Todd D. Chisholm is permanently barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

C. Pursuant to Sections 105(b)(3) and 105(c)(4)(B) of the Act and PCAOB Rules 5300(a)(2) and 5300(b)(1), Troy F. Nilson is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

D. After five (5) years from the date of this Order, Troy F. Nilson may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

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J. Gordon Seymour
Secretary

April 8, 2011

PCAOB
Public Company Accounting Oversight Board

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Darrin G. Estella, CPA,* *Respondent.*	PCAOB Release No. 105-2011-004 August 1, 2011

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is barring Darrin G. Estella, CPA ("Estella" or "Respondent") from being an associated person of a registered public accounting firm.[1/] The Board is imposing this sanction on the basis of its findings concerning Respondent's violations of PCAOB rules and auditing standards in connection with the improper creation, addition, and backdating of audit documentation prior to a Board inspection.

I.

On December 6, 2010, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) of the Act and PCAOB Rule 5203, these proceedings were not public. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, Respondent did not consent to making the hearing public.

II.

In response to these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and

[1/] Respondent may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer, the Board finds that:[2/]

A. Respondent

1. Darrin G. Estella, 36, of Salem, Massachusetts, is a certified public accountant who is licensed under the laws of the Commonwealth of Massachusetts (license no. 22794). At all relevant times, Estella was a senior manager in the Boston, Massachusetts office of Ernst & Young LLP ("E&Y"), and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). E&Y removed Estella from the audit engagement team for the "Company," as defined below in paragraph four, in June 2010, and subsequently separated Estella from employment.

B. Summary

2. E&Y has been the independent auditor for the Company since May 4, 2002. E&Y issued an audit report expressing an unqualified opinion on the Company's September 30, 2009 financial statements. Respondent was the senior manager for the audit of the Company's September 30, 2009 financial statements ("Audit") and began working on the Company audit engagement in 2005. Respondent was supervised by

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[2/] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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Peter C. O'Toole, an E&Y engagement partner,[3/] and supervised other members of the audit engagement team including Jacqueline A. Higgins, an E&Y manager.[4/]

3. This matter concerns Respondent's violations of PCAOB rules and auditing standards. Respondent repeatedly violated both Rule 4006, *Duty to Cooperate with Inspectors*, and Auditing Standard No. 3 ("AS3"), *Audit Documentation*. Under O'Toole's supervision and with his authorization, Respondent, and others supervised and authorized by him, improperly created, added, and backdated working papers in advance of the Board's inspection of the Audit, and provided misleading documents and information to the Board, in violation of Rule 4006. In violation of AS3, Respondent, and others supervised and authorized by him, and with O'Toole's authorization: added documents to the working papers without indicating the dates that documents were added to the working papers, the names of the persons preparing the additional documentation, and the reason for adding the documentation months after the documentation completion date.

C. Respondent Violated PCAOB Rules and Auditing Standards.

4. The Company is an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). In April 2010, the Board inspected E&Y's audit of the Company's September 30, 2009 financial statements.

5. PCAOB rules require that an associated person of a registered public accounting firm "shall cooperate with the Board in the performance of any Board inspection."[5/] This cooperation obligation "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes."[6/] PCAOB rules also require that associated persons of registered public

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[3/] See Peter C. O'Toole, CPA, PCAOB Release No. 105-2011-005 (Aug. 1, 2011).

[4/] See Jacqueline A. Higgins, CPA, PCAOB Release No. 105-2010-008 (Dec. 3, 2010) (Board order imposing sanctions and making findings relating to Higgins's conduct in same subject matter as this Order).

[5/] PCAOB Rule 4006, *Duty to Cooperate with Inspectors*.

[6/] Drakeford & Drakeford, LLC, PCAOB Release No. 105-2009-002 (June 16, 2009) ¶ 8. See also Gately & Associates, LLC, SEC Release No. 34-62656 at 22-23 (Aug. 5, 2010) (sustaining Board finding that respondents failed to cooperate with Board inspection).

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accounting firms comply with the Board's auditing standards.[7/] Among other things, PCAOB auditing standards require that an auditor make certain written disclosures if the auditor adds audit working papers after the documentation completion date.[8/] As detailed below, Respondent violated PCAOB rules and auditing standards when he and others supervised and authorized by him: (1) improperly created, added, and backdated audit working papers; and (2) provided misleading audit documentation to the Board in connection with the Board's inspection of the Audit.

The Audit

6. E&Y audited the Company's September 30, 2009 financial statements. E&Y's audit report was dated November 23, 2009. The audit report expressed an unqualified opinion and stated that the Audit was conducted in accordance with PCAOB standards. The audit report stated that the Company's September 30, 2009 financial statements presented fairly, in all material respects, the Company's financial position, results of operations, and changes in net assets in conformity with U.S. Generally Accepted Accounting Principles ("GAAP"). The audit report was included in the Company's annual report filed with the U.S. Securities and Exchange Commission ("Commission") on November 27, 2009.

7. The audit report release date for the Audit was November 24, 2009.[9/] The documentation completion date, therefore, was January 8, 2010.[10/] While information may be added to the working papers after the documentation completion date, the new documentation must disclose the date the information was added, the person preparing the additional documentation, and the reason for adding the information to the working papers after the documentation completion date.[11/]

[7/] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[8/] See AS3 ¶ 16.

[9/] See id. ¶ 14 (defining report release date as "date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements").

[10/] See id. ¶ 15 (defining documentation completion date as "a date not more than 45 days after the report release date").

[11/] Id.

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Steps Taken in Advance of the Board's Inspection

8. On March 30, 2010, the Board notified E&Y that the Board's Division of Registration and Inspections ("Board's Inspection Division") would inspect the Audit. The Act "requires the Board to conduct a 'continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons . . . with [the Act], the rules of the Board, the rules of the Commission, or professional standards.'"[12/]

9. On or before March 31, 2010, Respondent, O'Toole, and Higgins were notified that the Audit would be inspected by the Board's Inspection Division. Field work for the inspection was scheduled to commence the week of April 19, 2010.

10. On or before March 31, 2010, Respondent, O'Toole, and Higgins each had received an email in which E&Y expressly instructed the members of the Audit engagement team that no modifications, additions, or deletions should be made to the working papers of the Audit in preparation for the Board's inspection.

Respondent and Others Reviewed the External Working Papers

11. On or about March 31, 2010, O'Toole directed an E&Y staff person on the Company audit engagement team to retrieve the hard copy external working papers for the Audit ("external working papers"). The staff person retrieved the external working papers from the Records Center in E&Y's Boston office, and placed the working papers in a conference room in E&Y's Boston office.

12. On or about April 5, 2010, Respondent, O'Toole, and Higgins began working together in this conference room, in the course of preparing for the upcoming Board inspection. O'Toole directed Respondent and Higgins to review the external working papers. On April 6, 2010, Respondent and O'Toole were informed that the Board's sole area of focus for the Inspection would be "securities valuation."

Respondent and O'Toole Created and Backdated a Working Paper

13. After review of the external working papers, O'Toole told Respondent that a document needed to be created summarizing work that Respondent and O'Toole asserted was done during the Audit concerning the valuation of one of the Company's investments in another company's common and convertible preferred shares (the

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[12/] Gately & Associates, LLC, SEC Release No. 34-62656 at 2 (Aug. 5, 2010) (quoting Section 104(a) of the Act).

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"Asset"). Respondent and O'Toole understood that the valuation of the Asset was the most significant issue in the Audit, and that the audit work related to the valuation of the Asset could be an area of focus for the Board during the upcoming inspection. O'Toole and Respondent decided to create a document summarizing work that Respondent and O'Toole asserted was done during the Audit concerning the valuation of the Asset, and to add this document to the external working papers.

14. With O'Toole's knowledge, Respondent called an E&Y staff person, who was not a member of the Company Audit engagement team, into the conference room containing the external working papers, asked the staff person to give Respondent the staff person's laptop, and asked the staff person to leave the conference room. Respondent inserted a flash drive into the laptop. The flash drive contained a form document. Respondent used the form to draft a memorandum regarding audit work related to the valuation of the Asset ("H10.3 Working Paper"). O'Toole reviewed the draft document on the laptop and made revisions. Respondent then printed out the final version of the H10.3 Working Paper. In an effort to limit any electronic record of the creation of the H10.3 Working Paper, Respondent did not save the memorandum on the laptop, or on the flash drive. Respondent threw away the flash drive and returned the laptop to the staff person.

15. O'Toole and Respondent, at O'Toole's direction, backdated the final version of the H10.3 Working Paper to November 24, 2009, despite the fact that it was created in April 2010, in order to make it appear that the working paper had been created at the time of the Audit. Respondent, with O'Toole's knowledge and authorization, added the H10.3 Working Paper to the external working papers. In violation of AS3, the H10.3 Working Paper did not indicate the date it was added to the working papers, the person preparing the additional documentation, or the reason for adding the additional information to the working papers three months after the documentation completion date.

16. At the time of this conduct, Respondent understood that he was violating E&Y policy on audit documentation as well as professional auditing standards.

Respondent Authorized Others Improperly
To Alter, Add, and Backdate Working Papers

17. Based on her review of the external working papers, Higgins identified for Respondent and O'Toole certain documents she believed were not in the external working papers about which the Board's Inspection Division might inquire. Under O'Toole's supervision and with his authorization, Respondent thereafter authorized Higgins improperly to alter, add, and backdate documents in the external working papers.

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18. First, Respondent, under O'Toole's supervision and with his authorization, directed Higgins to create and print out a "Review Procedures Memorandum" and to backdate the document to November 30, 2009. Respondent also backdated his sign-off on this working paper. Respondent directed Higgins to add this document to the working papers.

19. Second, Respondent, under O'Toole's supervision and with his authorization, directed Higgins to assemble three checklists obtained after the documentation completion date and in advance of the inspection into a single document ("HH6.8 Working Paper") and to backdate her sign-off on this working paper to November 2009. Respondent, as well, backdated his sign-off on this working paper. Respondent directed Higgins to add the HH6.8 Working Paper to the external working papers.

The Misleading Engagement Profile

20. Before inspection field work began, E&Y produced to the Board a document entitled Public Company Accounting Oversight Board 2010 Inspection Period Engagement Profile ("Engagement Profile"). Respondent drafted the Engagement Profile, and O'Toole reviewed the document and provided revisions to it.

21. One of the questions in the Engagement Profile stated: "Have there been any changes made to the audit documentation subsequent to the documentation completion date [?] If yes, please explain the nature of the changes below, and provide a summary log of when the changes were made." In reply to this question, Respondent and O'Toole represented that "[n]o changes [had] been made."

22. At no point in time did Respondent disclose to the Board's Inspection Division that the Respondent, O'Toole, and Higgins had, in fact, improperly created, added, and backdated documents in the external working papers, months after the documentation completion date, and shortly before the inspection.

Misleading Documents Provided to the Board During the Board's Inspection

23. Field work for the Board's inspection took place during the week of April 19, 2010. During field work, E&Y made the external working papers available to the Board's inspectors, including the improperly added documents which were placed in the external working papers shortly before the Board's inspection. Respondent did not advise the inspectors that any of these documents were improperly added to the external working papers in April 2010.

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24. Respondent understood that the Board's inspectors could request and receive copies of working papers from the Audit. During field work, Board inspectors requested copies of certain external working papers, including certain of the late-added documents. On April 22, 2010, Higgins emailed to a Board inspector copies of the H10.3 Working Paper and the HH6.8 Working Paper. Respondent did not disclose to the Board that these documents were improperly added to the external working papers in April 2010.

25. On May 21, 2010, the Board issued an inspection comment form to E&Y ("Comment Form"). By May 24, 2010, Respondent had received a copy of the Comment Form. The Comment Form discussed the audit work related to the valuation of the Asset. The Comment Form quoted directly from the backdated H10.3 Working Paper.

26. At no time, however, did Respondent disclose to the Board's Inspection Division that the document the Comment Form was quoting was improperly backdated, and that it was improperly added to the external working papers in April 2010, just before the Board's inspectors began their field work.

27. As a result of the conduct described above, Respondent violated Rule 4006, *Duty to Cooperate with Inspectors*, and AS3, *Audit Documentation*.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Darrin G. Estella, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

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B. After two (2) years from the date of this Order, Darrin G. Estella may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

_____

J. Gordon Seymour
Secretary

August 1, 2011

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Peter C. O'Toole, CPA,* *Respondent.*	)	PCAOB Release No. 105-2011-005 August 1, 2011

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) barring Peter C. O'Toole, CPA ("O'Toole" or "Respondent") from being an associated person of a registered public accounting firm, and (2) imposing a civil money penalty in the amount of $50,000 against him.[1/] The Board is imposing these sanctions on the basis of its findings concerning Respondent's violations of PCAOB rules and auditing standards in connection with the improper creation, addition, and backdating of audit documentation prior to a Board inspection.

I.

On December 6, 2010, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) of the Act and PCAOB Rule 5203, these proceedings were not public. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, Respondent did not consent to making the hearing public.

II.

In response to these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or

[1/] Respondent may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

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denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer, the Board finds that:[2/]

A. Respondent

1. Peter C. O'Toole, 43, of West Roxbury, Massachusetts, is a certified public accountant who is licensed under the laws of the Commonwealth of Massachusetts (license no. 17005). At all relevant times and beginning in 2006, O'Toole was a partner in the Boston, Massachusetts office of Ernst & Young LLP ("E&Y") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). E&Y removed O'Toole from the audit engagement team for the "Company," as defined below in paragraph four, in June 2010, and separated O'Toole from employment in September 2010 (effective September 30, 2010).

B. Summary

2. E&Y has been the independent auditor for the Company since May 4, 2002. E&Y issued an audit report expressing an unqualified opinion on the Company's September 30, 2009 financial statements. Respondent was the engagement partner for the audit of the Company's September 30, 2009 financial statements ("Audit"), and had served as the engagement partner for the Company's audits since 2005. Respondent supervised the members of the Audit engagement team, including Darrin G. Estella, an

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[2/] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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E&Y senior manager,[3/] and Jacqueline A. Higgins, an E&Y manager.[4/] Respondent had overall responsibility for ensuring his supervisees' compliance with PCAOB rules and auditing standards relating to the Audit.

3. This matter concerns Respondent's violations of PCAOB rules and auditing standards. Respondent repeatedly violated both Rule 4006, *Duty to Cooperate with Inspectors*, and Auditing Standard No. 3 ("AS3"), *Audit Documentation*. Respondent improperly created, added, and backdated a working paper in advance of the Board's inspection of the Audit. Others under his supervision and authorization improperly created, added, and backdated other working papers in advance of the Board's inspection. Respondent, and others supervised and authorized by him, provided misleading documents and information to the Board, in violation of Rule 4006. This conduct also violated AS3 because the documents added to the working papers did not indicate the dates that documents were added to the working papers, the names of the persons preparing the additional documentation, and the reason for adding the documentation months after the documentation completion date.

C. Respondent Violated PCAOB Rules and Auditing Standards

4. The Company is an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). In April 2010, the Board inspected E&Y's audit of the Company's September 30, 2009 financial statements.

5. PCAOB rules require that an associated person of a registered public accounting firm "shall cooperate with the Board in the performance of any Board inspection."[5/] This cooperation obligation "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes."[6/] PCAOB rules also require that associated persons of registered public

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[3/] See Darrin G. Estella, CPA, PCAOB Release No. 105-2011-004 (Aug. 1, 2011).

[4/] See Jacqueline A. Higgins, CPA, PCAOB Release No. 105-2010-008 (Dec. 3, 2010) (Board order imposing sanctions and making findings relating to Higgins's conduct in same subject matter as this Order).

[5/] PCAOB Rule 4006, *Duty to Cooperate with Inspectors*.

[6/] Drakeford & Drakeford, LLC, PCAOB Release No. 105-2009-002 (June 16, 2009) ¶ 8. See also Gately & Associates, LLC, SEC Release No. 34-62656 at 22-23 (Aug. 5, 2010) (sustaining Board finding that respondents failed to cooperate with Board inspection).

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accounting firms comply with the Board's auditing standards.[7/] Among other things, PCAOB auditing standards require that an auditor make certain written disclosures if the auditor adds audit working papers after the documentation completion date.[8/] As detailed below, Respondent violated PCAOB rules and auditing standards when he and others supervised and authorized by him: (1) improperly created, added, and backdated audit working papers; and (2) provided misleading audit documentation to the Board in connection with the Board's inspection of the Audit.

The Audit

6. E&Y audited the Company's September 30, 2009 financial statements. E&Y's audit report was dated November 23, 2009. The audit report expressed an unqualified opinion and stated that the Audit was conducted in accordance with PCAOB standards. The audit report stated that the Company's September 30, 2009 financial statements presented fairly, in all material respects, the Company's financial position, results of operations, and changes in net assets in conformity with U.S. Generally Accepted Accounting Principles ("GAAP"). The audit report was included in the Company's annual report filed with the U.S. Securities and Exchange Commission ("Commission") on November 27, 2009.

7. The audit report release date for the Audit was November 24, 2009.[9/] The documentation completion date, therefore, was January 8, 2010.[10/] While information may be added to the working papers after the documentation completion date, the new documentation must disclose the date the information was added, the person preparing the additional documentation, and the reason for adding the information to the working papers after the documentation completion date.[11/]

[7/] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[8/] See AS3 ¶ 16.

[9/] See id. ¶ 14 (defining report release date as "date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements").

[10/] See id. ¶ 15 (defining documentation completion date as "a date not more than 45 days after the report release date").

[11/] Id.

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Steps Taken in Advance of the Board's Inspection

8. On March 30, 2010, the Board notified E&Y that the Board's Division of Registration and Inspections ("Board's Inspection Division") would inspect the Audit. The Act "requires the Board to conduct a 'continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons . . . with [the Act], the rules of the Board, the rules of the Commission, or professional standards.'"[12/]

9. On or before March 31, 2010, Respondent, Estella, and Higgins were notified that the Audit would be inspected by the Board's Inspection Division. Field work for the inspection was scheduled to commence the week of April 19, 2010.

10. On or before March 31, 2010, Respondent, Estella, and Higgins each had received an email in which E&Y expressly instructed the members of the Audit engagement team that no modifications, additions, or deletions should be made to the working papers of the Audit in preparation for the Board's inspection.

Respondent and Others Reviewed the External Working Papers

11. On or about March 31, 2010, Respondent directed an E&Y staff person on the Company audit engagement team to retrieve the hard copy external working papers for the Audit ("external working papers"). The staff person retrieved the external working papers from the Records Center in E&Y's Boston office, and placed the working papers in a conference room in E&Y's Boston office.

12. On or about April 5, 2010, Respondent, Estella, and Higgins began working together in this conference room, in the course of preparing for the upcoming Board inspection. Respondent directed Estella and Higgins to review the external working papers. On April 6, 2010, Respondent and Estella were informed that the Board's sole area of focus for the Inspection would be "securities valuation."

Respondent and Estella Created and Backdated a Working Paper

13. After review of the external working papers, Respondent told Estella that a document needed to be created summarizing work that Respondent and Estella asserted was done during the Audit concerning the valuation of one of the Company's investments in another company's common and convertible preferred shares (the

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[12/] Gately & Associates, LLC, SEC Release No. 34-62656 at 2 (Aug. 5, 2010) (quoting Section 104(a) of the Act).

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"Asset"). Respondent and Estella understood that the valuation of the Asset was the most significant issue in the Audit, and that the audit work related to the valuation of the Asset could be an area of focus for the Board during the upcoming inspection. Respondent and Estella decided to create a document summarizing work that Respondent and Estella asserted was done during the Audit concerning the valuation of the Asset, and to add this document to the external working papers.

14. With Respondent's knowledge, Estella called an E&Y staff person, who was not a member of the Company Audit engagement team, into the conference room containing the external working papers, asked the staff person to give Estella the staff person's laptop, and asked the staff person to leave the conference room. Estella inserted a flash drive into the laptop. The flash drive contained a form document. Estella used the form to draft a memorandum regarding audit work related to the valuation of the Asset ("H10.3 Working Paper"). Respondent reviewed the draft document on the laptop and made revisions. Estella then printed out the final version of the H10.3 Working Paper. In an effort to limit any electronic record of the creation of the H10.3 Working Paper, Estella did not save the memorandum on the laptop, or on the flash drive. Estella threw away the flash drive and returned the laptop to the staff person.

15. Respondent and Estella, at Respondent's direction, backdated the final version of the H10.3 Working Paper to November 24, 2009, despite the fact that it was created in April 2010, in order to make it appear that the working paper had been created at the time of the Audit. Estella, with Respondent's knowledge and authorization, added the H10.3 Working Paper to the external working papers. In violation of AS3, the H10.3 Working Paper did not indicate the date it was added to the working papers, the person preparing the additional documentation, or the reason for adding the additional information to the working papers three months after the documentation completion date.

16. At the time of this conduct, Respondent understood that he was violating E&Y policy on audit documentation as well as professional auditing standards.

Respondent Authorized Others Improperly To Alter, Add, and Backdate Working Papers

17. Based on her review of the external working papers, Higgins identified for Respondent and Estella certain documents she believed were not in the external working papers about which the Board's Inspection Division might inquire. Respondent thereafter authorized others under his supervision improperly to alter, add, and backdate documents in the external working papers. Those documents were: (1) a "Review Procedures Memorandum;" (2) a newly created document which tied-out the

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final financial statements; (3) the Average Forward Foreign Currency Contracts Calculation working paper; and (4) an HH6.8 Working Paper that compiled three checklists obtained after the documentation completion date and in advance of the inspection.

The Misleading Engagement Profile

18. Before inspection field work began, E&Y produced to the Board a document entitled Public Company Accounting Oversight Board 2010 Inspection Period Engagement Profile ("Engagement Profile"). Estella drafted the Engagement Profile, and Respondent reviewed the document and provided revisions to it.

19. One of the questions in the Engagement Profile stated: "Have there been any changes made to the audit documentation subsequent to the documentation completion date [?] If yes, please explain the nature of the changes below, and provide a summary log of when the changes were made." In reply to this question, Respondent and Estella represented that "[n]o changes [had] been made."

20. At no point in time did Respondent disclose to the Board's Inspection Division that the Respondent, Estella, and Higgins had, in fact, improperly created, added, and backdated documents in the external working papers, months after the documentation completion date, and shortly before the inspection.

Misleading Documents Provided to the Board During the Board's Inspection

21. Field work for the Board's inspection took place during the week of April 19, 2010. During field work, E&Y made the external working papers available to the Board's inspectors, including the improperly added documents which were placed in the external working papers shortly before the Board's inspection. Respondent did not advise the inspectors that any of these documents were improperly added to the external working papers in April 2010.

22. Respondent understood that the Board's inspectors could request and receive copies of working papers from the Audit. During field work, Board inspectors requested copies of certain external working papers, including certain of the late-added documents. On April 22, 2010, Higgins emailed to a Board inspector copies of the H10.3 Working Paper and the HH6.8 Working Paper. Respondent did not disclose to the Board that these documents were improperly added to the external working papers in April 2010.

23. On May 21, 2010, the Board issued an inspection comment form to E&Y ("Comment Form"). By May 24, 2010, Respondent had received a copy of the

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Comment Form. The Comment Form discussed the audit work related to the valuation of the Asset. The Comment Form quoted directly from the backdated H10.3 Working Paper.

24. At no time, however, did Respondent disclose to the Board's Inspection Division that the document the Comment Form was quoting was improperly backdated, and that it was improperly added to the external working papers in April 2010, just before the Board's inspectors began their field work.

25. As a result of the conduct described above, Respondent violated Rule 4006, *Duty to Cooperate with Inspectors*, and AS3, *Audit Documentation*.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Peter C. O'Toole, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

B. After three (3) years from the date of this Order, Peter C. O'Toole may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Peter C. O'Toole shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Peter C. O'Toole as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and

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states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: J. Gordon Seymour, General Counsel and Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

_____
J. Gordon Seymour
Secretary

August 1, 2011

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of GLO CPAs, LLLP,* *Respondent.*	PCAOB Release No. 105-2011-006 November 30, 2011

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring GLO CPAs, LLLP (the "Firm" or "GLO") and imposing a civil money penalty in the amount of $1000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in both 2010 and 2011 and timely pay an annual fee in 2011.

I.

On August 5, 2011, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, GLO did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

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Public Company Accounting Oversight Board

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III.

On the basis of Respondent's Offer, the Board finds[1/] that:

A. Respondent

1. GLO is a limited liability limited partnership located in Houston, Texas. It is licensed under the laws of the State of Texas to engage in the practice of public accounting (license no. P05304). The firm is registered with the Board pursuant to Section 102 of the Act and Board Rules. Public records indicate that it has issued no audit reports for issuers in 2011, no audit reports for issuers in 2010, one audit report for an issuer in 2009, nine audit reports for issuers in 2008, and ten audit reports for issuers in 2007.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, GLO failed to timely file an annual report for 2010 and 2011.

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, GLO failed to timely pay its annual fee in 2011.

C. Subsequent Events

4. The Board instituted these proceedings on August 5, 2011. GLO failed to file an answer pursuant to PCAOB Rule 5421(b).

5. On September 1, 2011, GLO filed its annual fee for 2011.

6. On September 1, 2011, GLO filed its annual report for 2010.

[1/] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

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Public Company Accounting Oversight Board

ORDER

7. On October 3, 2011, GLO filed a Form 1-WD to request leave to withdraw its registration from the Board.

8. On October 6, 2011, GLO filed its annual report for 2011.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), GLO CPAs, LLLP is censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1000 is imposed upon GLO CPAs, LLLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. GLO CPAs, LLLP shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies GLO CPAs, LLLP as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: J. Gordon Seymour, General Counsel and Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

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V.

Upon performance by GLO of Part IV above, pursuant to PCAOB Rule 2107, the Board shall consider GLO's Form 1-WD and whether to grant it leave to withdraw. In doing so, the Board shall not take into consideration its findings contained in Part III herein.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

_____

J. Gordon Seymour
Secretary

November 30, 2011

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS In the Matter of Bentleys Brisbane Partnership and Robert John Forbes, CA *Respondents.*	PCAOB Release No. 105-2011-007 December 20, 2011

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) revoking the registration of Bentleys Brisbane Partnership (the "Firm" or "Bentleys Brisbane"); (2) imposing a civil money penalty in the amount of $10,000 upon Bentleys Brisbane; and (3) barring Robert J. Forbes, CA ("Forbes") from being an associated person of a registered public accounting firm.[1/] (Bentleys Brisbane and Forbes are collectively referred to as "Respondents.") The Board is imposing these sanctions on the basis of its findings that Forbes and Bentleys Brisbane violated PCAOB rules and auditing standards in connection with the audit of one issuer client during 2006, and also violated PCAOB quality control standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Bentleys Brisbane and Forbes.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that

[1/] Bentleys Brisbane may reapply for registration after two (2) years from the date of this Order. Forbes may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondents' Offers, the Board finds that:[2/]

A. Respondents

1. Bentleys Brisbane Partnership is a public accounting firm headquartered in Brisbane, Commonwealth of Australia. In 2006, the Firm registered with the Board pursuant to Section 102 of the Act and PCAOB Rules.[3/] Since registering with the Board, the Firm has issued one audit report for one issuer client, Alloy Steel International, Inc. ("Alloy Steel") for the year ended September 30, 2006. At the time of the 2006 audit of Alloy Steel, Bentleys Brisbane was a member of Bentleys MRI (now known as Bentleys, and referred to herein as the "Bentleys MRI network"), an independent association of Australian accounting firms. Members of the Bentleys MRI network were affiliated only, and were not in partnership with one another.

[2/] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding. The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3/] The Firm registered with the Board (effective April 25, 2006) under the name "Bentleys MRI Brisbane Partnership," and it conducted its sole audit of an issuer client under that name. The Firm changed its name to Bentleys Brisbane Partnership in 2008.

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2. Robert John Forbes, 57, was at all relevant times a registered company auditor licensed by the Australian Securities and Investments Commission (License Number 5927) and a chartered accountant licensed by the Institute of Chartered Accountants in Australia. At all relevant times, Forbes was the office managing partner of Bentleys Brisbane and was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. In connection with the preparation and issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards and related professional practice standards.[4/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[5/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[6/] Auditing standards in effect at the time of the 2006 Alloy Steel audit required that the auditor with final responsibility for the audit adequately plan the audit and supervise any assistants.[7/]

4. Respondents failed to meet these standards in connection with the audit of Alloy Steel for the year ended September 30, 2006. As detailed below, Respondents failed to plan, perform or supervise the 2006 Alloy Steel audit in accordance with PCAOB auditing standards. Rather, a Bentleys MRI network member firm that was not registered with the Board ("Firm A") purportedly performed the 2006 audit of Alloy Steel,

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[4/] PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards*, 3200T, *Interim Auditing Standards*.

[5/] AU § 508.07, *Reports on Audited Financial Statements*.

[6/] AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; and AU § 326, *Evidential Matter*.

[7/] AU § 311, *Planning and Supervision* (superseded by Auditing Standard No. 9, *Audit Planning*, and Auditing Standard No. 10, *Supervision of the Audit Engagement*, effective for audits of fiscal years beginning on or after December 15, 2010).

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and Respondents performed a limited review of the work papers. Nonetheless, Bentleys Brisbane expressed an unqualified opinion in its audit report on Alloy Steel's 2006 financial statements filed with the U.S. Securities and Exchange Commission (the "Commission").

5. Bentleys Brisbane also violated PCAOB rules and quality control standards by failing to develop policies and procedures to provide it with reasonable assurance that the work performed by its engagement personnel met applicable PCAOB auditing standards and to provide reasonable assurance that the Firm undertook only those engagements that the Firm could reasonably expect to be completed with professional competence. Forbes substantially contributed to those quality control violations.

C. Respondents Violated PCAOB Rules And Auditing Standards In Connection With The 2006 Alloy Steel Audit

6. Alloy Steel International, Inc. was, at all relevant times, a Delaware corporation headquartered in Malaga, Commonwealth of Australia. According to its public filings, Alloy Steel manufactured and distributed a specialized alloy for the mining, mineral-processing and steel manufacturing industries, through a wholly-owned Australian operating subsidiary. At all relevant times, Alloy Steel's common stock was registered under Section 12(g) of the Securities Exchange Act of 1934; its stock was quoted on the OTC Bulletin Board; and it was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).[8/]

7. In June 2006, Bentleys Brisbane (through Forbes) was contacted by an unregistered member of the Bentleys MRI network, Firm A, and the two firms agreed that Firm A would perform the audit of Alloy Steel for the year ended September 30, 2006, and that Bentleys Brisbane and Forbes would review the work papers and sign the audit opinion. Respondents knew that Firm A was not registered with the PCAOB, and that Alloy Steel required an audit opinion issued by a PCAOB-registered accounting firm.

8. Forbes served as the engagement partner for the 2006 Alloy Steel audit and had final responsibility for the audit as that phrase is used in AU § 311, *Planning and Supervision*. He authorized the issuance of Bentley Brisbane's audit report dated December 22, 2006, which was included in a Form 10-KSB that Alloy Steel filed with the

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[8/] On September 27, 2010, Alloy filed a Form 15, *Certification and Notice of Termination of Registration Under Section 12(g) of the Securities and Exchange Act*.

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Commission on the same day. In that report, Bentleys Brisbane expressed an unqualified opinion on Alloy Steel's consolidated balance sheet as of September 30, 2006, and the related consolidated statements of operations, stockholders' equity and cash flows for each of the two years in the period ended September 30, 2006. Bentleys Brisbane's audit report stated that the audit had been conducted in accordance with PCAOB standards, and that, in Bentleys Brisbane's opinion, Alloy Steel's financial statements presented fairly, in all material respects, its financial position in conformity with United States generally accepted accounting principles ("US GAAP").

Respondents Failed To Perform The 2006 Allow Steel Audit In Accordance With PCAOB Standards

9. On December 22, 2006, Respondents issued an unqualified opinion on Alloy Steel's financial statements without forming its opinion on the basis of an audit performed in accordance with PCAOB standards.[9/] In fact, Respondents neither performed the 2006 Alloy Steel audit, nor did they ensure that that the audit by Firm A was performed in accordance with PCAOB standards. Respondents performed no audit procedures, and collected no evidential matter.[10/] They never visited Alloy Steel;[11/] they performed none of the fieldwork in the 2006 Alloy Steel audit; and they prepared no work papers relating to the audit. Respondents' audit procedures were limited to Forbes's review of work papers provided by Firm A. Bentleys Brisbane recorded only 6.3 hours of work for the audit, all related to that limited review of Firm A work papers, performed within four days of issuance of the Firm's audit opinion. (Other than Forbes, no one at Bentleys Brisbane worked on the 2006 Alloy Steel audit.) Firm A purportedly performed the 2006 Alloy Steel audit.

10. Respondents failed to exercise due professional care in connection with this audit.[12/] Indeed, Forbes, who had final responsibility for the engagement, did not

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[9/] AU § 508.07.

[10/] AU § 326, *Evidential Matter* (superseded by Auditing Standard No. 15, *Audit Evidence*, effective for audits of fiscal years beginning on or after December 15, 2010).

[11/] Alloy Steel is located approximately 2,200 miles (3,600 kilometers) from Brisbane.

[12/] AU § 150; AU § 230.06.

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know the relevant professional accounting and auditing standards that governed the 2006 Alloy Steel audit.[13/] Moreover Forbes knew or should have known that the members of the Firm A audit team that performed the audit probably had no experience with US GAAP or PCAOB auditing standards, and that Firm A conducted the 2006 Alloy Steel audit in accordance with Australian auditing standards (not PCAOB auditing standards).[14/]

11. Further, when Respondents learned during the audit that the engagement partner on the Firm A team on the 2006 Alloy Steel audit had been sanctioned by Australian regulators for auditing misconduct, Respondents made no effort to learn about the facts underlying the sanction, nor to consider whether these facts raised concerns about Firm A engagement partner's level of knowledge, skill, and ability.[15/]

12. Respondents failed to plan the 2006 Alloy Steel audit, as required under PCAOB standards.[16/] Respondents did not consider or determine the nature, extent and timing of the work to be performed, and they did not prepare a written audit program for the audit setting forth the audit procedures they believed were necessary to accomplish the objectives of the audit.[17/] Among other things, Respondents did not consider (or even review) the applicable PCAOB standards before or during the 2006 Alloy Steel audit; review the prior years' work papers; read the current year's interim financial statements; discuss the type, scope and timing of the audit with the client's management; or establish the timing of the audit work; or establish and coordinate staffing requirements for the audit.[18/]

[13/] "The auditor with final responsibility for the engagement should know, at a minimum, the relevant professional accounting and auditing standards…" AU § 230.06 (as in effect at the time of the audit).

[14/] AU § 230.06.

[15/] "Auditors should be assigned to tasks and supervised commensurate with their level of knowledge, skill, and ability so that they can evaluate the audit evidence they are examining . . . . The auditor with final responsibility is responsible for the assignment of tasks to, and supervision of, assistants." AU § 230.06.

[16/] AU § 311.

[17/] AU § 311.05.

[18/] AU § 311.04.

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13. Respondents also failed to supervise the audit work performed during the 2006 Alloy Steel audit, in violation of PCAOB standards.[19/] Specifically, Respondents did not: instruct the Firm A audit team; review the work performed (except for a limited review of work papers provided by Firm A in the days before the audit report was signed); inform members of the audit team of their responsibilities or the objectives of the procedures to be performed; or inform members of the Firm A audit team of matters that may have affected the nature, extent, and timing of procedures they were to perform.[20/]

14. As Alloy Steel's new auditors for 2006, Respondents were required to make specific inquiries of Alloy Steel's predecessor auditor.[21/] Respondents, however, failed to make the required inquiries of the predecessor auditor, either before or after accepting the Alloy Steel engagement.

15. As a result of Respondents' failures to comply with PCAOB standards, Forbes improperly authorized the issuance of the Firm's audit report (dated December 22, 2006) on Alloy's financial statements for 2006 year, which incorrectly stated that the Firm had conducted an audit in accordance with PCAOB standards.[22/]

D. Respondents Violated PCAOB Rules and Quality Control Standards

16. PCAOB rules require that a registered public accounting firm comply with certain quality control standards.[23/] Specifically, a firm should develop policies and procedures to provide it with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[24/] A firm's policies and procedures

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19/ AU § 311.11.

20/ AU § 311.11 - .12.

21/ AU § 315, *Communications Between Predecessor And Successor Auditors*.

22/ AU § 508.07.

23/ PCAOB Rules 3100 and 3400T, *Interim Quality Control Standards*.

24/ QC § 20.17, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice - Engagement Performance*.

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also should provide reasonable assurance that the firm "undertakes only those engagements that the firm can reasonably expect to be completed with professional competence."[25/]

17. In 2006, Bentleys Brisbane's quality control policies and procedures did not provide the Firm with reasonable assurance that its work complied with PCAOB auditing standards. The Firm provided no training to its staff with respect to PCAOB auditing standards or US GAAP, and did not require its personnel to participate in continuing professional education or professional development activities to ensure that its staff would conduct its audits of US issuers in accordance with PCAOB auditing standards, US GAAP, and applicable Commission reporting requirements. There were no policies and procedures in place to ensure that the staff performed procedures necessary to comply with PCAOB standards or to even be aware of what those standards required. The Bentleys MRI network's Audit and Assurance Services Manual (used by all members of the Bentleys MRI network, including Bentleys Brisbane) did not even mention PCAOB auditing standards, but rather focused on compliance with Australian Auditing Standards and International Auditing Standards.

18. Bentleys Brisbane's policies and procedures also did not provide reasonable assurance that the Firm undertook only those engagements that the Firm could reasonably expect to be completed with professional competence. Bentleys Brisbane did not require that partners obtain approvals before taking on audit clients, to provide reasonable assurance that the Firm could provide audit services to the client with professional competence and in accordance with PCAOB auditing standards.

19. Forbes was the managing partner of Bentleys Brisbane during the relevant time period. As the managing partner, Forbes was responsible for designing, implementing and monitoring the Firm's system of quality control.[26/] Accordingly, Forbes had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Forbes was aware that he, other Bentleys Brisbane personnel, and the Firm A team that performed the 2006 Alloy Steel audit, had no training or experience in conducting audits pursuant to PCAOB auditing standards. Notwithstanding the lack of adequate training and experience, he accepted the 2006 Alloy Steel audit engagement

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[25/] QC § 20.15.a, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice - Independence, Integrity, and Objectivity - Acceptance and Continuance of Clients and Engagements*.

[26/] QC § 20.20.

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on behalf of Bentleys Brisbane (and allowed Firm A personnel to conduct the 2006 Alloy Steel audit).

20. All of the Firm's quality control violations described in paragraphs 17-18, above, were the result of either the conduct of Forbes or of omissions to act for which Forbes was responsible. With respect to all such acts and omissions, Forbes knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's quality control failings described above, which constituted violations of the Board's quality control standards. Forbes thereby violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Bentleys Brisbane Partnership is revoked;

B. After two (2) years from the date of this Order, Bentleys Brisbane Partnership may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Bentleys Brisbane Partnership. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Bentleys Brisbane Partnership shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Bentleys Brisbane Partnership as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover

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letter and money order or check shall be sent to Office of the Secretary, Attention: J. Gordon Seymour, General Counsel and Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Robert John Forbes is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

E. After two (2) years from the date of this Order, Robert John Forbes may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

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J. Gordon Seymour
Secretary

December 20, 2011

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Reuben E. Price & Co., Public Accountancy Corp.,* *Respondent.*	PCAOB Release No. 105-2011-008 December 20, 2011

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Reuben E. Price & Co., Public Accountancy Corp. (the "Firm" or "Reuben Price") and imposing a civil money penalty in the amount of $2000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report and timely pay an annual fee in both 2010 and 2011.

I.

On August 5, 2011, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Reuben Price did not file an answer indicating the Firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

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III.

On the basis of Respondent's Offer, the Board finds[1/] that:

A. Respondent

1. Reuben Price is a California corporation located in San Francisco, California. It is licensed under the laws of the State of California to engage in the practice of public accounting (license no. 3402).[2/] The Firm is registered with the Board pursuant to Section 102 of the Act and Board Rules. In 2006, the Board imposed a censure on the Firm on the basis of its findings concerning the Firm's violation of Section 10A(b)(2) of the Securities Exchange Act of 1934 in failing to take prompt and appropriate steps in response to indications that an issuer audit client may have committed an illegal act.[3/] In 2009, the California Board of Accountancy revoked the licenses of the Firm and Richard Price, the Firm's sole shareholder. The revocations were stayed for three years.[4/] The last audit report by the Firm was issued in 2006.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an

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[1/] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2/] The license is under "probation." The California Board of Accountancy defines "probation" to mean that the license is current and valid. In addition, the licensee can engage in the practice of public accountancy prior to the license expiration date. "Probation" also means that the licensee has been disciplined and may have part of the disciplinary order (for example, revocation or suspension) stayed and may continue to practice under specific terms and conditions.

[3/] *See* PCAOB Rel. No. 2006-002 (April 28, 2006).

[4/] The revocations were based on: a) Richard Price's failure to inform the state board about his suspension from practice by the Office of Professional Responsibility, Internal Revenue Service, U.S. Department of the Treasury for a period from 2002 through 2005; b) the PCAOB censure; and c) the practice of public accountancy by both the Firm and Richard Price without valid permits. *See* http://www.dca.ca.gov/cba/discipline/decisions/index_p.shtml#277.

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annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Reuben Price failed to timely file an annual report for 2010 and 2011.

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Reuben Price failed to timely pay its annual fee in 2010 and 2011.

C. Subsequent Events

4. The Board instituted these proceedings on August 5, 2011. Reuben Price failed to file an answer pursuant to PCAOB Rule 5421(b).

5. On November 18, 2011, Reuben Price filed its annual reports for 2010 and 2011.

6. On November 22, 2011, Reuben Price filed a Form 1-WD to request leave to withdraw its registration from the Board.

7. On December 2, 2011, Reuben Price paid its annual fees for 2010 and 2011.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Reuben E. Price & Co., Public Accountancy Corp. is censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2000 is imposed upon Reuben E. Price & Co., Public Accountancy Corp. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Reuben E. Price & Co., Public Accountancy Corp. shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified

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check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies Reuben E. Price & Co., Public Accountancy Corp. as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: J. Gordon Seymour, General Counsel and Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

_____

J. Gordon Seymour
Secretary

December 20, 2011

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Ernst & Young LLP, Jeffrey S. Anderson, CPA, Ronald Butler, Jr., CPA, Thomas A. Christie, CPA, and Robert H. Thibault, CPA,* *Respondents.*	PCAOB Release No. 105-2012-001 February 8, 2012

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Ernst & Young LLP ("E&Y" or "Ernst & Young"); (2) barring Jeffrey S. Anderson, CPA ("Anderson") and Robert H. Thibault ("Thibault") from being associated with a registered public accounting firm;[1/] (3) censuring Ronald Butler, Jr., CPA ("Butler"), and Thomas A. Christie, CPA ("Christie"); and (4) imposing civil money penalties in the amounts of $2,000,000 as to E&Y, $50,000 as to Anderson, $25,000 as to Thibault, and $25,000 as to Butler.

The Board is imposing these sanctions on the basis of findings concerning E&Y, Anderson, Thibault, Butler, and Christie (collectively, "Respondents") for violations of PCAOB rules and auditing standards related to E&Y's audits of the December 31, 2005, 2006, and 2007 (the "relevant time period") financial statements of Medicis Pharmaceutical Corporation and subsidiaries (collectively, "Medicis" or "the Company") and a consultation concerning Medicis's accounting for product returns (the "Product Returns Consultation") stemming from E&Y's Audit Quality Review of the December 31, 2005 Medicis audit in 2006 (the "2006 AQR").

I.

On March 8, 2011, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Respondents. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, these proceedings were not public. Pursuant to Section 105(c) and PCAOB Rule 5203, the

[1/] Anderson may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order. Thibault may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, Respondents did not consent to making the hearing public.

II.

In response to these proceedings and pursuant to PCAOB Rule 5205, Respondents each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents each consent to the entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.[2/]

III.

On the basis of Respondents' Offers, the Board finds that:[3/]

A. Respondents

1. E&Y is, and at all relevant times was, a public accounting firm organized as a limited liability partnership under the laws of the state of Delaware and headquartered in New York, New York. E&Y has offices in multiple locations, including Phoenix, Arizona, and is licensed by, among others, the Arizona State Board of Accountancy (license No. 967-B). E&Y is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. E&Y has been Medicis's independent auditor since 1990.

[2/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[3/] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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2. Jeffrey S. Anderson, 56, of Paradise Valley, Arizona, is a certified public accountant licensed to practice under the laws of Arizona (license No. 4662-R), Colorado (license No. 24518), and New Mexico (license No. 4997). At all relevant times, he was a partner working from the Phoenix, Arizona office of E&Y, and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Anderson was the auditor with final responsibility[4/] for E&Y's audits of Medicis's financial statements for the fiscal years ended June 30, 2003, 2004, and 2005, the six months ended December 31, 2005, and the year ended December 31, 2007.[5/] In that capacity, he supervised E&Y's audit engagement teams and authorized the issuance of E&Y's audit reports for the foregoing financial statements. Anderson also participated in the 2006 AQR and the Product Returns Consultation.

3. Robert H. Thibault, 65, of Blaine, Washington, is a certified public accountant licensed to practice under the laws of California (license No. 56568). Thibault's license is currently inactive. He was the independent review partner for E&Y's audits of Medicis's financial statements for the six months ended December 31, 2005, and the year ended December 31, 2006. In that capacity, Thibault exercised the responsibilities of a "concurring or reviewing partner" under Regulation S-X, 17 C.F.R. § 210.2-01(f)(7)(ii)(B). Prior to July 1, 2005, Thibault was E&Y's Professional Practice Director for the Pacific Southwest Sub-Area. From July 1, 2005 until his retirement from E&Y, effective June 30, 2007, Thibault remained a member of E&Y's Professional Practice Group for the Pacific Southwest Sub-Area. Thibault participated in the Product Returns Consultation. At all relevant times, he was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

4. Ronald Butler, Jr., 42, of Phoenix, Arizona, is a certified public accountant licensed to practice under the laws of Arizona (license No. 10380-E). He was the second partner, supervised by Anderson, for E&Y's audits of Medicis's financial statements for the fiscal years ended June 30, 2004 and 2005, and the six months ended December 31, 2005. While not a direct participant in the Product Returns Consultation stemming from the 2006 AQR, Butler concurred with, and documented, the results of the consultation. He was the auditor with final responsibility for E&Y's audit of Medicis's financial statements for the year ended December 31, 2006. In that capacity, he supervised E&Y's audit engagement team and authorized the issuance of E&Y's audit report for the 2006 financial statements. At all relevant times, he was an

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[4/] See AU § 311, *Planning and Supervision*.

[5/] Medicis changed from a June 30 to a December 31 year-end effective December 31, 2005.

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associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

5. Thomas A. Christie, 50, of Phoenix, Arizona, is a certified public accountant licensed to practice under the laws of Arizona (license No. 6501-E) and California (license No. 70718). Christie joined the Medicis engagement team in or about September 2007. He was the second partner, supervised by Anderson, for E&Y's audit of Medicis's financial statements for the year ended December 31, 2007. At all relevant times, he was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer

6. Medicis Pharmaceutical Corporation is a Delaware corporation with principal executive offices located in Scottsdale, Arizona. The Company's common stock is registered pursuant to Section 12(b) of the Securities Exchange Act of 1934 and is listed on the New York Stock Exchange (ticker symbol "MRX"). At all relevant times, Medicis was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

7. This matter concerns Respondents' failures to properly evaluate a material component of Medicis's financial statements – its sales returns reserve. Specifically, Respondents failed to comply with PCAOB auditing standards in evaluating Medicis's sales returns reserve estimate, including evaluating Medicis's practice of reserving for most of its estimated product returns at the cost of replacing the product ("replacement cost"). The audit evidence available to Respondents indicated that, at all relevant times, Statement of Financial Accounting Standards No. 48, *Revenue Recognition When a Right of Return Exists* ("SFAS 48") applied to Medicis's product sales subject to a right of return due to expiration and required Medicis to reserve for all of those estimated returns at gross sales price. Reserving for most of its estimated returns at replacement cost, rather than gross sales price, resulted in Medicis's reported sales returns reserve being materially understated and its reported revenue being misstated.[6/] Overall, Respondents' approach to evaluating Medicis's sales returns reserve methodology and estimate was inconsistent with their obligations to exercise professional skepticism as the Company's independent auditor.

[6/] See Medicis Pharmaceutical Corp. Form 10-K/A, filed November 10, 2008.

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8. In connection with the December 31, 2005 audit, Anderson, Thibault, and Butler failed to obtain sufficient competent evidential matter supporting Medicis's conclusion that an "exchange" exception to SFAS 48's general rule of reserving at gross sales price supported Medicis's reserving for most of its product returns at replacement cost. They concurred with this conclusion notwithstanding contradictory audit evidence indicating that the product returns in question were not eligible for the exchange exception to SFAS 48. Therefore, they failed to identify and appropriately address a material departure from U.S. generally accepted accounting principles ("GAAP") resulting from Medicis's reliance on the exchange exception.[7/]

9. Merely two months after Anderson, Thibault, and Butler had concurred with the application of the SFAS 48 exchange exception, E&Y personnel responsible for the 2006 AQR questioned Medicis's reliance on the exchange exception and, with Anderson, Thibault and Butler, concluded that the exchange exception did not support Medicis's use of replacement cost. Rather than appropriately addressing this material departure from GAAP, Anderson, Thibault, and other E&Y personnel decided that a different accounting rationale supported Medicis's reserving at replacement cost for most of its estimated product returns. They concluded that Medicis's existing accounting result was supported by reference or analogy to warranty accounting under Statement of Financial Accounting Standards No. 5, *Contingencies* ("SFAS 5"). Butler did not participate in formulating the analogy to warranty accounting, but concurred with the warranty rationale. At all relevant times, however, Respondents understood that the product returns at issue were not returns of defective products pursuant to a warranty and that customers returning the products to Medicis were not relying on a warranty in making such returns. Instead, customers were returning products because Medicis provided them with a right to return expired products. After the Product Returns Consultation, Medicis, with E&Y's concurrence, relied on the flawed warranty accounting rationale to continue reserving for most of its product returns at replacement

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[7/] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. See AU § 508.07, *Reports on Audited Financial Statements*. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. See, e.g., AU § 110.01, *Responsibilities and Functions of the Independent Auditor*. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Securities and Exchange Commission ("Commission") has considered or made any determination concerning the issuer's compliance with GAAP.

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cost in 2005, 2006, and 2007. As a result, Anderson, Thibault, and Butler failed to identify and appropriately address a material departure from GAAP.[8/]

10. This matter also involves the failure to comply with PCAOB standards in auditing Medicis's new "units-in-channel" methodology for calculating its year-end returns reserve estimate in 2006 and 2007. Anderson, Butler, and Christie failed to appropriately test, or ensure the performance of adequate procedures to test, key assumptions underlying management's new estimation methodology.[9/] Furthermore, notwithstanding contradictory audit evidence, they placed undue reliance on management's representation that the assumptions were reasonable.[10/]

11. Finally, this matter also involves the failure to adequately consider whether Medicis needed to disclose in its financial statements its practice of reserving for product returns at replacement cost, its application of the analogy to warranty accounting in 2006, and significant changes in its returns reserve estimation methodology in 2006 and 2007.

12. In connection with a 2008 inspection of E&Y's audits of Medicis, the PCAOB inspection staff questioned E&Y's acceptance of Medicis's use of replacement cost to calculate its returns reserve. After the PCAOB staff questioning, E&Y's National Accounting Group determined that Medicis's use of replacement cost was not appropriate. Additionally, E&Y made internal inquiries of audit partners in relevant practice groups to determine whether any of its other audit clients or other pharmaceutical companies reserved for product returns at replacement cost. E&Y was unable to identify any other comparable companies that accounted for their returns reserve as Medicis did. Ultimately, E&Y concluded that Medicis's reserving at replacement cost was not in conformity with GAAP and the Company was required to restate its accounting for its returns reserve.

13. On November 10, 2008, Medicis filed with the Commission an amended annual report on Form 10-K/A, restating the Company's financial statements for the years ended December 31, 2007 and 2006, the six months ended December 31, 2005, and the fiscal year ended June 30, 2005. In the restatement, Medicis's returns reserve increased $94.6 million (585%) as of December 31, 2005, $52.1 million (148%) as of December 31, 2006, and $58.9 million (600%) as of December 31, 2007. E&Y audited

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[8/] See AU § 110.01.

[9/] See AU § 342.11, *Auditing Accounting Estimates*.

[10/] See AU § 333.04, *Management Representations*; AU § 326.25, *Evidential Matter*.

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Medicis's restated financial statements for the foregoing periods and issued an audit report dated November 6, 2008, in which E&Y expressed an unqualified opinion that the restated financial statements presented fairly, in all material respects, Medicis's financial position and results of operations in conformity with GAAP.

D. Background

Medicis's Policy of Providing Customers With a Right to Return Expired Product for Which They Would Receive a Full Credit for the Sales Price

14. At all relevant times, Medicis sold pharmaceutical products that were time-dated. Medicis primarily sold its products to wholesale distributors and retail chain drug stores, which resold Medicis's products to others. Medicis's standard "Return Goods Policy," in effect at all relevant times, gave customers the right to return product if the product was returned within four or six months before expiration or up to 12 months after expiration (collectively, "expired product"). The majority of the Company's products had a shelf life of 18 to 24 months.

15. When customers returned expired product, Medicis's Return Goods Policy provided that Medicis would give customers a full credit by issuing a credit memo in the amount of "the original purchase price or pricing one (1) year prior to the date the warehouse receives the return."

16. The Return Goods Policy did not require customers to purchase the same or similar product as a condition of receiving or using a credit from Medicis for returning expired product. Medicis's customers, however, routinely applied return credits to purchases of the same or similar products as the products that were returned due to expiry. Moreover, most subsequent purchases occurred during the same quarter in which the return credit was issued.

Medicis's Revenue Recognition and Returns Reserve and Applicable GAAP

17. At all relevant times, SFAS 48 applied to Medicis's revenue recognition for its product sales because Medicis gave its customers the right to return expired product. Under SFAS 48, a company, which sells product subject to a right to return, may recognize revenue from those sales transactions at the time of sale only if certain conditions, including the ability to estimate the amount of future returns, are met.[11/] If those conditions are not met, revenue recognition must be postponed. If they are met,

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[11/] SFAS 48 ¶ 6.

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sales revenue and cost of sales reported in the income statement must be reduced to reflect estimated returns.[12/]

18. At all relevant times, Medicis represented to E&Y that it recognized product revenue at the time of sale in accordance with SFAS 48. Because its customers had the right to return expired product, Medicis also recorded estimates of future product returns at the time of sale. Medicis used these estimates to establish a sales returns reserve that reduced revenue reported in its financial statements.

19. For accounting purposes, Medicis referred to product returns where the customer used the return credit to purchase, in whole or in part, the same or similar product in the same quarter in which the return occurred as "returns replaced in quarter" or "returns replaced." Expired product returns where the return credit was used in subsequent quarters for purchases of different product or the same or similar product were referred to as "returns not replaced in quarter" or "returns not replaced." For its sales returns reserve, Medicis reserved for returns replaced at replacement cost and returns not replaced at gross sales price. Medicis's Return Goods Policy did not distinguish between returns replaced and returns not replaced. To the contrary, under Medicis's business policy, customers received a full credit in the amount of the gross sales price for product returns regardless of when customers used their credit to buy "replacement product."

20. At all relevant times, 97% of all of Medicis's product returns were for expired products, and returns replaced were the predominant share of expired product returns. For example, in performing the 2006 audit, the E&Y engagement team determined that "approximately 72% of all expired products returned were replaced in the same quarter" during 2006.

21. The audit evidence obtained by Respondents indicated that SFAS 48 applied and that Medicis needed to reserve for estimated returns due to expiry at gross sales price with an offsetting reduction to revenue. By reserving at replacement cost for most of its estimated returns, Medicis recorded its 85% gross margin as revenue at the time of sale even though it would issue a credit for the gross sales price when the product was eventually returned months or years later. Audit evidence obtained by Respondents indicated that reserving at replacement cost, and not at gross sales price, had a material impact on Medicis's returns reserve estimate. For example, information contained in E&Y's 2005 audit work papers demonstrated that, if Medicis reserved for all estimated returns at gross sales price versus using both gross sales price and replacement cost, Medicis's reserve would have increased by over $54 million.

[12/] Id. ¶ 7.

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22. As discussed in more detail below, over the relevant time period, Medicis's accounting rationale supporting reserving for returns replaced in quarter at replacement cost and its methodology for calculating its returns reserve changed significantly. Specifically, in 2005, Medicis relied on the exchange exception in footnote 3 of SFAS 48 to support replacement cost, but, in 2006, Anderson, Thibault, and other E&Y personnel concluded in the Product Returns Consultation that an analogy to warranty accounting supported the use of replacement cost to reserve for product returns. Medicis, with E&Y's concurrence, thereafter utilized the warranty analogy to support the continued use of replacement cost in establishing its sales returns reserve. Additionally, beginning at year-end 2006, Medicis applied a different reserve methodology that relied on significant assumptions that were inconsistent with Medicis's historical return patterns. Respondents failed to comply with PCAOB standards in evaluating and accepting Medicis's returns reserve accounting policies and estimation methodologies during the relevant audits.

E. Respondents Failed to Comply with Certain PCAOB Rules and Auditing Standards

23. Under PCAOB auditing standards, an auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards. Among other things, these standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[13/] Respondents failed to comply with these and other standards in connection with the 2005, 2006, and 2007 Medicis audits, and the Product Returns Consultation stemming from the 2006 AQR.

The December 31, 2005 Audit

24. E&Y audited Medicis's financial statements for the six month transition period-ended December 31, 2005 and issued an unqualified opinion that the financial statements presented fairly, in all material respects, Medicis's financial position and results of operations in conformity with GAAP. Anderson led the audit and authorized the issuance of E&Y's audit report. Butler was supervised by Anderson and acted as second partner on the audit. Thibault was independent review partner (*i.e.*, concurring review partner) for the audit.

[13/] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 326.

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25. During the six months ended December 31, 2005, Medicis's internally documented accounting policy relied on footnote 3 of SFAS 48 to support the use of replacement cost for estimated returns replaced. Footnote 3 creates an exception to the general rule of reserving for expected future product returns at the gross sales price and deferring the recognition of an equal amount of revenue. Specifically, footnote 3 of SFAS 48 provides:

> Exchanges by ultimate customers of one item for another of the same kind, quality, and price (for example, one color or size for another) are not considered returns for purposes of this Statement.

26. In performing the audit of Medicis's financial statements for the six months ended December 31, 2005, Anderson, Thibault,[14/] and Butler violated PCAOB standards by accepting Medicis's conclusion that the exchange exception to SFAS 48 supported reserving for estimated returns replaced at replacement cost.

27. At the time of the December 31, 2005 audit, Anderson, Thibault, and Butler were aware that Medicis made the majority of its product sales to resellers, not "ultimate customers." They knew or should have known that Medicis's returns were not returns of products in exchange for products of "the same kind, quality, and price," as required by footnote 3. Rather, Medicis's returns were of unsalable product for which a credit equal to the original gross sales price was issued. Moreover, the credit received was often applied to the purchase of new product priced differently from the original gross sales price of the returned product.

28. Anderson, Thibault, and Butler's acceptance of Medicis's reliance on footnote 3 of SFAS 48 not only conflicted with the plain language of the exchange exception, it also conflicted with E&Y's internal accounting literature. Specifically, E&Y's internal guidance stated:

> "[E]xchange" transactions, as defined in footnote 3 of Statement 48, are limited to transactions with the "ultimate customer" and not the reseller as demonstrated in the following examples:
>
> * * *
>
> 2. Returns by resellers for later versions of the same product (i.e. software and other computer or technology related products)

[14/] Thibault's 2005 violations relate to his role as independent review partner. In that role, Thibault was aware of the same material facts as Anderson and Butler.

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should be accounted for as a right-of-return. Exchange accounting would not apply to a reseller in any situation.

3. Arrangements where vendors only allow returns for credits against future purchases and returns for other products fall within the scope of a sale with a right-of-return, as opposed to an "exchange." The fact that there will not be a net reduction in revenue after the sale of the first product is not relevant; the first product is, in fact, being returned.

4. A common example of an exchange with the ultimate customer is one when a consumer exchanges a red sweater for a blue sweater.

29. Although Anderson, Thibault, and Butler knew that Medicis reserved for returns replaced at replacement cost and for returns not replaced at gross sales price, they failed to adequately consider whether Medicis needed to disclose this practice in its financial statements for the six months ended December 31, 2005, and the notes thereto.[15/] They also knew that Medicis relied on footnote 3 of SFAS 48, but failed to adequately consider whether this reliance should be disclosed by Medicis in its financial statements.

30. For the reasons given above, Anderson, Thibault, and Butler failed to obtain, or ensure the performance of procedures to obtain, sufficient competent evidential matter supporting the conclusion that estimated returns replaced were eligible for the exchange exception to SFAS 48. They were aware of contradictory audit evidence indicating that returns replaced were not eligible for the exchange exception to

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[15/] GAAP provides that "all significant accounting policies of the reporting entity should be included as an integral part of the financial statements." APB No. 22, Disclosure of Accounting Policies, ¶ 8. In particular "the disclosure should encompass important judgments as to appropriateness of principles relating to recognition of revenue," those principles "peculiar to the industry," and "[u]nusual or innovative applications of [GAAP]." Id. ¶ 12. While use of replacement cost for returns replaced was neither supported by the audit evidence obtained nor consistent with GAAP, even if Anderson, Thibault, and Butler had properly concluded that it was, PCAOB standards required them to consider whether Medicis needed to disclose the policy in its financial statements, which they failed to do. See AU § 431, *Adequacy of Disclosure in Financial Statements*.

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SFAS 48, but failed to appropriately consider, or ensure the performance of audit procedures to consider, such contradictory audit evidence.[16/]

31. As a result of E&Y, Anderson, Thibault, and Butler's failure to comply with PCAOB standards, Anderson, with Thibault's and Butler's review and approval, improperly authorized the issuance of E&Y's audit report dated March 10, 2006, on Medicis's financial statements for the six months ended December 31, 2005, which incorrectly expressed an unqualified opinion that the financial statements presented fairly, in all material respects, Medicis's financial position and results of operations in conformity with GAAP.[17/]

The 2006 E&Y Audit Quality Review of the December 31, 2005 Audit

32. In May 2006, the December 31, 2005 Medicis audit was the subject of an E&Y AQR. The AQR program was administered and overseen at a National Office level within E&Y and was part of E&Y's system of quality controls and procedures. AQRs were, among other things, designed to identify any deficiencies in selected E&Y audits and to require engagement teams to remediate such deficiencies. In this instance, the AQR appropriately identified the 2005 audit team's acceptance of Medicis's reliance on the exchange exception to SFAS 48 to justify the use of replacement cost as a deficiency. However, rather than appropriately remediating the deficiency by requiring Medicis to reserve for all returns at gross sales price, Anderson, Thibault, and other E&Y personnel concluded that a new equally deficient rationale supported Medicis's continued use of replacement cost.[18/]

33. The E&Y personnel responsible for the AQR had no prior involvement with the Medicis engagement. The AQR identified Medicis's use of the exchange exception to SFAS 48 for product returns as a potential AQR finding, and asked the engagement team to consider whether Medicis's reliance on footnote 3 of SFAS 48 to reserve for returns replaced in quarter at replacement cost complied with GAAP.

34. By e-mail message dated May 9, 2006, the AQR Team Leader informed a representative of E&Y's National AQR group (the "National AQR Member") as follows:

16/ See AU § 333.04; AU § 326.25.

17/ See AU § 508.07.

18/ Thibault served in a National office role as a consulting resource even though he was also the independent review partner for the 2005 audit. While firm guidelines allowed him to serve in both roles at the time, E&Y's consultation policy and guidelines no longer permit personnel to do so.

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> [Medicis] applies the exchange provisions of SFAS 48 which provides that for estimated exchanges of a product for a similar product, the reserve should only be for the cost related to the return and not for the sales value of the product returned. *In the case of Medicis, the margins are huge, so the difference in reserving sales value as a return vs. cost as an exchange is material* … SFAS 48 specifically precludes exchange accounting for sales to resellers, and also is clear that the exchange must be for a similar item with the same functionality (e.g. a red sweater for a blue sweater). In this case, the sales are to resellers and the customers are exchanging expired products with no use/functionality with new, unexpired products with full use/functionality.
>
> I have not discussed this with the partners on the engagement yet, as I wanted to discuss with you and determine if we need to get National PPD [Professional Practice Director] involved. There was no technical memo with PPD approval on this, however, this issue was in the SRM [Summary Review Memorandum] and the IRP [Independent Review Partner Thibault] is the Area PPD.

[Emphasis added.]

35. On or about May 12, 2006, E&Y personnel took part in a consultation regarding the sales returns reserve issue that arose in the AQR (the Product Returns Consultation). The participants included, among others, Anderson, Thibault (in his National Office role), and another National Office partner. Butler did not participate in the Product Returns Consultation.

36. The participants in the Product Returns Consultation determined that Medicis's reserving for returns replaced in quarter at replacement cost could not be supported by the exchange exception, but could be supported by reference or analogy to warranty accounting under SFAS 5. On or shortly after May 12, 2006, E&Y's National Director of Area Professional Practice orally concurred with the warranty accounting rationale.

37. Information available to the E&Y personnel participating in the Product Returns Consultation showed that returns replaced were not analogous to a warranty, as they did not involve returns of products that were defective or failed to meet their specifications, pursuant to a product warranty. Instead, the returns to Medicis were solely due to expiry.

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38. The participants in the Product Returns Consultation accepted the analogy to warranty accounting without adequately considering whether such a rationale had general acceptance and was appropriate in the circumstances.[19/]

39. Having concluded that the exchange exception to SFAS 48 did not apply to returns replaced in quarter, Anderson, Thibault, and the E&Y personnel who participated in the Product Returns Consultation failed to appropriately address why they believed SFAS 48 itself did not require full gross sales price deferral when revenue was recognized on Medicis's product sales subject to a right to return the product. Indeed, before reaching a conclusion that an analogy to warranty accounting was appropriate, they needed to address why they believed SFAS 48 itself did not require full gross sales price deferral. However, they neglected to gather appropriate evidence to support a conclusion that SFAS 48 itself did not require full gross sales price deferral and disregarded significant audit evidence to the contrary.

40. A consultation memorandum regarding the warranty accounting rationale (the "Consultation Memorandum") was prepared on or about May 12, 2006. The Consultation Memorandum was reviewed by Anderson and signed by him on May 15, 2006. Thibault, in his National Office role, also reviewed and approved the Consultation Memorandum and signed it on May 16, 2006.

41. The Consultation Memorandum stated in part:

> By allowing its customers to send back expired product the Company is essentially offering a "warranty" on products sold. This means that the economic cost to the Company of "guaranteeing freshness" of the product is the cost basis of the product.

42. This statement was contradicted by E&Y's internal accounting guidance, with which Respondents were familiar, which provided: "Warranty provisions differ from right-of-return provisions because the ultimate customer is returning a defective product."

43. The Consultation Memorandum provided that returns replaced in quarter were reserved for differently than returns replaced in subsequent quarters, but failed to address why different accounting for the returns was appropriate for sales made of the same products to the same distributors under the same returns policies. In fact, the Consultation Memorandum stated that "[p]ast experience has shown that the majority of

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[19/] See AU § 230; see also, AU § 411.04, *The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles*.

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expired products returned are replaced by customers in the same quarter with the balance almost always replaced through orders in the subsequent quarter." The memorandum failed to provide any authoritative basis for accounting for the returns differently.

44. The Consultation Memorandum also failed to address the applicability of SFAS 48. For example, it did not address that SFAS 48 applies where "product may be returned … for a credit applied to amounts owed or to be owed for other purchases, or in exchange for other products."[20/] Moreover, the Memorandum was silent as to SFAS 48 specifically excluding "sales transactions in which a customer may return defective goods, such as under warranty provisions," but not returns due to expiry.[21/] Nor did the Memorandum address SFAS 48, Appendix A, ¶ 13, which makes clear that SFAS 48 applies to circumstances in which a "customer has not been able to resell the product to another party."

45. When Anderson and Thibault signed the Consultation Memorandum, and when Butler reviewed it, they knew that the warranty accounting rationale set forth in the Consultation Memorandum differed from Medicis's rationale that the SFAS 48 exchange exception supported reserving for returns replaced in quarter at replacement cost during the six months ended December 31, 2005. Only two months before, Anderson, Thibault, and Butler had concurred with the SFAS 48 exchange exception in connection with the December 31, 2005 audit.

46. While E&Y, Anderson, Thibault, and other E&Y personnel accepted the warranty analogy to resolve the deficiency identified during the 2006 AQR, upon receiving the Consultation Memorandum, the AQR Team Leader sent an e-mail dated June 1, 2006 to the National AQR Member, with a copy to the AQR Reviewer, forwarding the Consultation Memorandum and stating as follows:

> Are you guys available to discuss this? While the memo is factually correct, it is quite different than the Company's policy, which assessed this issue based on exchange accounting, and not as a warranty. The memo does not even mention SFAS 48, which is what the Company's internal accounting policy is based on, and what the audit workpapers include. It's as if we are saying the client got the accounting right, but for the totally wrong reason and rationale.

20/ SFAS 48 ¶ 3.

21/ Id. ¶ 4.

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> [National E&Y AQR Member], we probably need some guidance on this. Also, I thought it was understood that there would be PPD sign off, and it sure seems like this is a new policy, or at least a policy the company never knew it was following.[22/]

47. During the December 31, 2005 audit and at the time of the 2006 AQR, Medicis had no documentation setting forth a warranty accounting rationale for reserving at replacement cost. E&Y did not inform Medicis of the warranty accounting rationale for reserving at replacement cost before E&Y concluded that the rationale was appropriate. It was not until the 2006 audit procedures (performed in the first quarter of 2007) that Medicis provided E&Y with any documentation setting forth a warranty accounting rationale for reserving at replacement cost.

48. Anderson, Thibault, and Butler added the Consultation Memorandum to E&Y's audit documentation for the December 31, 2005 Medicis audit. Butler wrote a memorandum to the audit file, dated June 29, 2006, that he and Anderson signed, explaining the addition of the Consultation Memorandum to the audit documentation. Anderson, Thibault, and Butler knew that Medicis's accounting for product returns remained the same due to Medicis's application of the warranty accounting rationale. They also knew or should have known that if replacement cost could not be supported by an appropriate accounting basis, Medicis would have to reserve for returns replaced in quarter at the gross sales price, and reduce revenue accordingly, pursuant to SFAS 48. Finally, they knew or should have known that such a change would have had a material effect on Medicis's financial statements and required it to restate its December 31, 2005 financial statements.

49. A final 2006 AQR findings report was issued and transmitted to E&Y's National AQR group. The report was signed by Anderson on July 6, 2006 and also signed by members of the AQR team. The report found that Medicis's use of footnote 3 to SFAS 48 to justify reserving at replacement cost was not appropriate because "the company's customers are distributors (i.e. resellers), and returned goods are medicines near or beyond the expiration date, while replacement goods are the same medicines significantly prior to the expiration date." The report also found that "the company's disclosures in the footnotes are not transparent/complete regarding its policy by indicating that 'exchanges for expired product are established as a reduction of product sales revenues at the time such revenues are recognized.'"

22/ There is no evidence how, if at all, E&Y responded to the concerns expressed by the AQR Team Leader in his June 1, 2006 e-mail to the National AQR Member.

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50. Butler made a presentation concerning the 2006 AQR and the Product Returns Consultation to the Audit Committee of Medicis on July 10, 2006 and explained that the exchange exception to SFAS 48 did not apply to Medicis's returns replaced in quarter. No explanation was given as to why SFAS 48 did not require a full gross sales price deferral for returns replaced in quarter. Nor was any such explanation shared with the Audit Committee prior to issuance of E&Y's 2006 audit report dated February 26, 2007.

51. At the time of the Product Returns Consultation, Anderson, Thibault, and Butler knew or should have known that Medicis's reserving for returns replaced in quarter at replacement cost was not prescribed by any GAAP literature identified in AU § 411, *The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles*.

52. At the time of the Product Returns Consultation, Anderson, Thibault, and Butler knew that Medicis's disclosure in its December 31, 2005 Form 10-K/T, regarding its usage of SFAS 48 to account for product returns, differed from the warranty accounting rationale. Despite this knowledge, they failed to appropriately re-assess the adequacy of the disclosures in the December 31, 2005 financial statements; failed to appropriately re-assess whether E&Y's previously issued unqualified audit opinion on the December 31, 2005 financial statements remained appropriate; and failed to adequately consider whether any action was required to safeguard against future reliance on E&Y's audit report on the December 31, 2005 financial statements.[23/]

The December 31, 2006 Audit

53. E&Y audited Medicis's financial statements for the year-ended December 31, 2006 and issued an unqualified opinion that the financial statements presented fairly, in all material respects, Medicis's financial position and results of operations in conformity with GAAP. Butler led the audit and authorized the issuance of E&Y's audit report.[24/] Thibault was independent review partner for the audit.

54. During 2006, Medicis continued to rely on the analogy to warranty accounting to support its sales returns reserve estimate but developed a new methodology, at year end, to estimate the sales return reserve for newer products. As a result of over $17 million of unexpected returns during the fourth quarter of 2006,

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[23/] See AU § 230; see also, AU § 561, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report.*

[24/] There was no second partner on the 2006 audit.

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Medicis significantly changed its methodology for calculating its year-end returns reserve estimate. With Butler and Thibault's consultation and concurrence, Medicis implemented a new methodology for determining its sales returns reserve for a portion of its expired product returns.

55. At year end, Medicis broke its reserve into two categories: (1) products launched within the last four years ("non-legacy products") and (2) products launched more than four years earlier ("legacy products"). For legacy products, Medicis used the same methodology as in 2005 which utilized historical return rates and lag times and reserved for returns replaced at replacement cost ("historical method"). For non-legacy products, the returns reserve was based on estimating the total units of inventory in the distribution and retail channels and comparing that total estimate to an estimate of the units of inventory in the channels that would not be returned for expiry due to product demand. Medicis reserved for the difference between these two estimates at gross sales price. This methodology was based on several new key assumptions not considered under the historical method. (The new methodology is hereinafter referred to as the "units-in-channel methodology" or "units-in-channel method").

Failure to Appropriately Audit the Legacy Returns Reserve Estimate

56. As part of the 2006 year-end audit procedures, Medicis prepared a memorandum dated March 1, 2007, documenting its reliance on the SFAS 5 warranty accounting rationale, as determined in the Product Returns Consultation, as support for reserving for legacy product returns replaced at replacement cost under the historical method. Butler and Thibault concurred with Medicis's reliance on the warranty accounting rationale and incorporated this memorandum into the work papers for the December 31, 2006 audit. In performing the audit, Butler and Thibault failed to obtain sufficient competent evidential matter supporting the conclusion that an analogy to warranty accounting supported reserving for legacy product returns replaced at replacement cost and was an appropriate application of GAAP.

57. Butler and Thibault knew or should have known that the application of warranty accounting to legacy product returns was not prescribed by any GAAP literature identified in AU § 411.

58. Based on the audit evidence available to them in performing the December 31, 2006 audit, Butler and Thibault knew or should have known that reserving for returns at gross sales price (whether replaced in quarter or otherwise), and reducing revenue accordingly was the generally accepted accounting treatment pursuant to SFAS 48.

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59. In performing the 2006 audit, Butler and Thibault failed to adequately consider whether Medicis needed to disclose in its Form 10-K: (1) its practice of reserving for legacy returns replaced in quarter at replacement cost; (2) its reliance on a warranty accounting rationale as support for that accounting practice; and (3) its change from relying on the SFAS 48 exchange exception to an analogy to SFAS 5 warranty accounting.[25/]

Failure to Appropriately Audit the
Units-In-Channel Non-Legacy Returns Reserve Estimate

60. During 2006, Butler encouraged Medicis's management to improve its sales returns reserve estimation process. As a result of the fourth quarter material unforeseen returns, consistent with Butler's prior encouragement, management incorporated new information into its reserve methodology. Specifically, for the first time management considered channel inventory information and forecasted prescription ("script") demand data in its returns reserve methodology. However, instead of incorporating this data into its existing methodology that considered historical returns experience, Medicis developed the units-in-channel methodology.

61. To calculate the returns reserve for non-legacy products under the units-in-channel methodology, management had to estimate (1) future product demand, (2) actual inventory levels in the channel, and (3) the level of inventory in the channel below which returns would not occur. PCAOB standards required E&Y and Butler to obtain and evaluate sufficient competent evidential matter to support Medicis's significant accounting estimates, including its non-legacy returns reserve estimate.[26/] Butler, however, failed to perform, or ensure the performance of, sufficient audit procedures to support the reasonableness of key assumptions underlying management's units-in-channel methodology, including the level of inventory in the channel below which management assumed returns would not occur.[27/] Consequently, they did not obtain

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[25/] See AU § 420, *Consistency of Application of Generally Accepted Accounting Principles*; AU § 431. The failure to adequately consider the sufficiency of the disclosure was exacerbated by the fact that, in connection with the 2006 AQR, E&Y developed an "Action Plan" which stated, in part, that "the Company's disclosures in future filings with the SEC . . . should include even greater transparency in the accounting for such returns."

[26/] See AU § 342.01.

[27/] See id. at .09.

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sufficient competent evidential matter to support the returns reserve estimate calculated by the units-in-channel methodology.

62. Management concluded that 12 weeks of projected script demand was the appropriate level of inventory in the channel ("the 12-week assumption"). In other words, management assumed that no returns would occur if channel inventory levels were below 12 weeks of total forecasted script demand. Management premised their 12-week assumption on eight weeks of inventory in the wholesale distribution channel and four weeks of inventory in the retail channel. The greater the number of weeks of inventory that management assumed was appropriately in the channel, the smaller its reserve — and the smaller the reduction to net revenue reported in the income statement.

63. Butler concluded that the 12-week assumption was reasonable based primarily on discussions with E&Y personnel and management's representation that Medicis's use of contract manufacturers caused production lead times to be up to 20 weeks. Butler knew or should have known that such evidence did not support the assumption that all sales below 12 weeks of script demand would not be returned. Butler failed to appropriately consider, or gather sufficient evidence to support, the contention that manufacturing lead times were a relevant factor in determining if a product in the channel was likely to be returned for expiry.[28/] Additionally, Butler was aware of audit evidence indicating that 12 weeks of channel inventory was above industry average and that, as documented in the work papers, each additional week of channel inventory assumed not to be returned decreased the estimated returns reserve by approximately $4.2 million.[29/] Butler was also aware that Medicis had not previously tracked the amount of inventory in the distribution channel, so there was no historical evidence against which to compare the 12-week assumption. Notwithstanding these facts, Butler failed to obtain sufficient competent evidence supporting that 12 weeks was a reasonable estimate for this key assumption.[30/]

64. A work paper reviewed by Butler contained information showing that the combined legacy and non-legacy reserve was approximately 10% ($3.4 million) larger than if the Company had continued to use its historical methodology at December 31, 2006 (*i.e.*, the methodology that priced the majority of reserved units at replacement

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[28/] See id. at .11b.

[29/] Tolerable error for individual account balances for the 2006 audit was $2.175 million.

[30/] See AU § 342.11b.

cost instead of at gross sales price). Butler knew or should have known that this work paper did not provide evidence supporting the reasonableness of the units-in-channel methodology and that, if all returns under the historical method calculation had been reserved for at gross sales price as in the units-in-channel calculation, the reserve would have been materially higher due to the significant difference between cost and sales price resulting from Medicis's 85% gross margins on product sales.

65. In performing the 2006 audit, Butler failed to adequately consider whether Medicis needed to disclose in its Form 10-K its change to the units-in-channel methodology for non-legacy product returns.[31/]

66. As a result of E&Y, Butler, and Thibault's failure to comply with PCAOB standards, Butler, with Thibault's review and approval, improperly authorized the issuance of E&Y's audit report dated February 26, 2007, on Medicis's financial statements for the year ended December 31, 2006, which incorrectly expressed an unqualified opinion that the financial statements presented fairly, in all material respects, Medicis's financial position and results of operations in conformity with GAAP.[32/]

The December 31, 2007 Audit

67. E&Y audited Medicis's financial statements for the year-ended December 31, 2007 and issued an unqualified opinion that the financial statements presented fairly, in all material respects, Medicis's financial position and results of operations in conformity with GAAP. Anderson led the audit and authorized the issuance of E&Y's audit report. Christie was supervised by Anderson and acted as second partner on the audit.

68. Over the course of 2007, Medicis continued to change how it estimated its sales returns reserve estimate. For the first two quarters, it developed the estimate as it had at 2006 year-end – by using units-in-channel for non-legacy products and the historical method for legacy products.

69. In the third quarter of 2007, Medicis began reserving for all estimated returns under the units-in-channel methodology. Thus, for the first time, Medicis reserved for all returns at gross sales price. However, like at year-end 2006, Medicis compared the reserve estimate calculated under both the units-in-channel and historical methodologies to determine if the transition was appropriate. The historical method produced a legacy product reserve 81% higher than the units-in-channel method —

31/ See AU § 431.

32/ See AU § 508.07.

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even though the historical method reserved for most estimated legacy returns at replacement cost instead of gross sales price. The fact that the historical method at replacement cost produced a reserve nearly double the units-in-channel method at gross sales price should have caused Anderson and Christie to question the continued reasonableness of the units-in-channel methodology. Instead, based on this comparison, they accepted management's decision to record a reserve equal to the mid-point between the two estimates at September 30, 2007.

70. At year-end, due in part to the comparison done at September 30, 2007, with the concurrence of Anderson and Christie, Medicis used only the units-in-channel methodology for developing its returns reserve estimate. The units-in-channel methodology resulted in a reserve of $9.6 million at December 31, 2007 – a 70% decline from the reserve recorded at December 31, 2006.

71. In addition, as shown in the audit work papers, Anderson and Christie knew that the December 31, 2006 returns reserve of $35.2 million – which was intended to cover approximately 18 months worth of future returns – was insufficient to cover the 12 months of 2007 returns alone, which totaled $53.8 million at gross sales price. And, management's December 31, 2007 returns reserve of $9.6 million was less than the actual returns in the fourth quarter of 2007 alone. PCAOB standards required E&Y, Anderson, and Christie to consider these facts and, to the extent management believed its historical return pattern would not continue, obtain sufficient competent evidential matter to support the reasonableness of the year-end reserve estimate.[33/] Anderson and Christie failed to comply with this requirement.

Failure to Adequately Test Management's 12-Week Assumption

72. In performing the audit, Anderson and Christie failed to adequately test or ensure the performance of audit procedures to test management's estimate that 12 weeks of product inventory in the distribution channel was an appropriate estimate of the number of units of product not likely to be returned. Instead, the engagement team relied on management's representation that the 12-week assumption was appropriate and on the prior year audit team's insufficiently supported acceptance of the 12-week assumption as the basis for the continued use of the assumption in 2007.

73. As noted above, Anderson and Christie knew or should have known that the December 31, 2006 reserve estimate had proven not to be sufficient to cover anticipated returns. Moreover, they knew that the third quarter comparison between the historical and units-in-channel methodologies showed that the units-in-channel

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[33/] See AU § 342.09.

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methodology produced a materially lower reserve estimate for legacy products even though it was based on gross sales price. These facts required Anderson and Christie to obtain additional audit evidence supporting the 12-week assumption, but they failed to do so.[34/]

Failure to Adequately Test Management's Retail Inventory Estimate

74. Anderson and Christie were aware that management did not have access to data concerning the level of product inventory in the retail distribution channel at December 31, 2007. They also knew that management estimated how much inventory was in the retail channel by assuming that all retail customers had 30 days of inventory on hand of each Medicis product. Anderson and Christie failed to perform any procedures or gather any evidence to assess the reasonableness of this assumption in violation of PCAOB standards.

75. In performing the audit, Anderson and Christie also failed to adequately evaluate whether Medicis's adoption of the units-in-channel methodology for legacy product returns required disclosure.[35/]

76. As a result of E&Y, Anderson, and Christie's failure to comply with PCAOB standards, Anderson, with Christie's review and approval, improperly authorized the issuance of E&Y's audit report dated February 26, 2008, on Medicis's financial statements for the year ended December 31, 2007, which incorrectly expressed an unqualified opinion that the financial statements presented fairly, in all material respects, Medicis's financial position and results of operations in conformity with GAAP.[36/]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. The Board, in determining the appropriate sanctions as to E&Y, has taken into account the undertakings E&Y previously agreed to in the settlement of an unrelated Securities and Exchange Commission administrative proceeding. Those undertakings would have prohibited the independent review partner from participating in

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[34/] See AU § 333.04; AU § 326.25; AU § 342.11.

[35/] See AU § 420.

[36/] See AU § 508.07.

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the Product Returns Consultation in a National Office role and would have required greater documentation of the consultation.[37/] Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Ernst & Young is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jeffrey S. Anderson is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

C. After two (2) years from the date of this Order, Jeffrey S. Anderson may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Robert H. Thibault is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

E. After one (1) year from the date of this Order, Robert H. Thibault may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

F. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Ronald Butler, Jr. is hereby censured;

G. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Thomas A. Christie is hereby censured; and

H. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), civil money penalties in the amount of $2,000,000 payable by Ernst & Young; $50,000 payable by Jeffrey S. Anderson; $25,000 payable by Robert H. Thibault; and $25,000 payable by Ronald Butler, Jr. are imposed. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Ernst & Young, Anderson, Thibault, and Butler shall pay these civil money penalties within 30 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff, United States postal money order,

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[37/] See *Ernst & Young*, SEC Release No. 34-61196 (Undertakings C.1. and C.4.).

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certified check, bank cashier's check, or bank money order; (b) made payable to the Public Company Accounting Oversight Board; (c) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (d) submitted under cover letters which identify each as a Respondent in these proceedings, set forth the title and PCAOB Release number of these proceedings, and state that payment is made pursuant to this Order, a copy of which cover letters and money orders or checks shall be sent to Office of the Secretary, Attention: J. Gordon Seymour, General Counsel and Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ J. Gordon Seymour

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J. Gordon Seymour
Secretary

February 8, 2012

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Brock, Schechter & Polakoff, LLP,* *Respondent.*	PCAOB Release No. 105-2012-002 May 22, 2012

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Brock, Schechter & Polakoff, LLP ("BSP," or "Respondent"), revoking BSP's registration, and imposing a civil money penalty in the amount of $20,000 upon BSP.[1/] The Board is imposing these sanctions on the basis of its findings that BSP violated PCAOB rules, quality control standards, and auditing standards, in connection with the audits of three China-based and Taiwan-based issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against BSP.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary

[1/] BSP may reapply for registration after two (2) years from the date of this Order.

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Proceedings, Making Findings, and Imposing Sanctions (the "Order") as set forth below.[2/]

III.

On the basis of Respondent's Offer, the Board finds[3/] that:

A. Respondent

1. BSP is, and at all relevant times was, a public accounting firm organized as a limited liability partnership under the laws of the State of New York, and headquartered in Buffalo, New York. BSP is licensed by the New York State Education Department (License No. 074249). BSP is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, BSP was the independent auditor for each of the issuers identified in paragraph two, below.

B. Summary

2. This matter concerns BSP's failures to comply with PCAOB quality control standards. BSP failed to develop policies and procedures sufficient to provide it with reasonable assurance that the firm undertook only those public company audit engagements that it reasonably could expect to complete with professional competence. In 2006, BSP began auditing the financial statements of public companies located in the Republic of China ("Taiwan") and the People's Republic of China ("China"). At that time, BSP had no prior experience auditing public companies pursuant to PCAOB auditing standards, and BSP had no prior experience auditing

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[2/] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3/] The sanctions that the Board is imposing on Respondent in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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companies based in Taiwan or China. Despite BSP's lack of professional staff with relevant training or experience, BSP accepted engagements to audit: (1) the 2006 through 2008 financial statements of Kid Castle Educational Corporation ("Kid Castle"), (2) the 2007 financial statements of China Junlian Integrated Surveillance, Inc. ("China Junlian"), (3) the 2008 financial statements of North American Gaming & Entertainment Corporation ("North American Gaming"), and (4) North American Gaming's internal controls over financial reporting ("ICFR") as of December 31, 2008 (collectively, the "Audits").

3. BSP also failed to develop quality control policies and procedures sufficient to ensure that the audit personnel assigned to work on public company audit engagements, including the auditor with final responsibility, possessed the degree of technical training and proficiency required to fulfill their engagement responsibilities. Finally, BSP's monitoring program, which failed to select any of BSP's public company audit engagements for review, was insufficient to provide the firm with reasonable assurance that its system of quality control was effective at assessing whether the firm's audits were performed in compliance with applicable professional standards.

4. This matter also involves BSP's failure to comply with PCAOB auditing standards related to the planning, performance, and supervision of the Audits. BSP failed to gather sufficient competent evidential matter, and failed to use due care and to exercise professional skepticism in the course of the Audits. The Audits were planned and performed by two other audit firms, one located in Taiwan (the "Taiwan Firm") and one located in China (the "China Firm") (collectively, the "Foreign Firms"),[4/] not by BSP. During the Audits, BSP had minimal contact with the Foreign Firms, and performed an inadequate review of the working papers prepared by the Foreign Firms.

5. Finally, this matter concerns BSP's failure to comply with Auditing Standard No. 3, Audit Documentation ("AS3"), by failing to ensure that it obtained and reviewed engagement completion documents from the Foreign Firms prior to issuing audit reports.

[4/] Both of the Foreign Firms are registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

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C. Respondent Violated PCAOB Rules and Quality Control Standards.

6. PCAOB rules require that a registered public accounting firm comply with certain quality control standards.[5/] PCAOB quality control standards require that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[6/] PCAOB quality control standards state that policies and procedures "should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[7/] A firm's policies and procedures should provide reasonable assurance that the firm undertakes "only those engagements that the firm can reasonably expect to be completed with professional competence."[8/] Policies and procedures, as well, should be established to provide the firm with reasonable assurance that work "is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[9/] Finally, PCAOB quality control standards provide that policies and procedures "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied."[10/] As detailed below, BSP failed to comply with PCAOB quality control standards in connection with the Audits.

[5/] PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards*, and 3400T, *Interim Quality Control Standards*.

[6/] QC § 20.02, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[7/] Id. § 20.17.

[8/] See id. § 20.15.

[9/] See id. § 20.13; QC §§ 40.03 and 40.06, *The Personnel Management Element of a Firm's System of Quality Control - Competencies Required by a Practitioner-in-Charge of an Attest Engagement.* See also AU § 230.06, *Due Professional Care in the Performance of Work*.

[10/] See id. § 20.20; QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

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BSP Agrees to Audit Taiwan-Based and China-Based Issuers

7. In May 2006, the Foreign Firms solicited several U.S.-based auditing firms, including BSP, to work with the Foreign Firms in auditing the financial statements of Taiwan-based and China-based issuers. Neither BSP nor any of its professional staff had any prior experience working with the Foreign Firms when BSP responded to the solicitations. The Foreign Firms proposed that they would perform all of the audit field work, but that BSP would issue the audit reports.

8. After being approached by the Foreign Firms, BSP's Director of Accounting and Auditing, James R. Waggoner,[11/] and BSP's managing partner traveled to China and Taiwan to meet with the Foreign Firms. These meetings—conducted over a 10-day, multi-city trip—were introductory in nature. BSP representatives discussed business opportunities with the Foreign Firms, and discussed how the Foreign Firms and BSP would divide responsibility for completing audits. BSP and the Taiwan Firm also met with representatives of Kid Castle.

9. The partners of BSP, nonetheless, agreed that the firm could accept audit engagements in which the Foreign Firms would perform all of the audit field work, and BSP would issue the audit opinions based on the audit work of the Foreign Firms. BSP determined to accept these engagements despite the fact that BSP had no professional staff with: (1) experience auditing the financial statements of issuers under PCAOB auditing standards; (2) experience auditing companies based in Taiwan and China; or (3) the ability to understand or communicate in Chinese.

Engagement Acceptance

10. As stated above, at the time that BSP and its partners determined to accept audit engagements for public companies based in Taiwan and China, BSP lacked any professional staff with training or experience in conducting public company audits pursuant to PCAOB standards. BSP did nothing to provide relevant training to its existing staff, and it did not hire additional staff with the necessary training or experience. BSP's policies and procedures did not provide reasonable assurance that

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[11/] See James R. Waggoner, CPA, PCAOB Release No. 105-2012-003 (May 22, 2012). Waggoner, a BSP principal at all times relevant to this matter, served as the auditor with final responsibility for each of the Audits. Waggoner also had quality control responsibilities at all times relevant to this matter in his capacity as BSP's Director of Accounting and Auditing.

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the firm undertook only engagements that the firm could reasonably expect to be completed with professional competence.[12/]

Personnel Management

11. BSP assigned Waggoner to serve as the practitioner-in-charge of the Audits. BSP understood, prior to the firm accepting the Kid Castle, China Junlian, and North American Gaming audit engagements, that Waggoner had never audited a public company. BSP understood that Waggoner had no experience or training in auditing public companies under PCAOB auditing standards. BSP also understood that Waggoner had no experience or training in performing an ICFR audit.

12. BSP did not provide Waggoner with relevant training.[13/] BSP also did not provide Waggoner with professional staff possessing relevant training or experience.[14/] BSP's quality control policies and procedures were not adequate to provide the firm with reasonable assurance that (a) the practitioner-in-charge of the Audits possessed the competencies necessary to fulfill his engagement responsibilities, and (b) work was assigned to personnel having the degree of technical training and proficiency required in the circumstances.[15/]

Monitoring Procedures

13. One element of quality control is monitoring, to provide a firm with reasonable assurance "that its system of quality control is effective."[16/] Monitoring procedures may include preissuance or postissuance reviews of selected audit engagements.[17/] As part of its quality control system, BSP participated in a peer review program every three years, and it also conducted its own internal postissuance reviews of selected audit engagements in years that were not subject to peer review. The firm's

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12/ QC § 20.15(a).

13/ QC § 40.07.

14/ QC § 20.13.

15/ QC § 20.13; QC § 40.06.

16/ QC § 30.03.

17/ Id.

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internal review program was administered by Waggoner in his capacity as BSP's Director of Accounting and Auditing. The Accounting and Auditing committee, under Waggoner's leadership, was also responsible for providing information to the audit firm that performed BSP's peer reviews.

14. Despite the fact that the Kid Castle, China Junlian and North American Gaming audits were BSP's first audit engagements subject to PCAOB auditing standards, and despite the fact that these audits were BSP's first audit engagements for companies with operations in China and Taiwan, none of these Audits were selected for review either in BSP's internal review program or during peer reviews. BSP understood that BSP's postissuance review and peer review programs were not selecting any of these audits for review. The same person who was serving as the auditor with final responsibility for the Audits, Waggoner, also was administering BSP's postissuance review program, and leading the committee that interacted with BSP's peer reviewers. BSP's monitoring procedures did not enable the firm to obtain reasonable assurance that its system of quality control was effective.[18/]

D. Respondent Violated PCAOB Rules and Auditing Standards in Connection With the Audits.

15. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[19/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[20/] Among other things, PCAOB standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[21/]

[18/] Id.; QC § 30.08.

[19/] See PCAOB Rules 3100 and 3200T.

[20/] AU § 508.07, *Reports on Audited Financial Statements*.

[21/] AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230; and AU § 326, *Evidential Matter*.

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16. PCAOB auditing standards in effect at the time of the Audits also required that an audit be adequately planned and that assistants be properly supervised.[22/] "Supervision involves directing the efforts of assistants who are involved in accomplishing the objectives of the audit and determining whether those objectives were accomplished. Elements of supervision include instructing assistants, keeping informed of significant problems encountered, reviewing the work performed, and dealing with differences of opinion among firm personnel."[23/] As detailed below, BSP failed to comply with these standards in connection with the Audits.

Audits of Kid Castle's 2006-2008 Financial Statements

17. At all relevant times, Kid Castle was a corporation organized under the laws of the State of Florida, with its headquarters in Taipei, Taiwan. As disclosed in its public filings, Kid Castle was a provider of English-language instruction and educational services to children for whom Chinese is the child's primary language. At all relevant times, Kid Castle was required to file periodic reports with the United States Securities and Exchange Commission ("Commission") under Section 15(d) of the Securities Exchange Act of 1934 ("Exchange Act"), and its shares were traded on the OTC Bulletin Board and the Pink Sheets. At all relevant times, Kid Castle was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

18. The Taiwan firm approached BSP concerning the Kid Castle audit engagement on or about June 22, 2006. Kid Castle engaged BSP as its auditor beginning on or about July 26, 2006. In audit reports dated June 14, 2007, March 28, 2008, and March 13, 2009, BSP expressed unqualified opinions on Kid Castle's financial statements for the fiscal years ended December 31, 2006 ("2006"), December 31, 2007 ("2007"), and December 31, 2008 ("2008"), respectively. The audit reports were included in Forms 10-K which Kid Castle filed with the Commission on June 14, 2007 (for the 2006 audit), March 31, 2008 (for the 2007 audit), and March 17, 2009 (for the 2008 audit). BSP also expressed an unqualified opinion on Kid Castle's restated financial statements for fiscal year 2007, in an audit report dual-dated March 28, 2008, and September 17, 2008, that was included in Kid Castle's Form 10-K/A filed with the Commission on September 23, 2008. The 2006-2008 audits of Kid Castle are referred

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[22/] AU § 311.01, *Planning and Supervision* (superseded by Auditing Standard No. 9, *Audit Planning*, and Auditing Standard No. 10, *Supervision of the Audit Engagement*, effective for audits of financial statements for fiscal years beginning on or after December 15, 2010).

[23/] Id. § 311.11.

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to, collectively, as the "Kid Castle audits." Each audit report stated that, in BSP's opinion, Kid Castle's financial statements presented fairly, in all material respects, the company's financial position in conformity with accounting principles generally accepted in the United States ("US GAAP"), and that BSP's audit was conducted in accordance with PCAOB standards.

19. BSP failed to comply with applicable professional standards in connection with the Kid Castle audits.[24/] First, the BSP engagement team failed to adequately plan the audits by failing to consider the nature, extent, and timing of the work to be performed. BSP wholly relied upon the Taiwan Firm to consider the nature, extent, and timing of the work to be performed, to prepare a written audit program, and to modify planned audit procedures as the audit progressed. The BSP engagement team also failed to adequately supervise the audits by failing: (1) to determine the technical training and ability of the Taiwan Firm assistants, and to assign audit tasks to the assistants according to their abilities; (2) to instruct the Taiwan Firm assistants; (3) to inform the Taiwan Firm assistants of their responsibilities and the objectives of the audit procedures to be performed; (4) to inform the Taiwan Firm assistants of matters that may have affected the nature, extent, and timing of the procedures they were to perform; and (5) to direct the Taiwan Firm assistants to bring to BSP's attention significant accounting and auditing questions raised during the audits.[25/]

20. BSP's principal involvement in the Kid Castle audits was its post-field work review of the work performed by the Taiwan Firm assistants. BSP failed to adequately perform this review. In the 2006 audit, Waggoner, the auditor with final responsibility for the audit, assigned the review of the working papers to a BSP staff member. The BSP staff member identified deficiencies related to the audit procedures performed, and audit evidence gathered, for material account balances in Kid Castle's financial statements. Waggoner forwarded the staff person's list of identified deficiencies to the Taiwan Firm. However, the BSP engagement team did not require the Taiwan Firm assistants to perform any additional procedures or to gather any additional evidence, and the BSP engagement team did not otherwise determine whether these deficiencies were properly addressed by the Taiwan Firm, prior to BSP issuing its audit report containing an unqualified opinion on the financial statements.[26/]

[24/] See AU § 150; AU § 230.06.

[25/] See AU § 230.06; AU §§ 311.11-.12.

[26/] See AU § 326.25; AU § 311.13.

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21. For the 2007 audit, despite knowing of deficiencies identified in the preceding year's audit work, the BSP engagement team did not receive or review any working papers from the Taiwan Firm, except for a set of worksheets showing the consolidation of Kid Castle's subsidiary accounts. For the 2008 audit, the BSP engagement team did not review any working papers from the Taiwan Firm.

22. As a result of the BSP engagement team's failures to comply with PCAOB auditing standards, including failing to ensure that the Taiwan Firm assistants gathered sufficient competent evidential matter,[27/] BSP improperly issued its audit reports for Kid Castle's 2006-2008 financial statements, which incorrectly stated that BSP had conducted the Kid Castle audits in accordance with PCAOB auditing standards.[28/]

23. Finally, BSP failed to comply with AS3 in connection with each of the Kid Castle audits. AS3 required the BSP engagement team to obtain, review, and retain engagement completion documents from the Taiwan Firm sufficient to provide a thorough understanding of the significant findings or issues in the Kid Castle audits, complete with cross-references to supporting audit documentation, as appropriate.[29/] The BSP engagement team failed to obtain, review, and retain engagement completion documents from the Taiwan Firm prior to BSP issuing the Kid Castle audit reports.

Audit of China Junlian's 2007 Financial Statements

24. At all relevant times, China Junlian was a Nevada corporation, with its headquarters in Guangzhou, China. As disclosed in its public filings, China Junlian, through its wholly owned subsidiary, was organized to engage in consulting, systems development, and customer service in the field of surveillance technology. At all relevant times, China Junlian's common stock was registered with the Commission under Section 12(g) of the Exchange Act. At all relevant times, China Junlian reported that there was no active market for its securities. At all relevant times, China Junlian was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

[27/] See AU §§ 326.01 and .25.

[28/] See AU § 508.07.

[29/] Auditing Standard No. 3, *Audit Documentation* ("AS3") (subsequently amended for fiscal years beginning after December 15, 2010), ¶¶ 13 and 19.

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25. The China Firm approached BSP concerning the China Junlian audit engagement on or about May 21, 2007. China Junlian engaged BSP as its auditor beginning in or about July 2007. BSP audited China Junlian's financial statements for the fiscal year ended December 31, 2007. In an audit report dated April 15, 2008, BSP expressed an unqualified opinion on China Junlian's 2007 financial statements. The audit report was included in a Form 10-KSB that China Junlian filed with the Commission on April 15, 2008. The audit report stated that, in BSP's opinion, China Junlian's financial statements presented fairly, in all material respects, the company's financial position in conformity with US GAAP, and that BSP's audit was conducted in accordance with PCAOB standards.

26. BSP failed to comply with applicable professional standards in connection with the China Junlian audit.[30/] First, the BSP engagement team failed to adequately plan the audit by failing to consider the nature, extent, and timing of the work to be performed.[31/] BSP wholly relied upon the China Firm to consider the nature, extent, and timing of the work to be performed, to prepare a written audit program, and to modify planned audit procedures as the audit progressed. The BSP engagement team also failed to adequately supervise the audit by failing: (1) to determine the technical training and ability of the China Firm assistants, and to assign audit tasks to the assistants according to their abilities; (2) to instruct the China Firm assistants; (3) to inform the China Firm assistants of their responsibilities and the objectives of the audit procedures to be performed; (4) to inform the China Firm assistants of matters that may have affected the nature, extent, and timing of the procedures they were to perform; and (5) to direct the China Firm assistants to bring to BSP's attention significant accounting and auditing questions raised during the audit.[32/]

27. BSP's principal involvement in the China Junlian audit was its post-field work review of the work performed by the China Firm assistants. BSP failed to adequately perform this review. Waggoner, the auditor with final responsibility for the audit, assigned the review of the China Firm's working papers to a BSP staff member. Although the audit working papers received from the China Firm revealed discrepancies in the audit evidence relating to material accounts, including revenue, the BSP engagement team did not determine whether those discrepancies were properly

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30/ See AU § 150; AU § 230.06.

31/ See AU § 311.05.

32/ See AU § 230.06; AU §§ 311.11-.12.

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addressed by the China Firm prior to BSP issuing its audit report containing an unqualified opinion.

28. As a result of the BSP engagement team's failures to comply with PCAOB auditing standards, including failing to ensure that the China Firm assistants gathered sufficient competent evidential matter,[33/] BSP improperly issued its audit report for China Junlian's 2007 financial statements, which incorrectly stated that BSP had conducted the audit in accordance with PCAOB auditing standards.[34/]

29. Finally, BSP failed to comply with AS3 in the course of the China Junlian audit. The BSP engagement team failed to obtain, review, and retain an engagement completion document from the China Firm prior to BSP issuing its audit report.[35/]

Audit of North American Gaming's 2008 Financial Statements and ICFR

30. At all relevant times, North American Gaming was a Delaware corporation, with its headquarters in Xi'An, China. As disclosed in its public filings, North American Gaming was engaged in the business of exploring for gold, zinc, lead and other mineral products in China. At all relevant times, North American Gaming's common stock was registered with the Commission under Section 12(g) of the Exchange Act and its common stock was quoted on the OTC Bulletin Board. At all relevant times, North American Gaming was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

31. The China Firm approached BSP concerning the North American Gaming audit engagement on or about May 13, 2008. North American Gaming engaged BSP as its auditor beginning on or about August 11, 2008. BSP performed an integrated audit of North American Gaming's annual financial statements for the fiscal year ended December 31, 2008, and management's assessment of ICFR as of December 31, 2008 (the "Integrated Audit"). In an audit report dated April 15, 2009, BSP expressed a qualified opinion on North American Gaming's 2008 financial statements. The audit report stated that, except for the company's goodwill balance, the impairment of which would affect the results of operations, in BSP's opinion, the financial statements presented fairly, in all material respects, the company's financial position in conformity

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33/ See AU §§ 326.01 and .25.

34/ See AU § 508.07.

35/ See AS3 ¶ 19.

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with US GAAP, and that BSP's audit was conducted in accordance with PCAOB standards.

32. In a separate report dated April 15, 2009, BSP issued an unqualified opinion for BSP's audit of management's assessment of the effectiveness of ICFR. This report stated that, in BSP's opinion, North American Gaming maintained, in all material respects, effective internal control over financial reporting as of December 31, 2008. The ICFR report stated that the audit was conducted in accordance with PCAOB standards. Both the financial statement audit report and the ICFR audit report were included in a Form 10-KSB that North American Gaming filed with the Commission on April 15, 2009, and in a Form 10-KSB/A that North American Gaming filed with the Commission on March 22, 2010.

33. BSP failed to comply with applicable professional standards in connection with the North American Gaming Integrated Audit.[36/] First, the BSP engagement team failed to comply with PCAOB auditing standards in planning the Integrated Audit.[37/] BSP wholly relied upon the China Firm to consider the nature, extent, and timing of the work to be performed, to prepare a written audit program, and to modify planned audit procedures as the audit progressed. Although the China Firm provided the BSP engagement team with a document purporting to memorialize planning for the Integrated Audit, that document was written in Chinese, was largely untranslated, and was not adequate to provide the BSP engagement team with an understanding of the audit plan.[38/]

34. The BSP engagement team also failed to adequately supervise the Integrated Audit by, among other things, failing: (1) to determine the technical training and ability of the China Firm assistants, and to assign audit tasks to the assistants according to their abilities; (2) to adequately instruct the China Firm assistants; (3) to adequately inform the China Firm assistants of their responsibilities and the objectives of the audit procedures to be performed; (4) to adequately inform the China Firm assistants of matters that may have affected the nature, extent, and timing of the procedures they were to perform; and (5) to direct the China Firm assistants to bring to

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36/ See AU § 150; AU § 230.06.

37/ See AU §§ 311.02 and .13.

38/ Id.

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BSP's attention significant accounting and auditing questions raised during the Integrated Audit.[39/]

35. BSP's principal involvement in the Integrated Audit was its post-field work review of the work performed by the China Firm assistants. BSP failed to adequately perform this review. Waggoner, the auditor with final responsibility for the audit, assigned the review of the China Firm's working papers to a BSP staff member. The BSP staff member identified deficiencies related to the audit procedures performed, and audit evidence gathered, for material account balances in North American Gaming's financial statements, and advised the China Firm of these deficiencies. However, the BSP engagement team failed to determine whether these deficiencies were properly addressed prior to BSP issuing its audit reports.

36. As a result of the BSP engagement team's failures to comply with PCAOB auditing standards, including failing to ensure that the China Firm assistants gathered sufficient competent evidential matter,[40/] BSP improperly issued its audit reports on North American Gaming's ICFR and financial statements.[41/] Both of the reports incorrectly stated that BSP had conducted its audit in accordance with PCAOB auditing standards.

37. Finally, BSP failed to comply with AS3 in connection with the Integrated Audit. The BSP engagement team failed to obtain, review, and retain an engagement completion document from the China Firm prior to BSP issuing the North American Gaming audit reports.[42/]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

[39/] See AU § 230.06; AU §§ 311.11-.12.

[40/] See AU § 326.01; AU § 326.25.

[41/] See AU § 508.07; AS5 ¶ 3.

[42/] See AS3 ¶ 19.

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A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Brock, Schechter & Polakoff, LLP is hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Brock, Schechter & Polakoff, LLP is revoked;

C. After two (2) years from the date of this Order, Brock, Schechter & Polakoff, LLP may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon Brock, Schechter & Polakoff, LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Brock, Schechter & Polakoff, LLP shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Brock, Schechter & Polakoff, LLP as the Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe Brown

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Phoebe Brown
Secretary

May 22, 2012

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS In the Matter of James R. Waggoner, CPA, Respondent.	PCAOB Release No. 105-2012-003 May 22, 2012

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring James R. Waggoner, CPA ("Waggoner" or "Respondent") and barring him from being an associated person of a registered public accounting firm.[1/] The Board is imposing this sanction on the basis of its findings that Waggoner violated PCAOB rules and auditing standards in connection with (a) the audits of three China-based and Taiwan-based issuer clients, and (b) the improper creation, addition, and backdating of audit documentation prior to a Board inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Waggoner.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary

[1/] Waggoner may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

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Proceedings, Making Findings, and Imposing Sanctions (the "Order") as set forth below.[2/]

III.

On the basis of Respondent's Offer, the Board finds[3/] that:

A. Respondent

1. James R. Waggoner, 54, of Kenmore, New York, is a certified public accountant who is licensed to practice under the laws of the State of New York (License No. 053569). At all relevant times, Waggoner was a principal of Brock, Schechter & Polakoff, LLP[4/] (the "Firm," or "BSP"), and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). At all relevant times, Waggoner was BSP's Director of Accounting & Auditing. Waggoner was the auditor with final responsibility for BSP's audits of the financial statements of each of the issuers identified in paragraph two, below. BSP separated Waggoner from employment with the Firm on or about July 11, 2011.

B. Summary

2. This matter arises from BSP's audits of: (1) the 2006 through 2008 financial statements of Kid Castle Educational Corporation ("Kid Castle"), (2) the 2007 financial statements of China Junlian Integrated Surveillance, Inc. ("China Junlian"), (3) the 2008 financial statements of North American Gaming & Entertainment Corporation

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[2/] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3/] The sanctions that the Board is imposing on Respondent in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4/] See Brock, Schechter & Polakoff, LLP, PCAOB Release No. 105-2012-002 (May 22, 2012).

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("North American Gaming"), and (4) North American Gaming's internal controls over financial reporting ("ICFR") as of December 31, 2008 (collectively, the "Audits"). Waggoner was the auditor with final responsibility for the Audits.

3. Waggoner failed to comply with PCAOB auditing standards related to the planning, performance, and supervision of the Audits. Also, Waggoner failed to gather sufficient competent evidential matter, and failed to use due care and to exercise professional skepticism in the course of the Audits. As detailed below, the Audits were planned and performed by two other audit firms, one located in the Republic of China (the "Taiwan Firm") and one located in the People's Republic of China (the "China Firm") (collectively, the "Foreign Firms"),[5/] not by Waggoner and BSP. During the Audits, Waggoner had minimal contact with the Foreign Firms, and performed an inadequate review of the working papers prepared by the Foreign Firms.

4. In addition, Waggoner failed to comply with Auditing Standard No. 3, Audit Documentation ("AS3"), by failing to ensure that BSP obtained and reviewed engagement completion documents from the Foreign Firms prior to authorizing BSP to issue the audit reports.

5. Waggoner also failed to comply with Auditing Standard No. 5, An Audit of Internal Control Over Financial Reporting That Is Integrated with an Audit of Financial Statements ("AS5"), in the course of auditing North American Gaming's ICFR. Waggoner authorized BSP's issuance of an audit report containing an unqualified opinion on the effectiveness of North American Gaming's ICFR as of December 31, 2008, despite knowing that North American Gaming could not perform an impairment analysis over a material asset as of December 31, 2008. Waggoner failed to perform any audit procedures to determine whether this control deficiency constituted a material weakness in North American Gaming's ICFR.

6. Waggoner also violated PCAOB Rule 4006, Duty to Cooperate with Inspectors, and AS3 in connection with the Board's inspection of the audits of the 2007 financial statements of Kid Castle and China Junlian. Waggoner improperly created, added, and altered audit working papers, after the relevant documentation completion dates, and shortly before the Board's inspection of these audits. This misleading documentation was provided to the Board in connection with the Board's inspection. The late-added documentation did not indicate the date that information was added to the working papers, the name of the person who prepared the additional documentation, and the reason for adding it, as required by AS3.

[5/] Both of the Foreign Firms are registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

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7. Finally, Waggoner violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations.* Waggoner omitted to take steps, in his capacity as BSP's Director of Accounting and Auditing, to ensure that one or more of the Audits were selected for postissuance review by the firm. Waggoner knew, or was reckless in not knowing, that this omission would directly and substantially contribute to BSP's failure to comply with PCAOB quality control standards relating to the monitoring element of the firm's quality control system.

C. Respondent Violated PCAOB Rules and Auditing Standards in Connection with the Audits.

8. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[7/] Among other things, PCAOB standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[8/] PCAOB auditing standards in effect at the time of the Audits required that the auditor with final responsibility for the audit adequately plan the audit and supervise any assistants.[9/]

9. Although "portions of the planning and supervision" of the audit may be delegated to assistants,[10/] the auditor with final responsibility remains "responsible for

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[6/] See PCAOB Rules 3100 and 3200T.

[7/] AU § 508.07, *Reports on Audited Financial Statements*.

[8/] AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work* (subsequently amended for fiscal years beginning after December 15, 2010); and AU § 326, *Evidential Matter*.

[9/] AU § 311, *Planning and Supervision* (superseded by Auditing Standard No. 9, *Audit Planning*, and Auditing Standard No. 10, *Supervision of the Audit Engagement*, effective for audits of financial statements for fiscal years beginning on or after December 15, 2010).

[10/] Id. § 311.02.

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the assignment of tasks to, and supervision of, assistants."[11/] "Supervision involves directing the efforts of assistants who are involved in accomplishing the objectives of the audit and determining whether those objectives were accomplished. Elements of supervision include instructing assistants, keeping informed of significant problems encountered, reviewing the work performed, and dealing with differences of opinion among firm personnel."[12/] As detailed below, Waggoner failed to comply with these standards in connection with the Audits.

Waggoner and BSP Agree to Audit Taiwan-Based and China-Based Issuers

10. In May 2006, the Foreign Firms solicited several U.S.-based auditing firms, including BSP, to work with the Foreign Firms in auditing the financial statements of Taiwan-based and China-based issuers. Neither Waggoner nor BSP had any prior experience working with the Foreign Firms when BSP responded to the solicitations. The Foreign Firms proposed that they would perform all of the audit field work, but that BSP would issue the audit reports.

11. After being approached by the Foreign Firms, Waggoner and BSP's managing partner traveled to China and Taiwan to meet with the Foreign Firms. These meetings—conducted over a 10-day, multi-city trip—were introductory in nature. Waggoner and the BSP managing partner discussed business opportunities with the Foreign Firms, and discussed how the Foreign Firms and BSP would divide responsibility for completing audits. Waggoner, BSP's managing partner, and the Taiwan Firm also met with representatives of Kid Castle.

12. Waggoner accepted the audit engagements on behalf of BSP, and assumed the role of the auditor with final responsibility for all of the Audits.[13/] Waggoner did so despite the fact that neither he nor any other BSP auditor: (1) had any experience auditing the financial statements of issuers under PCAOB auditing standards; (2) had any experience auditing companies based in Taiwan or China; or (3) had any ability to understand or communicate in Chinese.

[11/] AU § 230.06 (effective for audits of financial statements for periods ending on or after December 15, 1997, subsequently amended for audits of financial statements for fiscal years beginning on or after December 15, 2010).

[12/] AU § 311.11.

[13/] See id. § 311.02.

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Audits of Kid Castle's 2006-2008 Financial Statements

13. At all relevant times, Kid Castle was a corporation organized under the laws of the State of Florida, with its headquarters in Taipei, Taiwan. As disclosed in its public filings, Kid Castle was a provider of English-language instruction and educational services to children for whom Chinese is the child's primary language. At all relevant times, Kid Castle was required to file periodic reports with the United States Securities and Exchange Commission ("Commission") under Section 15(d) of the Securities Exchange Act of 1934 ("Exchange Act"), and its shares were traded on the OTC Bulletin Board and the Pink Sheets. At all relevant times, Kid Castle was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

14. The Taiwan firm approached BSP concerning the Kid Castle audit engagement on or about June 22, 2006. Kid Castle engaged BSP as its auditor beginning on or about July 26, 2006. In audit reports dated June 14, 2007, March 28, 2008, and March 13, 2009, BSP expressed unqualified opinions on Kid Castle's financial statements for the fiscal years ended December 31, 2006 ("2006"), December 31, 2007 ("2007"), and December 31, 2008 ("2008"), respectively. The audit reports were included in Forms 10-K which Kid Castle filed with the Commission on June 14, 2007 (for the 2006 audit), March 31, 2008 (for the 2007 audit), and March 17, 2009 (for the 2008 audit). BSP also expressed an unqualified opinion on Kid Castle's restated financial statements for fiscal year 2007, in an audit report dual-dated March 28, 2008, and September 17, 2008, that was included in Kid Castle's Form 10-K/A filed with the Commission on September 23, 2008. The 2006-2008 audits of Kid Castle are referred to, collectively, as the "Kid Castle audits." Each audit report stated that, in BSP's opinion, Kid Castle's financial statements presented fairly, in all material respects, the company's financial position in conformity with accounting principles generally accepted in the United States ("US GAAP"), and that BSP's audit was conducted in accordance with PCAOB standards.

15. Waggoner failed to comply with applicable professional standards in connection with the Kid Castle audits.[14/] First, Waggoner failed to adequately plan the audits by failing to consider the nature, extent, and timing of the work to be performed. Waggoner wholly relied upon the Taiwan Firm to consider the nature, extent, and timing of the work to be performed, to prepare a written audit program, and to modify planned audit procedures as the audit progressed. Waggoner also failed to adequately supervise the audits by failing: (1) to determine the technical training and ability of the Taiwan Firm assistants, and to assign audit tasks to the assistants according to their abilities; (2) to instruct the Taiwan Firm assistants; (3) to inform the Taiwan Firm

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[14/] See AU § 150; AU § 230.06.

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assistants of their responsibilities and the objectives of the audit procedures to be performed; (4) to inform the Taiwan Firm assistants of matters that may have affected the nature, extent, and timing of the procedures they were to perform; and (5) to direct the Taiwan Firm assistants to bring to Waggoner's attention significant accounting and auditing questions raised during the audits.[15/]

16. Waggoner also failed to adequately review the work performed by the Taiwan Firm assistants. In the 2006 audit, Waggoner assigned the review of the working papers to a BSP staff member. The BSP staff member identified deficiencies related to the audit procedures performed, and audit evidence gathered, for material account balances in Kid Castle's financial statements. Waggoner forwarded the staff person's list of identified deficiencies to the Taiwan Firm. However, Waggoner did not require the Taiwan Firm assistants to perform any additional procedures or to gather any additional evidence, and Waggoner did not otherwise determine whether these deficiencies were properly addressed by the Taiwan Firm, prior to authorizing BSP to issue its audit report containing an unqualified opinion on the financial statements.[16/]

17. For the 2007 audit, despite knowledge of the deficiencies identified by BSP staff in the preceding year's audit work, Waggoner did not receive or review any working papers from the Taiwan Firm, except for a set of worksheets showing the consolidation of Kid Castle's subsidiary accounts. For the 2008 audit, Waggoner did not review any working papers from the Taiwan Firm.

18. As a result of Waggoner's failures to comply with PCAOB auditing standards, including Waggoner's failure to ensure that the Taiwan Firm assistants gathered sufficient competent evidential matter,[17/] Waggoner improperly authorized the issuance of the Firm's audit reports for Kid Castle's 2006-2008 financial statements, which incorrectly stated that BSP had conducted the Kid Castle audits in accordance with PCAOB auditing standards.[18/]

19. Finally, Waggoner failed to comply with AS3 in connection with each of the Kid Castle audits. AS3 required Waggoner to obtain, review, and retain engagement completion documents from the Taiwan Firm sufficient to provide a thorough

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[15/] See AU § 230.06; AU §§ 311.11-.12.

[16/] See AU § 326.25; AU § 311.13.

[17/] See AU §§ 326.01 and .25.

[18/] See AU § 508.07.

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understanding of the significant findings or issues in the Kid Castle audits, complete with cross-references to supporting audit documentation, as appropriate.[19/] Waggoner failed to obtain, review, and retain engagement completion documents from the Taiwan Firm prior to authorizing the issuance of the Kid Castle audit reports.

Audit of China Junlian's 2007 Financial Statements

20. At all relevant times, China Junlian was a Nevada corporation, with its headquarters in Guangzhou, China. As disclosed in its public filings, China Junlian, through its wholly owned subsidiary, was organized to engage in consulting, systems development, and customer service in the field of surveillance technology. At all relevant times, China Junlian's common stock was registered with the Commission under Section 12(g) of the Exchange Act. At all relevant times, China Junlian reported that there was no active market for its securities. At all relevant times, China Junlian was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

21. The China Firm approached BSP concerning the China Junlian audit engagement on or about May 21, 2007. China Junlian engaged BSP as its auditor beginning in or about July 2007. BSP audited China Junlian's financial statements for the fiscal year ended December 31, 2007. In an audit report dated April 15, 2008, BSP expressed an unqualified opinion on China Junlian's 2007 financial statements. The audit report was included in a Form 10-KSB that China Junlian filed with the Commission on April 15, 2008. The audit report stated that, in BSP's opinion, China Junlian's financial statements presented fairly, in all material respects, the company's financial position in conformity with US GAAP, and that BSP's audit was conducted in accordance with PCAOB standards.

22. Waggoner failed to comply with applicable professional standards in connection with the China Junlian audit.[20/] First, Waggoner failed to adequately plan the audit by failing to consider the nature, extent, and timing of the work to be performed.[21/] Waggoner wholly relied upon the China Firm to consider the nature, extent, and timing of the work to be performed, to prepare a written audit program, and to modify planned audit procedures as the audit progressed. Waggoner also failed to adequately

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[19/] Auditing Standard No. 3, *Audit Documentation* ("AS3") (subsequently amended for fiscal years beginning after December 15, 2010), ¶¶ 13 and 19.

[20/] See AU § 150; AU § 230.06.

[21/] See AU § 311.05.

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supervise the audit by failing: (1) to determine the technical training and ability of the China Firm assistants, and to assign audit tasks to the assistants according to their abilities; (2) to instruct the China Firm assistants; (3) to inform the China Firm assistants of their responsibilities and the objectives of the audit procedures to be performed; (4) to inform the China Firm assistants of matters that may have affected the nature, extent, and timing of the procedures they were to perform; and (5) to direct the China Firm assistants to bring to Waggoner's attention significant accounting and auditing questions raised during the audit.[22/]

23. Waggoner also failed to adequately review the work performed by the China Firm assistants. Waggoner assigned the review of the China Firm's working papers to a BSP staff member. Although the audit working papers received from the China Firm revealed discrepancies in the audit evidence relating to material accounts, including revenue, Waggoner did not determine whether those discrepancies were properly addressed by the China Firm prior to authorizing BSP to issue its audit report containing an unqualified opinion.

24. As a result of Waggoner's failures to comply with PCAOB standards, including Waggoner's failure to ensure that the China Firm assistants gathered sufficient competent evidential matter,[23/] Waggoner improperly authorized the issuance of the Firm's audit report for China Junlian's 2007 financial statements, which incorrectly stated that BSP had conducted the audit in accordance with PCAOB auditing standards.[24/]

25. Finally, Waggoner failed to comply with AS3 in the course of the China Junlian audit. Waggoner failed to obtain, review, and retain an engagement completion document from the China Firm prior to authorizing BSP to issue its audit report.[25/]

Audit of North American Gaming's 2008 Financial Statements and ICFR

26. At all relevant times, North American Gaming was a Delaware corporation, with its headquarters in Xi'An, China. As disclosed in its public filings, North American Gaming was engaged in the business of exploring for gold, zinc, lead and other mineral

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22/ See AU § 230.06; AU §§ 311.11-.12.

23/ See AU §§ 326.01 and .25.

24/ See AU § 508.07.

25/ See AS3 ¶ 19.

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products in China. At all relevant times, North American Gaming's common stock was registered with the Commission under Section 12(g) of the Exchange Act and its common stock was quoted on the OTC Bulletin Board. At all relevant times, North American Gaming was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

27. The China Firm approached BSP concerning the North American Gaming audit engagement on or about May 13, 2008. North American Gaming engaged BSP as its auditor beginning on or about August 11, 2008. BSP performed an integrated audit of North American Gaming's annual financial statements for the fiscal year ended December 31, 2008, and management's assessment of ICFR as of December 31, 2008 (the "Integrated Audit"). In an audit report dated April 15, 2009, BSP expressed a qualified opinion on North American Gaming's 2008 financial statements. The audit report stated that, except for the company's goodwill balance, the impairment of which would affect the results of operations, in BSP's opinion, the financial statements presented fairly, in all material respects, the company's financial position in conformity with US GAAP, and that BSP's audit was conducted in accordance with PCAOB standards.

28. In a separate report dated April 15, 2009, BSP issued an unqualified opinion for BSP's audit of management's assessment of the effectiveness of ICFR. This report stated that, in BSP's opinion, North American Gaming maintained, in all material respects, effective internal control over financial reporting as of December 31, 2008. The ICFR report stated that the audit was conducted in accordance with PCAOB standards. Both the financial statement audit report and the ICFR audit report were included in a Form 10-KSB that North American Gaming filed with the Commission on April 15, 2009, and in a Form 10-KSB/A that North American Gaming filed with the Commission on March 22, 2010.

Planning, Supervision and Performance of the Integrated Audit

29. Waggoner failed to comply with applicable professional standards in connection with the North American Gaming Integrated Audit.[26/] First, Waggoner failed to comply with PCAOB auditing standards in planning the Integrated Audit.[27/] Waggoner wholly relied upon the China Firm to consider the nature, extent, and timing of the work to be performed, to prepare a written audit program, and to modify planned audit procedures as the audit progressed. Although the China Firm provided BSP with

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[26/] See AU § 150; AU § 230.06.

[27/] See AU §§ 311.02 and .13.

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a document purporting to memorialize planning for the Integrated Audit, that document was written in Chinese, was largely untranslated, and was not adequate to provide Waggoner with an understanding of the audit plan.[28/]

30. Waggoner also failed to adequately supervise the Integrated Audit by, among other things, failing: (1) to determine the technical training and ability of the China Firm assistants, and to assign audit tasks to the assistants according to their abilities; (2) to adequately instruct the China Firm assistants; (3) to adequately inform the China Firm assistants of their responsibilities and the objectives of the audit procedures to be performed; (4) to adequately inform the China Firm assistants of matters that may have affected the nature, extent, and timing of the procedures they were to perform; and (5) to direct the China Firm assistants to bring to Waggoner's attention significant accounting and auditing questions raised during the Integrated Audit.[29/]

31. Waggoner also failed to adequately review the work performed by the China Firm assistants in the Integrated Audit. Waggoner assigned the review of the China Firm's working papers to a BSP staff member. The BSP staff member identified deficiencies related to the audit procedures performed, and audit evidence gathered, for material account balances in North American Gaming's financial statements, and advised the China Firm of these deficiencies. However, Waggoner failed to determine whether these deficiencies were properly addressed prior to authorizing BSP to issue its audit reports.

Performance of the ICFR Audit

32. Waggoner failed to comply with AS5 in the course of auditing North American Gaming's ICFR. AS5 required Waggoner to evaluate the severity of each control deficiency that came to his attention, and to determine whether the control deficiency constituted a material weakness.[30/] AS5 requires that an issuer's ICFR can be deemed effective only if no material weaknesses in internal controls exist.[31/]

28/ Id.

29/ See AU § 230.06; AU §§ 311.11-.12.

30/ AS5 ¶ 62.

31/ Id. ¶¶ 2 and 90.

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33. In the course of auditing North American Gaming's 2008 financial statements, Waggoner determined that the inability of North American Gaming to complete an impairment analysis of its goodwill asset could produce a material misstatement in the financial statements. Waggoner also determined that this control deficiency precluded BSP from issuing an unqualified opinion on North American Gaming's 2008 financial statements. However, Waggoner took no steps to evaluate the severity of this known control deficiency in order to determine whether it constituted a material weakness in North American Gaming's ICFR.[32/] Waggoner failed to comply with AS5 when he improperly authorized the issuance of the Firm's unqualified audit report on North American Gaming's ICFR .

Completion of the Integrated Audit

34. As a result of Waggoner's failures to comply with PCAOB standards, including Waggoner's failure to ensure that the China Firm assistants gathered sufficient competent evidential matter,[33/] Waggoner improperly authorized the issuance of the Firm's audit reports on North American Gaming's ICFR and financial statements.[34/] Both of the reports incorrectly stated that BSP had conducted its audit in accordance with PCAOB auditing standards.

35. Finally, Waggoner failed to comply with AS3 in connection with the Integrated Audit. Waggoner failed to obtain, review, and retain an engagement completion document from the China Firm prior to authorizing BSP to issue the North American Gaming audit reports.[35/]

D. Waggoner Violated PCAOB Rule 4006 and AS3.

36. PCAOB rules require that an associated person of a registered public accounting firm "shall cooperate with the Board in the performance of any Board inspection."[36/] This cooperation obligation "includes an obligation not to provide misleading documents or information in connection with the Board's inspection

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32/ Id. ¶ 62.

33/ See AU § 326.01; AU § 326.25.

34/ See AU § 508.07; AS5 ¶ 3.

35/ See AS3 ¶ 19.

36/ PCAOB Rule 4006.

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processes."[37/] PCAOB auditing standards require that an auditor make certain written disclosures if the auditor adds documentation to the audit working papers after the "documentation completion date," which is the date (not more than 45 days after the audit report release date) when a "complete and final set of audit documentation should be assembled for retention."[38/] Specifically, information added to the working papers after the documentation completion date must disclose the date the information was added, the person preparing the additional information, and the reason for adding the information to the working papers after the documentation completion date.[39/]

37. BSP released its audit opinions on Kid Castle's and China Junlian's 2007 financial statements on March 28, 2008, and April 15, 2008, respectively. The documentation completion dates for these audits, therefore, were May 12, 2008, and May 30, 2008, respectively: 45 days after the report release dates.[40/]

38. On or before October 29, 2008, Waggoner learned that the Board would inspect the 2007 Kid Castle and China Junlian audits. On October 29, 2008, Waggoner e-mailed the audit partner at the Taiwan Firm and requested that the Taiwan Firm translate and provide to BSP the 2007 Kid Castle audit working papers from the "critical" and "most important" areas of the audit. On or about January 9, 2009, the Taiwan Firm provided Waggoner with the requested audit documentation, none of which had been in BSP's possession, translated or untranslated, prior to receiving notice of the upcoming Board inspection.

39. On or about January 16, 2009, Waggoner added the newly received audit documentation to the 2007 Kid Castle audit working papers. The newly added documentation did not indicate the date(s) the documents were translated, the name of the person(s) who prepared the translated documents, or the reason(s) for translating and adding the documents to the working papers after the documentation completion date. This conduct failed to comply with AS3.

[37/] Peter C. O'Toole, CPA, PCAOB Release No. 105-2011-005 (Aug. 1, 2011) ¶ 5. See also Gately & Associates, LLC, SEC Release No. 34-62656 at 22-23 (Aug. 5, 2010) (sustaining Board finding that respondents failed to cooperate with Board inspection).

[38/] See AS3 ¶¶ 15-16.

[39/] Id. ¶ 16.

[40/] See id. ¶ 15.

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40. On or about January 16, 2009, Waggoner created and modified several other documents which he added to the 2007 Kid Castle and China Junlian working papers. Waggoner: (1) added handwritten notations to audit working papers, backdated to "3/08" and "4/08;" and (2) created an undated memo purporting to memorialize the planning process for both of the audits. Waggoner did not indicate the dates that the modifications and additions were made to the working papers, the name of the person making the modifications and additions, and the reason for making these modifications and additions to the working papers after the documentation completion date. This conduct, as well, failed to comply with AS3.

41. Field work for the Board's inspection began on January 20, 2009, and was completed on January 30, 2009. During that time, Waggoner made the foregoing documents available to the Board's inspectors. At no time did Waggoner inform the Board's inspectors that these modifications to the working papers were made shortly before, and in anticipation of, the Board's inspection. This conduct violated Rule 4006.

E. Waggoner Violated PCAOB Rule 3502.

42. PCAOB rules require that a registered public accounting firm comply with certain quality control standards.[41/] PCAOB quality control standards require that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[42/] One element of quality control is monitoring, to provide a firm with reasonable assurance "that its system of quality control is effective."[43/] Monitoring procedures may include preissuance or postissuance reviews of selected audit engagements.[44/] In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from omitting to take an action knowing, or recklessly not knowing, that the omission would directly and substantially contribute to a violation of Board standards by that firm.[45/] As described below, BSP failed to comply with the Board's quality control standards, and Waggoner directly and substantially

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[41/] PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards*, and 3400T, *Interim Quality Control Standards*.

[42/] QC § 20.02, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[43/] QC § 20.20; QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[44/] QC § 30.03.

[45/] PCAOB Rule 3502.

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contributed to these violations.

43. As part of its quality control system, BSP participated in a peer review program every three years, and it also conducted its own internal postissuance reviews of selected audit engagements in years that were not subject to peer review. Despite the fact that the Kid Castle, China Junlian and North American Gaming audits were BSP's first audit engagements subject to PCAOB auditing standards, and despite the fact that these audits were BSP's first audit engagements for companies with operations in China and Taiwan, none of these Audits were selected for review either in BSP's internal review program or during peer reviews. BSP's monitoring procedures did not enable the firm to obtain reasonable assurance that its system of quality control was effective.[46/]

44. In his capacity as the Director of Accounting and Auditing, Waggoner was responsible for, among other things, administering the monitoring element of BSP's quality control system, including the internal review program. BSP's Accounting and Auditing committee, under Waggoner's leadership, was also responsible for providing information to the audit firm that performed BSP's peer reviews. Waggoner also was the auditor with final responsibility for each of the firm's public company audits. Waggoner knew that BSP's monitoring process was not selecting any of the public company audits for review. Waggoner omitted to take any steps to ensure that any of the Audits were selected for postissuance review. Waggoner knew, or was reckless in not knowing, that this omission would directly and substantially contribute to BSP's failure to comply with PCAOB quality control standards relating to the monitoring element of the Firm's quality control system.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), James R. Waggoner, CPA is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2),

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46/ QC §§ 30.03 and .08.

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James R. Waggoner, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

C. After three (3) years from the date of this Order, James R. Waggoner may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe Brown

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Phoebe Brown
Secretary

May 22, 2012

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter Uma D. Basso, CPA,* *Respondent.*	PCAOB Release No. 105-2012-006 September 7, 2012

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is (a) censuring Uma D. Basso, CPA ("Basso" or "Respondent"); (b) for a period of two years, limiting her activities in connection with audits, as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), by prohibiting her from serving in the role of engagement partner or engagement quality reviewer; and (c) requiring that she complete forty (40) additional hours of continuing professional education in subjects that are directly related to the audits of issuer financial statements under PCAOB standards. The Board is imposing these sanctions on the basis of its findings that Basso violated PCAOB rules and auditing standards in connection with the audits of two issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act, and PCAOB Rule 5200(a)(1) against Basso.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary

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Proceedings, Making Findings, and Imposing Sanctions (the "Order") as set forth below.[1/]

III.

On the basis of Respondent's Offer, the Board finds[2/] that:

A. Respondent

1. Uma D. Basso ("Basso"), 42, of Coral Springs, Florida, is a certified public accountant licensed under the laws of Florida (License No. AC0038893). At all relevant times, Basso was a partner at the registered public accounting firm Jewett, Schwartz, Wolfe & Associates, P.L. ("JSW").[3/] Basso was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). For the two issuer audits discussed below, Basso served in the role of audit manager, under the supervision of Lawrence H. Wolfe, the engagement partner for those audits.[4/] Basso was responsible for supervising the junior professional staff performing those audits.

[1/] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2/] The sanctions that the Board is imposing on Respondent in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3/] *See Jewett, Schwartz, Wolfe & Associates, P.L.*, PCAOB Release No. 105-2012-004 (September 7, 2012).

[4/] *See Lawrence H. Wolfe, CPA*, PCAOB Release No. 105-2012-005 (September 7, 2012).

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B. Summary

2. As detailed below, Basso violated PCAOB rules and PCAOB auditing standards in connection with the audits of two issuers' financial statements for the year ended December 31, 2008. In both of those audits, Basso failed to perform or ensure the performance of adequate audit procedures on material accounts; and failed to properly supervise the engagement team personnel who, together with Basso, performed most of the work on the audits.

C. Respondent's Violations of PCAOB Rules and Auditing Standards

3. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6/] Among other things, PCAOB standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[7/] PCAOB standards also prohibit an auditor from relying on management representations as a substitute for performing audit procedures necessary to afford a reasonable basis for an opinion on an issuer's financial statements and require an auditor to investigate when management representations are contradicted by other audit evidence.[8/]

4. PCAOB auditing standards also require that audits be adequately planned and assistants be properly supervised.[9/] Supervision includes "directing the

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[5/] *See* PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards*, and 3200T, *Interim Auditing Standards*.

[6/] AU § 508.07, *Reports on Audited Financial Statements*. All references to PCAOB auditing standards in Section III of this Order are to the versions of those standards in effect for the two audits at issue.

[7/] AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 326, *Evidential Matter*.

[8/] *See* AU § 333, *Management Representations*.

[9/] AU § 311, *Planning and Supervision*.

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efforts of assistants who are involved in accomplishing the objectives of the audit," reviewing their work, and "determining whether th[e] objectives [of the audit] were accomplished."[10/] In reviewing the work of assistants, an auditor should take care to both "determine whether it was adequately performed and to evaluate whether the results are consistent with the conclusions to be presented in the auditor's report."[11/]

Audit of DRG's 2008 Financial Statements

5. At all relevant times, Dynamic Response Group, Inc. ("DRG") was a Florida corporation with its headquarters in Miami, Florida. The company's public filings disclosed that it marketed, developed and distributed personal development, wellness and entertainment consumer goods and services. DRG's common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all relevant times, DRG was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

6. JSW issued an audit report dated March 10, 2009, in which it expressed an unqualified opinion on DRG's financial statements for the year ended December 31, 2008. The report was included in a Form 10-K that DRG filed with the Commission on April 15, 2009. The audit report, which included a going concern explanatory paragraph, stated that, in JSW's opinion, DRG's 2008 financial statements presented fairly, in all material respects, the company's financial position in conformity with US GAAP, and that JSW's audit was conducted in accordance with PCAOB standards.

7. Basso served in the role of manager for the DRG audit, and she was responsible for planning substantial portions of the audit and for supervising the two junior JSW staff members who, together with Basso, performed most of the work on the audit. Basso failed to comply with applicable PCAOB standards in connection with JSW's audit of DRG's 2008 financial statements.

8. DRG reported in the notes to its 2008 financial statements that it had incurred advertising expenses during 2008 and that it had capitalized approximately $840,000 of those expenses as "direct response advertising" pursuant to AICPA Statement of Position ("SOP") 93-7, *Reporting on Advertising Costs* (December 29, 1993). DRG's capitalized direct response advertising balance for 2008 represented an

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[10/] AU § 311.11.

[11/] AU § 311.13.

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increase of over 350% from the prior year and constituted 21% of DRG's total reported assets.

9. SOP 93-7 provides that a company may only capitalize advertising expenses as direct response advertising if (1) the primary purpose of the advertising "is to elicit sales to customers who could be shown to have responded specifically to the advertising;" and (2) the advertising "results in probable future benefits."[12/] In addition, SOP 93-7 states that direct response advertising costs reported as assets are to be "amortized on a cost-pool-by-cost-pool basis over the period during which the future benefits are expected to be received."[13/]

10. During the 2008 audit, Basso failed to exercise due professional care and failed to obtain, or ensure that the engagement team obtained, sufficient audit evidence to conclude that DRG was appropriately capitalizing, as opposed to expensing, the costs it reported as direct response advertising.[14/] Specifically, Basso failed to obtain, or ensure that the engagement team obtained, audit evidence indicating that sales were to customers responding specifically to the advertising. Nor did Basso obtain, or ensure that the engagement team obtained, sufficient competent audit evidence indicating that the advertising would result in probable future benefits to DRG. In addition, Basso failed to perform, or ensure the performance of, any procedures to evaluate whether DRG was appropriately amortizing the amounts it capitalized as direct response advertising. Indeed, JSW's work papers include a schedule, provided by DRG and reviewed by Basso, indicating that the company was not amortizing those amounts.

11. During the 2008 audit, Basso also failed to exercise due professional care and failed to obtain, or ensure that the engagement team obtained, sufficient competent evidential matter concerning promissory note obligations that represented approximately 21% of DRG's total reported liabilities. In the notes to the financial statements, DRG reported that the maturity dates on its promissory notes had been extended until late 2010 and early 2011. Confirmations included in JSW's work papers, however, indicated that DRG's promissory notes matured in 2009. Basso reviewed those confirmations and failed to take any steps, or ensure that the engagement team took any steps, to reconcile the disclosures in the financial statements with the

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12/ SOP 93-7 at ¶ .33; *see also* SOP 93-7 at ¶ .26a.

13/ *Id.* at ¶ .46.

14/ *See* AU § 230; AU §§ 326.01, .25.

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contradictory information contained in the work papers.[15/] Basso also failed to perform, or ensure the performance of, audit procedures to evaluate whether the outstanding note balance was complete, and whether the notes were properly classified, described, and disclosed as current liabilities.

Audit of ADS's 2008 Financial Statements

12. American Defense Systems, Inc. ("ADS") is a Delaware corporation with its headquarters in Hicksville, New York. The company's public filings disclose that it develops defense and security products. ADS's common stock is registered under Section 12(b) of the Exchange Act and is quoted on the American Stock Exchange. At all relevant times, ADS was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

13. In April 2009, JSW issued an audit report in which it expressed an unqualified audit opinion on ADS's financial statements for the year ended December 31, 2008. The report was included in a Form 10-K that ADS filed with the Commission on April 15, 2009. The audit report stated that, in JSW's opinion, ADS's 2008 financial statements presented fairly, in all material respects, the company's financial position in conformity with US GAAP, and that JSW's audit was conducted in accordance with PCAOB standards.

14. Basso also served in the role of manager for the ADS audit, and she was again responsible for planning substantial portions of the audit and for supervising the junior JSW staff member who, together with Basso, performed most of the work on the audit. Basso failed to comply with applicable PCAOB standards in connection with JSW's audit of ADS's 2008 financial statements.

15. Basso failed to exercise due professional care and failed to obtain, or ensure that the engagement team obtained, sufficient competent evidential matter as to the existence and valuation of ADS's accounts receivable.[16/] As of year-end 2008, those receivables represented approximately 30% of ADS's current assets and 20% of its total assets, and ADS maintained no allowance for doubtful accounts.

16. During the audit, Basso concluded that sending confirmations to ADS's customers would be ineffective and, accordingly, planned to review subsequent cash

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15/ *See* AU § 333.04; *see also* AU § 326.25.

16/ *See* AU § 230; AU §§ 326.01, .25.

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receipts to test ADS's accounts receivable balance.[17/] However, the subsequent cash receipts testing was inadequate. First, the testing was not completed until several months after JSW issued its audit report. Second, although JSW's work papers indicate that ADS had collected certain receivables after year-end 2008, in fact, Basso was aware that some of those receivables were still outstanding as of June 30, 2009.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Uma D. Basso, CPA is hereby censured;

B. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two (2) years from the date of the issuance of this Order, Uma D. Basso, CPA's role in any "audit," as that term is defined in Section 110(1) of the Act, shall be restricted as follows: Basso shall not (1) serve as the "engagement partner," as that term is used in the Board's Auditing Standard No. 10, *Supervision of the Audit Engagement*; (2) serve as the "engagement quality reviewer," as that term is used in the Board's Auditing Standard No. 7, *Engagement Quality Review*; (3) serve in any role that is equivalent to engagement partner or engagement quality review partner, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); or (4) exercise authority either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker or dealer; and

C. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Uma D. Basso, CPA is required to complete, within two (2) years from the date of the issuance of this Order, forty (40) hours of continuing

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17/ Under PCAOB standards, "there is a presumption that the auditor will request the confirmation of accounts receivable during an audit," though certain exceptions apply, one of which is that confirmations would be ineffective. *See* AU § 330.34, *The Confirmation Process*.

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professional education ("CPE") in subjects that are directly related to the audits of issuer financial statements under PCAOB standards (such hours shall be in addition to, and shall not be counted in, the CPE that she is required to obtain in connection with any state CPA licenses).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

September 7, 2012

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Jewett, Schwartz, Wolfe & Associates, P.L.,* *Respondent.*	PCAOB Release No. 105-2012-004 September 7, 2012

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Jewett, Schwartz, Wolfe & Associates, P.L. ("JSW," the "Firm," or "Respondent") and revoking JSW's registration.[1/] The Board is imposing these sanctions on the basis of its findings that JSW violated PCAOB rules, quality control standards, and auditing standards in connection with the audits of four issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against JSW.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary

[1/] JSW may reapply for registration after five (5) years from the date of this Order.

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Proceedings, Making Findings, and Imposing Sanctions (the "Order") as set forth below.[2/]

III.

On the basis of Respondent's Offer, the Board finds[3/] that:

A. Respondent

1. JSW is, and at all relevant times was, a public accounting firm organized as a limited liability company under the laws of the State of Florida, and headquartered in Hollywood, Florida. JSW is licensed by the State of Florida to practice public accountancy (License No. AD0019507). JSW is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, JSW was the independent auditor for each of the issuers identified below.

B. Other Relevant Individual

2. Lawrence H. Wolfe ("Wolfe"), 49, of Weston, Florida, is a certified public accountant licensed under the laws of the State of Arizona (License No. 14587), the State of Florida (License No. AC0027223) and the State of New York (License No. 096865). At all relevant times, Wolfe was a partner at JSW, was an associated person of JSW, and authorized the issuance of JSW's audit reports for each of the audits identified in footnote 6, below.[4/] Wolfe had final responsibility for each of those audits

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[2/] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3/] The sanctions that the Board is imposing on Respondent in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4/] *See Lawrence H. Wolfe, CPA*, PCAOB Release No. 105-2012-005 (September 7, 2012).

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within the meaning of AU § 311, *Planning and Supervision*, and was responsible for the supervision of the JSW engagement teams. He was one of only two JSW partners performing audits of public companies and was the leader of JSW's public company. audit practice.[5/]

C. Summary

3. This matter concerns JSW's violations of PCAOB rules, quality control standards, and auditing standards. At all times relevant to this Order, JSW failed to establish, implement, and communicate quality control policies and procedures sufficient to provide it with reasonable assurance that the work performed by engagement personnel met applicable professional standards. JSW's quality control violations resulted in or contributed to numerous and repeated violations of PCAOB auditing standards in connection with the audits of four issuers' financial statements over a multiple year period (collectively, the "Audits").[6/] As detailed below, during the Audits, JSW failed to: (1) adequately supervise engagement team personnel; (2) perform adequate, or sometimes any, audit procedures on material accounts; and (3) appropriately document the limited procedures it did perform. JSW also violated PCAOB rules by failing to pay its annual fee to the Board in 2011.

D. Respondent Violated PCAOB Rules and Quality Control Standards

4. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[7/] PCAOB quality control standards require that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[8/]

[5/] *See Uma D. Basso, CPA*, PCAOB Release No. 105-2012-006 (September 7, 2012).

[6/] Specifically, the Audits consist of JSW's audits of: (a) the 2006 through 2008 financial statements of MedCom USA, Incorporated; (b) the 2008 financial statements of Dynamic Response Group, Inc.; (c) the 2008 financial statements of American Defense Systems, Inc.; and (d) the 2008 financial statements of Dolphin Digital Media, Inc.

[7/] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[8/] Quality Control ("QC") § 20.02, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

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5. PCAOB quality control standards state that policies and procedures "should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[9/] Policies and procedures, as well, should be established to provide the firm with reasonable assurance that work "is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[10/] PCAOB quality control standards further provide that the more able and experienced the personnel assigned to an engagement are, the less direct supervision is needed.[11/] Additionally, PCAOB quality control standards provide that policies and procedures "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied," and that "its system of quality control is effective."[12/] Finally, quality control policies and procedures should be communicated to a firm's personnel in a manner that provides reasonable assurance that they are understood and complied with.[13/] As detailed below, JSW failed to comply with these PCAOB quality control standards in connection with the Audits.

6. When it filed its Application for Registration with the PCAOB in 2003, JSW submitted a list of its quality control policies covering, among other things, personnel management, engagement performance, and monitoring. Subsequently, JSW generated other quality control documents based on commercial publications. At all relevant times, however, JSW failed to implement or communicate to its personnel those quality control policies and procedures.[14/] Indeed, prior to 2009, even partner

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[9/] QC § 20.17.

[10/] QC § 20.13; *see also* QC §§ 40.03, 40.06, *The Personnel Management Element of a Firm's System of Quality Control - Competencies Required by a Practitioner-in-Charge of an Attest Engagement*; AU § 230.06, *Due Professional Care in the Performance of Work*.

[11/] QC § 20.11.

[12/] QC § 20.20; *see also* QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[13/] *See* QC § 20.23.

[14/] *See* QC §§ 20.02, 20.23.

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level personnel at JSW did not have an understanding of the Firm's quality control policies concerning personnel management, engagement performance, and monitoring.

7. With respect to personnel management, in several of the Audits, one or more staff members with limited audit experience conducted virtually all of the Firm's audit procedures, and much of that work was never reviewed by Wolfe or anyone else.[15/] JSW's failure to implement and communicate appropriate quality control standards regarding personnel management, in turn, contributed to its failure to comply with quality control standards concerning engagement performance. Throughout the relevant time period, JSW failed to put policies and procedures in place to ensure that engagement personnel performed audit procedures necessary to comply with PCAOB standards.[16/] As a result, in multiple instances, JSW personnel failed to complete necessary audit work before the Firm released its audit opinions for the Audits, and, in other instances, failed to perform any significant work in critical audit areas.

8. Finally, with respect to monitoring, although JSW's written quality control documents stated that the Firm would "evaluate on an ongoing basis whether the other elements of quality control established by the firm are suitably designed and are being effectively applied," no such monitoring actually occurred during the period in question.[17/]

E. Respondent Violated PCAOB Rules and Auditing Standards in Connection with the Audits

9. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[18/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[19/] Among other things, PCAOB standards require that an auditor

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[15/] *See* QC §§ 20.11, .13.

[16/] *See* QC § 20.17.

[17/] *See* QC § 20.20; QC § 30.03.

[18/] *See* PCAOB Rule 3100; PCAOB Rule 3200T, *Interim Auditing Standards*.

[19/] AU § 508.07, *Reports on Audited Financial Statements*. All references to PCAOB auditing standards are to the versions of those standards in effect for the Audits.

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exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[20/] PCAOB standards also prohibit an auditor from relying on management representations as a substitute for performing audit procedures necessary to afford a reasonable basis for an opinion on an issuer's financial statements and require an auditor to investigate when management representations are contradicted by other audit evidence.[21/]

10. PCAOB auditing standards also require that audits be adequately planned and assistants be properly supervised.[22/] Supervision includes "directing the efforts of assistants who are involved in accomplishing the objectives of the audit," reviewing their work, and "determining whether th[e] objectives [of the audit] were accomplished."[23/] In reviewing the work of assistants, care should be taken to both "determine whether it was adequately performed and to evaluate whether the results are consistent with the conclusions to be presented in the auditor's report."[24/] As detailed below, JSW failed to comply with these and other auditing standards in connection with the Audits.

Audits of MedCom's 2006-2008 Financial Statements

11. At all relevant times, MedCom USA, Incorporated ("MedCom") was a Delaware corporation with its headquarters in Scottsdale, Arizona. The company's public filings disclosed that it processed medical information, including insurance eligibility verification. MedCom's common stock was registered under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and was quoted on the OTC Bulletin Board. At all relevant times, MedCom was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

[20/] AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230; AU § 326, *Evidential Matter*.

[21/] *See* AU § 333, *Management Representations*.

[22/] *See* AU § 311, *Planning and Supervision*.

[23/] AU § 311.11.

[24/] AU § 311.13.

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12. MedCom appointed JSW as its independent auditor on or about February 7, 2007. In audit reports dated September 14, 2007 and September 28, 200[8],[25/] JSW expressed unqualified opinions on MedCom's financial statements. Wolfe authorized the issuance of both audit reports. The September 14, 2007 audit report concerned MedCom's financial statements for the year ended June 30, 2007 and its restated financial statements for the year ended June 30, 2006, and was included in a Form 10-KSB that MedCom filed with the Securities and Exchange Commission (the "Commission") on September 28, 2007. The September 28, 2008 audit report concerned MedCom's financial statements for the years ended June 30, 2008 and June 30, 2007 and was included in a Form 10-K that MedCom filed with the Commission on September 29, 2008. Both reports, which included going concern explanatory paragraphs, stated that, in JSW's opinion, MedCom's financial statements presented fairly, in all material respects, the company's financial position in conformity with accounting principles generally accepted in the United States ("US GAAP"), and that JSW's audits were conducted in accordance with PCAOB standards.

MedCom's Restated 2006 Financial Statements

13. Another registered public accounting firm initially audited MedCom's financial statements for the year ended June 30, 2006. After JSW accepted the MedCom engagement, MedCom restated its 2006 financial statements and included those restated financial statements in the Form 10-KSB it filed with the Commission on September 28, 2007. JSW did not conduct an audit of MedCom's restated 2006 financial statements. Nonetheless, with Wolfe's authorization, JSW issued an audit report on those restated financial statements, in violation of PCAOB auditing standards.[26/]

[25/] The audit report issued in 2008 was erroneously dated September 28, 2007.

[26/] See AU § 508.07.

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Audits of MedCom's 2007 and 2008 Financial Statements

14. The JSW engagement team for the audits of MedCom's 2007 and 2008 financial statements consisted of Wolfe, as the auditor with final responsibility, and one staff member who was not licensed as a certified public accountant in the United States and had limited experience auditing public companies. The staff member performed almost all of the audit work during the 2007 and 2008 MedCom audits, and Wolfe failed to review much of that work. JSW's failure to ensure that the 2007 and 2008 MedCom audits were appropriately supervised violated PCAOB standards.[27/]

15. During those audits, JSW failed to exercise due professional care and failed to obtain sufficient competent evidential matter to support its opinions on MedCom's 2007 and 2008 financial statements.[28/] Specifically, JSW failed to perform any audit procedures during the 2007 audit with respect to MedCom's reported revenue of $4 million. JSW also failed to obtain any competent evidence during the 2007 audit as to the existence, completeness and valuation of MedCom's reported notes payable. JSW's failures with respect to MedCom's notes payable were particularly significant because those notes were MedCom's primary means of funding its business, were its largest liability, representing 69% of MedCom's total reported liabilities in 2007, and, according to MedCom's 2007 Form 10-KSB, had been substantially renegotiated during 2007.

16. Additionally, in both the 2007 and 2008 MedCom audits, JSW failed to obtain sufficient competent evidential matter with respect to MedCom's largest reported asset, contract receivables, which represented 63% and 47% of MedCom's total reported assets in 2007 and 2008, respectively. In 2007, the JSW engagement team prepared a memorandum with respect to contract receivables in which the team described work it had purportedly performed and documented in other work papers. No one on the engagement team, however, was able to identify those other work papers, and no one on the engagement team recalled performing any such procedures. In 2008, JSW obtained copies of certain contracts and a management schedule listing contract receivable balances as of year-end. JSW, however, failed to obtain any evidence to substantiate or test those year-end balances provided by management.

17. Finally, JSW failed to comply with PCAOB documentation standards in the 2007 MedCom audit.[29/] PCAOB documentation standards require that an auditor make

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[27/] *See* AU §§ 311.11, .13; *see also* AU § 230.06.

[28/] *See* AU § 230; AU §§ 326.01, .25.

[29/] *See* Auditing Standard No. 3, *Audit Documentation* ("AS3").

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certain written disclosures if the auditor adds documentation to the audit work papers after the documentation completion date.[30/] Specifically, information added to the work papers after the documentation completion date must indicate the date the information was added, the person preparing the additional information, and the reason for adding the information to the work papers after the documentation completion date.[31/] JSW violated these requirements in the 2007 MedCom audit. Specifically, well after the documentation completion date for the 2007 audit, the JSW staff member assigned to the 2007 MedCom engagement prepared a "Supervision, Review, and Approval" form that he and Wolfe signed and dated as if it had been prepared prior to the documentation completion date. The staff member also prepared a "Disclosure Requirements" checklist well after the documentation completion date and similarly dated it to make it appear that it had been prepared prior to the documentation completion date. Those documents were then included in the work papers without any explanation as to why they had been added after the documentation completion date and without any indication that the work papers had actually been prepared after the sign-off dates.

Audit of DRG's 2008 Financial Statements

18. At all relevant times, Dynamic Response Group, Inc. ("DRG") was a Florida corporation with its headquarters in Miami, Florida. The company's public filings disclosed that it marketed, developed and distributed personal development, wellness and entertainment consumer goods and services. DRG's common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all relevant times, DRG was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

19. In an audit report dated March 10, 2009, JSW expressed an unqualified opinion on DRG's financial statements for the year ended December 31, 2008. The report was included in a Form 10-K that DRG filed with the Commission on April 15, 2009. The audit report, which included a going concern explanatory paragraph, stated that, in JSW's opinion, DRG's 2008 financial statements presented fairly, in all material respects, the company's financial position in conformity with US GAAP, and that JSW's audit was conducted in accordance with PCAOB standards. JSW failed to comply with applicable PCAOB standards in connection with the 2008 DRG Audit.

30/ AS3 ¶ 16.

31/ *Id.*

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20. DRG reported in the notes to its 2008 financial statements that it had incurred advertising expenses during 2008 and that it had capitalized approximately $840,000 of those expenses as "direct response advertising" pursuant to AICPA Statement of Position ("SOP") 93-7, *Reporting on Advertising Costs* (December 29, 1993). DRG's capitalized direct response advertising balance for 2008 represented an increase of over 350% from the prior year and constituted 21% of DRG's total reported assets.

21. SOP 93-7 provides that a company may only capitalize advertising expenses as direct response advertising if (1) the primary purpose of the advertising "is to elicit sales to customers who could be shown to have responded specifically to the advertising;" and (2) the advertising "results in probable future benefits."[32/] In addition, SOP 93-7 states that direct response advertising costs reported as assets are to be "amortized on a cost-pool-by-cost-pool basis over the period during which the future benefits are expected to be received."[33/]

22. During the 2008 audit, JSW failed to exercise due professional care and failed to obtain sufficient audit evidence to conclude that DRG was appropriately capitalizing, as opposed to expensing, the costs it reported as direct response advertising.[34/] Specifically, JSW failed to obtain audit evidence indicating that sales were to customers responding specifically to the advertising. Nor did JSW obtain sufficient competent audit evidence indicating that the advertising would result in probable future benefits to DRG. In addition, JSW failed to perform any procedures to evaluate whether DRG was appropriately amortizing the amounts it capitalized as direct response advertising. Indeed, JSW's work papers include a schedule, provided by DRG, indicating that the company was not amortizing those amounts.

23. During the 2008 audit, JSW also failed to exercise due professional care and failed to obtain sufficient competent evidential matter concerning promissory note obligations that represented approximately 21% of DRG's total reported liabilities. In the notes to the financial statements, DRG reported that the maturity dates on its promissory notes had been extended until late 2010 and early 2011. Confirmations included in JSW's work papers, however, indicated that DRG's promissory notes matured in 2009. JSW failed to take any steps to reconcile the disclosures in the

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32/ SOP 93-7 at ¶ .33; *see also* SOP 93-7 at ¶ .26a.

33/ *Id.* at ¶ .46.

34/ *See* AU § 230; AU §§ 326.01, .25.

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financial statements with the contradictory information contained in the work papers.[35/] JSW also failed to perform audit procedures to evaluate whether the outstanding note balance was complete, and whether the notes were properly classified, described, and disclosed as current liabilities.

Audit of ADS's 2008 Financial Statements

24. American Defense Systems, Inc. ("ADS") is a Delaware corporation with its headquarters in Hicksville, New York. The company's public filings disclose that it develops defense and security products. ADS's common stock is registered under Section 12(b) of the Exchange Act and is quoted on the American Stock Exchange. At all relevant times, ADS was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

25. In April 2009, JSW issued an audit report expressing an unqualified opinion on ADS's financial statements for the year ended December 31, 2008. The report was included in a Form 10-K that ADS filed with the Commission on April 15, 2009. The audit report stated that, in JSW's opinion, ADS's 2008 financial statements presented fairly, in all material respects, the company's financial position in conformity with US GAAP, and that JSW's audit was conducted in accordance with PCAOB standards.

26. JSW failed to comply with applicable PCAOB standards in connection with the audit of ADS's 2008 financial statements. Specifically, JSW failed to exercise due professional care and failed to obtain sufficient competent evidential matter as to the existence and valuation of ADS's accounts receivable.[36/] As of year-end 2008, those receivables represented approximately 30% of ADS's current assets and 20% of its total assets, and ADS maintained no allowance for doubtful accounts.

27. During the audit, the JSW engagement team concluded that sending confirmations to ADS's customers would be ineffective and, accordingly, planned to review subsequent cash receipts to test ADS's accounts receivable balance.[37/]

[35/] *See* AU § 333.04; *see also* AU § 326.25.

[36/] *See* AU § 230; AU §§ 326.01, .25.

[37/] Under PCAOB standards, "there is a presumption that the auditor will request the confirmation of accounts receivable during an audit," though certain exceptions apply, one of which is that confirmations would be ineffective. *See* AU § 330.34, *The Confirmation Process*.

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However, that subsequent cash receipts testing was inadequate. First, the testing was not completed until several months after the audit. Second, although JSW's work papers indicate that ADS had collected certain receivables after year-end 2008, in fact, the engagement team was aware that some of those receivables were still outstanding as of June 30, 2009.

Audit of DDM's 2008 Financial Statements

28. Dolphin Digital Media, Inc. ("DDM") is a Nevada corporation with its principal offices located in Miami, Florida. The company's public filings disclose that it creates and manages social networking websites for children. DDM's common stock is registered under Section 12(g) of the Exchange Act and trades on the OTC Bulletin Board. At all relevant times, DDM was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

29. In an audit report dated April 13, 2009, JSW expressed an unqualified audit opinion on DDM's financial statements for the year ended December 31, 2008. The report was included in a Form 10-K that DDM filed with the Commission on April 14, 2009. The audit report, which included a going concern explanatory paragraph, stated that, in JSW's opinion, DDM's 2008 financial statements presented fairly, in all material respects, the company's financial position in conformity with US GAAP, and that JSW's audit was conducted in accordance with PCAOB standards.

30. JSW failed to comply with applicable PCAOB standards in connection with the audit of DDM's 2008 financial statements. The audit team consisted of Wolfe and two JSW staff members with limited experience auditing public companies. The staff members performed almost all of the audit work, and Wolfe failed to review much of that work. JSW's failure to ensure that the 2008 DDM audit was appropriately supervised violated PCAOB standards.[38/]

31. As of year-end 2008, more than 75% of DDM's total reported assets were classified as intangible assets and consisted mostly of website and platform development costs for an unlaunched product. During the 2008 audit, JSW failed to ensure that the engagement team appropriately tested DDM's intangible asset balance for impairment. The work papers reflect that management's basis for not recognizing an impairment on its intangible assets in 2008 was a cash flow projection. JSW, however, performed no procedures to assess the reasonableness of the cash flow projection, including the relevance, sufficiency, and reliability of the data supporting the projection

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38/ *See* AU §§ 311.11, .13; *see also* AU § 230.06.

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and the assumptions management made in formulating the projection.[39/] In addition, the untested cash flow projection was inconsistent with JSW's conclusion that there was substantial doubt as to DDM's ability to continue operating as a going concern.[40/]

32. JSW also failed to comply with AS3 in connection with the audit of DDM's 2008 financial statements. AS3 provides that the documentation for an audit "must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement: [a.] [t]o understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and [b.] [t]o determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review."[41/] Significant portions of the audit documentation did not contain sufficient information to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, conclusions reached, and the dates such work was completed and reviewed.

F. JSW Violated PCAOB Rule 2202

33. Pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31…." In violation of Rule 2202, JSW failed to pay its annual fee for 2011.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Jewett, Schwartz, Wolfe & Associates, P.L. is hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Jewett, Schwartz, Wolfe & Associates, P.L. is revoked; and

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39/ *See* AU § 326.01; *see also* AU §§ 230.07-.09.

40/ *See* AU § 333.04; *see also* AU § 326.25.

41/ AS3 ¶ 6.

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C. After five (5) years from the date of this Order, Jewett, Schwartz, Wolfe & Associates, P.L. may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

September 7, 2012

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Michael T. Studer, CPA, P.C. and Michael T. Studer, CPA,* *Respondents.*	PCAOB Release No. 105-2012-007 September 7, 2012

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring the registered public accounting firm Michael T. Studer, CPA, P.C., (the "Firm") and Michael T. Studer, CPA ("Studer") (collectively, "Respondents"); (2) requiring the Firm to retain an independent monitor; (3) temporarily limiting the activities, functions, and operations of the Firm, including by prohibiting the Firm from issuing an audit report for an issuer subject to the attestation and reporting requirements of Section 404(b) of the Sarbanes-Oxley Act of 2002, as amended (the "Act") for a period of three years, further conditioned, without any time limitation, on issuance of a certificate of compliance by the independent monitor and Studer obtaining 60 hours of continuing professional education; and restricting the Firm, unless and until the independent monitor issues a certificate of compliance, from certain activities, functions, and operations relating to client acceptance, issuance of issuer audit reports, broker-dealer financial statement certification, and substantial role participation. In addition, the Firm is required to provide a copy of this Order to its issuer audit clients, and Studer is prohibited, unless and until the independent monitor issues a certificate of compliance, from serving as an assistant, engagement partner or engagement quality reviewer for an audit performed by another PCAOB-registered public accounting firm.

The Board is imposing these sanctions on the basis of its findings concerning Respondents' violations of PCAOB rules and auditing standards and PCAOB quality control standards in connection with the Firm's integrated audit of internal control over financial reporting and financial statements of one issuer client as of and for the year ended December 31, 2008, and the Firm's audits of the financial statements of two issuer clients for the years ended December 31, 2006 and 2007, respectively.

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I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Michael T. Studer, CPA, P.C., and Michael T. Studer, CPA.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1/]

III.

On the basis of Respondents' Offers, the Board finds[2/] that:

A. Respondents

1. Michael T. Studer, CPA, P.C., is a public accounting firm located in Freeport, New York. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. The Firm is licensed by the New York State Board for Public Accountancy (License No. 020749).

[1/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[2/] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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2. Michael T. Studer, 62, of Amityville, New York, is a certified public accountant licensed in the State of New York (License No. 033662). He is the sole stockholder of the Firm and, at all relevant times, was President of the Firm and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' failure to comply with PCAOB auditing standards in auditing management's assessment of the effectiveness of internal control over financial reporting and the financial statements of Biocoral, Inc. ("Biocoral") as of and for the year ended December 31, 2008; the financial statements of China Clean Energy, Inc. ("China Clean") and China Kangtai Cactus Bio-Tech, Inc. ("China Kangtai") as of and for the years ended December 31, 2006 and 2007;[3/] and the Firm's failure during the relevant audits to comply with certain PCAOB quality control standards.[4/]

4. In March 2009, the Firm, at Studer's direction, issued an unqualified audit report on Biocoral's internal control over financial reporting ("ICFR") as of December 31, 2008, without sufficient basis for the opinion expressed in the report. The Firm issued the ICFR report despite Respondents' failure to perform required audit procedures including, among others, identification and testing of Biocoral's internal controls.[5/] The Firm concurrently issued an unqualified audit report (with a going concern explanatory paragraph) on Biocoral's financial statements as of and for the year ended December 31, 2008. Respondents violated PCAOB standards in connection with the Firm's audit of Biocoral's financial statements by failing to perform procedures to adequately test the existence and valuation of Biocoral's intangible assets.[6/] In addition, Respondents failed to prepare the Firm's audit documentation for the integrated audit in accordance with PCAOB Auditing Standard No. 3, *Audit Documentation* ("AS No. 3").

[3/] See PCAOB Rules 3100, 3200T; AU § 150.02, Generally Accepted Auditing Standards; AU § 230, Due Professional Care in the Performance of Work; AU § 311.11, Planning and Supervision, AU § 326, Evidential Matter; PCAOB Auditing Standard No. 3, Audit Documentation; AS No. 5, An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements.

[4/] See PCAOB Rule 3400T, Interim Quality Control Standards; QC §§ 20.07, .13, .17-.20, .23, System of Quality Control for a CPA Firm's Accounting and Auditing Practice; QC §30.03, Monitoring a CPA Firm's Accounting and Auditing Practice.

[5/] See AS No. 5.

[6/] See AU §§ 150.02, 230, 326.

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5. The Firm, at Studer's direction, issued unqualified audit reports on the financial statements of two China-based issuers, China Clean and China Kangtai, as of and for the years ended December 31, 2006 and 2007 (dated March 8, 2007 and March 7, 2008 for China Clean and March 30, 2007 and April 11, 2008 for China Kangtai, respectively). In conducting these audits, Respondents used assistants based in Canada to perform field work in China and a significant portion of the Firm's audit procedures. Respondents failed, however, to direct the efforts of these assistants or review the work performed in order to ensure that the Firm's audit documentation would be prepared in accordance with PCAOB standards.[7/] A substantial amount of the Firm's audit documentation for each of these four audits was not prepared in accordance with AS No. 3 and failed to indicate who performed the work, the date such work was completed, who reviewed the work, and the date of such review.

6. PCAOB rules also require that a registered public accounting firm comply with certain quality control standards.[8/] During the relevant audits, Studer had sole responsibility for developing and maintaining the Firm's quality control policies and procedures. Under PCAOB standards, a firm should establish policies and procedures to encompass, among other things, (a) personnel management, (b) engagement performance, and (c) monitoring.[9/] Under Studer's direction, the Firm failed to establish policies and procedures that provided reasonable assurance that the Firm's audits would comply with applicable professional standards, regulatory requirements, and the Firm's standards of quality.[10/] The Firm failed to communicate the substance of its quality control policies and procedures to its personnel in a manner that provided reasonable assurance that those policies and procedures were understood and complied with, and failed to establish policies and procedures to provide reasonable assurance that work was assigned to personnel having the degree of technical training and proficiency required in the circumstances.[11/] The Firm also failed to implement monitoring procedures to provide reasonable assurance that the Firm's system of quality control policies and procedures were suitably designed and were being

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7/ See AU § 311.11, .13; AS No. 3.

8/ See PCAOB Rules 3100, 3400T.

9/ QC §§ 20.07, .17-.20.

10/ QC §§ 20.17-.19.

11/ QC §§20.13, .23.

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effectively applied.[12/] Studer knew, or was reckless in not knowing, that his actions or omissions to act would directly and substantially contribute to these violations, in violation of PCAOB Rule 3502.

C. Respondents Violated PCAOB Rules and Auditing Standards

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards and related professional practice standards.[13/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[14/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements, and properly supervise the efforts of assistants and review their work.[15/] As detailed below, Respondents failed to meet these standards in connection with the integrated audit of the internal control over financial reporting and financial statements of Biocoral as of and for the year ended December 31, 2008. Respondents also failed to comply with PCAOB audit documentation standards in connection with the Firm's integrated audit of Biocoral as of and for the year ended December 31, 2008, and the Firm's audits of the financial statements of China Clean and China Kangtai as of and for the years ended December 31, 2006 and 2007.[16/]

Integrated Audit of Biocoral's Internal Control Over Financial Reporting and Financial Statements as of and for the year ended December 31, 2008

8. Biocoral is a Delaware corporation based in La Garenne Colombes, France. Biocoral's public filings disclose that it is a biomaterials company specializing in the research, development, and commercialization of patented biotechnologies and biomaterials in the health care area. At all relevant times, Biocoral was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

12/ QC §§ 20.20, 30.02.

13/ See PCAOB Rules 3100, 3200T.

14/ See AU § 508.07, Reports on Audited Financial Statements.

15/ See PCAOB Rules 3100, 3200T; AU §§ 150.02, 230, 311.11, 326.

16/ See AS No. 3.

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9. The Firm, at Studer's direction, was engaged as Biocoral's independent auditor in February 2009, and issued an audit report dated March 27, 2009, expressing an unqualified opinion on Biocoral's ICFR as of December 31, 2008. The Firm also issued an audit report dated March 27, 2009, expressing an unqualified opinion (with a going concern explanatory paragraph) on Biocoral's financial statements as of and for the year ended December 31, 2008. These reports accompanied Biocoral's Form 10-K filed with the Commission on March 31, 2009. Studer authorized the issuance of the Firm's audit reports and understood that he had final responsibility, as that phrase is used in AU § 311, *Planning and Supervision*, for the integrated audit.

10. Prior to the Firm's ICFR audit report, Respondents had never performed an ICFR audit. Respondents were aware, however, that a PCAOB-registered French audit firm had issued audit reports dated February 20 and 27, 2009, respectively, for two of Biocoral's subsidiaries, Inoteb, Inc. and Biocoral France, on those entities' ICFR and financial statements as of and for the year ended December 31, 2008. Biocoral's consolidated financial statements as of and for the year ended December 31, 2008, included these two subsidiaries. Respondents did not participate in these audits.

11. Respondents determined to serve as principal auditor for the integrated audit of Biocoral's ICFR and financial statements. As such, neither the Firm's ICFR nor financial statement audit reports made reference to the French audit firm or reliance on the work of other auditors.[17/]

ICFR Audit Failure

12. Respondents issued an unqualified ICFR audit report on March 27, 2009 accompanying Biocoral's Form 10-K filed with the Commission on March 31, 2009, but failed to perform an audit of Biocoral's ICFR in accordance with PCAOB standards, including the general standards requiring, among other things, technical training and proficiency as an auditor and the exercise of due professional care, including professional skepticism.[18/] Respondents did not perform procedures adequate to afford a reasonable basis for the Firm's ICFR report, and did not obtain competent evidence that was sufficient to obtain reasonable assurance about whether material weaknesses existed as of December 31, 2008—the date specified in management's assessment.[19/]

[17/] See AU § 543.

[18/] See AS No. 5, ¶4; AU §§ 150, 230.

[19/] See AS No. 5, ¶¶3; AU § 150.02

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13. Studer personally performed the Firm's integrated Biocoral ICFR and financial statement audit. Studer visited Biocoral management in France during field work in early March 2009.

14. At the time he conducted field work, Studer did not have a written audit plan concerning ICFR and did not utilize any audit programs in connection with the audit of Biocoral's ICFR. As such, the Firm's audit documentation relating to ICFR resulting from Studer's field work was minimal. Indeed, the Firm's work papers do not evidence that Studer based the Firm's opinion at the time of the issuance of the Firm's ICFR report on any ICFR procedures performed by the Firm.

15. In fact, Respondents failed to adequately identify or test controls at Biocoral, and failed to perform other procedures required by AS No. 5. For example, Respondents failed to: use a top-down approach to select the controls to test, adequately test entity-level controls, identify significant accounts and disclosures and their relevant assertions, evaluate qualitative and quantitative risk factors related to the financial statement line items and disclosures, determine the likely sources of potential misstatements that would cause the financial statements to be materially misstated, understand how information technology affected the flow of transactions, select controls to test that were important to the conclusion about whether Biocoral's controls sufficiently addressed the risk of misstatement to each relevant assertion, and test the design effectiveness and operating effectiveness of controls.[20/]

16. Respondents also failed to gain an adequate understanding of the procedures performed by the French audit firm that supported its ICFR opinions of Biocoral subsidiaries Inoteb, Inc. and Biocoral France, and failed to evaluate the extent to which the work relating to the subsidiaries' ICFR could be used to reduce the work Respondents would otherwise have performed.[21/] Studer was unable to read the audit documentation prepared by the French firm, which was predominantly in French, and never had it translated. Under these circumstances, Respondents failed to participate sufficiently in the French firm's subsidiary's internal control audits to provide a basis for serving as the principal auditor of Biocoral's ICFR.[22/]

[20/] See AS No. 5, ¶¶21-22, 28-30, 36, 39, 42, 44.

[21/] See AS No. 5, ¶16.

[22/] See AS No. 5, Appendix C, ¶ C8 (referencing AU § 543, Part of Audit Performed by Other Independent Auditors).

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17. In addition, to the extent the Firm, as the principal auditor, wholly relied on the French audit firm's subsidiary ICFR audits to audit Biocoral's ICFR, such reliance was unreasonable under the circumstances, given the Firm's failure to perform ICFR audit procedures on the other Biocoral subsidiaries unaddressed by the French firm's audits. The French firm's ICFR reports did not address the ICFR of the issuer, Biocoral, Inc., nor did they address six of Biocoral's other subsidiaries, which comprised approximately $4.6 million, or 92%, of Biocoral's total consolidated liabilities of $5.0 million, approximately $800,000, or 57%, of Biocoral's total consolidated assets of $1.4 million, approximately $342,000, or 51% of Biocoral's total consolidated operating expenses of $676,000, and approximately $216,000, or 100%, of total consolidated interest expense, net.

18. Respondents also failed to obtain required written representations from management relating to Biocoral's ICFR.[23/] The Firm's failure to obtain written representations from management, including management's refusal to furnish them, constitutes a limitation on the scope of the audit.[24/] Under these circumstances, Respondents failed to either withdraw from the engagement or disclaim the Firm's opinion in accordance with PCAOB standards.[25/]

ICFR Audit Documentation Failure

19. Given the lack of sufficient ICFR procedures by Respondents, the Firm's audit documentation relating to ICFR did not clearly demonstrate that the work was in fact performed, and did not demonstrate that the engagement complied with PCAOB standards or contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and to determine who performed the work, the date such work was completed, the person who reviewed the work, and the date of such review.[26/] Prior to the report release date of March 27, 2009, Respondents had not, in violation of PCAOB standards, obtained sufficient evidence to support the Firm's ICFR opinion as of December 31, 2008.[27/]

[23/] See AS No. 5, ¶75.

[24/] See AS No. 5, ¶76.

[25/] See AS No. 5, ¶¶74, 76.

[26/] See AS No. 3, ¶¶5-6.

[27/] Id.; AS No. 5, ¶7.

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Financial Statement Audit Failure - Intangible Assets

20. PCAOB standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[28/] Respondents failed to adhere to these standards with respect to the Firm's audit of Biocoral's reported net intangible assets at December 31, 2008.

21. Biocoral's financial statements as of and for the year ended December 31, 2008, reported net intangible assets of $774,000, which comprised approximately 55% of Biocoral's total consolidated assets as of December 31, 2008. During the audit, Respondents determined that Biocoral's intangible assets, comprised primarily of patents, posed a significant audit risk.

22. Notwithstanding the identified significant audit risk, Respondents failed to sufficiently audit Biocoral's patents by failing to: (1) perform procedures sufficient to assess whether the amounts recorded as patents as of December 31, 2008 existed; and (2) sufficiently determine whether Biocoral's patents were impaired (*i.e.*, whether the carrying value of the patents exceeded their fair value). For example, Respondents failed to obtain sufficient competent evidential matter related to additions to the patent account balances during fiscal 2008.[29/]

23. During 2008, Biocoral capitalized intangible assets totaling approximately $134,000—an amount equal to approximately 17% of the December 31, 2008 net intangible asset balance. Respondents obtained listings of legal invoices in French detailing the costs capitalized, but failed to adequately test whether the nature of the costs capitalized was related to the patents and had a future benefit. Accordingly, Respondents failed, in violation of PCAOB standards, to design procedures relating to Biocoral's intangible asset account balance to obtain reasonable assurance of detecting misstatements that they believed, based on the preliminary judgment about materiality, could be material, when aggregated with misstatements in other balances or classes, to the financial statements taken as a whole.[30/]

24. Additionally, to test the existence of the patents, Respondents obtained and reviewed a listing of patents prepared by management. Studer knew the listing was

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[28/] See AU §§ 150.02; 230; 326.

[29/] See AU § 326.01.

[30/] See AU § 312.25, Audit Risk and Materiality in Conducting an Audit.

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outdated, but did not obtain an updated listing or take steps to check whether the patents listed had a future benefit. Respondents also failed to adhere to PCAOB standards by failing to determine the reasonableness of the useful lives of the patents and whether the patents' useful lives related to the periods over which the patents were expected to contribute to Biocoral's future cash flows.[31/]

25. Studer also knew, or should have known, that under generally accepted accounting principles in the United States ("GAAP"), specifically, Statement of Financial Accounting Standards ("SFAS") 142, it was necessary for Biocoral to review its patents for impairment in accordance with SFAS 144, *Accounting for the Impairment or Disposal of Long-Lived Assets.* To support the recoverability of its patents, Biocoral's management provided Respondents with a schedule of revenues that management projected would be generated by sales of product related to the patents during the next four years, with revenues increasing from $1.4 million in 2009 to $36.9 million in 2012.

26. Respondents knew that the projections on the schedule were overly optimistic, but accepted the schedule, without testing it or obtaining additional audit evidence, even though the schedule did not include all the information necessary to assess the valuation of the patents, such as the cash flows associated with: developing the products relating to the patents, generating revenues, or maintaining the patents.[32/] Moreover, Respondents knew that Biocoral had revenues of approximately $464,000 and $499,500 during the fiscal years ended December 31, 2007, and 2008, respectively, which were much lower than the projected revenues. Respondents were also aware that Biocoral had net losses from operations of approximately $438,000 and $388,000 and negative cash flows provided by operating activities of approximately $195,000 and $252,000 during the fiscal years ended December 31, 2007, and 2008, respectively—evidence suggesting continuing losses and significant cash outflows associated with the use of the patents. Respondents thus failed, in accordance with PCAOB standards, to be thorough and unbiased in the evaluation of the evidence obtained;[33/] to adequately review and test management's process for developing its estimate of the future cash flows associated with the patent costs recorded as intangible assets; and to adequately assess the reasonableness of management's estimate with

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[31/] See AU § 230; Statement of Financial Accounting Standards ("SFAS") No. 142, Goodwill and Other Intangible Assets, ¶ 11.

[32/] SFAS 144, ¶ 16, provides that estimates of future cash flows to test recoverability should include cash inflows less associated cash outflows.

[33/] See AU § 326.25.

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professional skepticism in light of Biocoral's continuing losses and significant cash outflows.[34/]

Financial Statement Audit Documentation Failure

27. Studer, as the auditor with final responsibility for the audit, was responsible for ensuring that the Firm's audit of Biocoral's financial statements as of and for the year ended December 31, 2008 was properly documented under PCAOB standards. In violation of PCAOB standards, Respondents failed, in certain instances, to prepare and maintain audit documentation containing sufficient information to enable an experienced auditor, having no previous connection with the engagement, to determine who performed the work and the date such work was completed.[35/] For example, the Firm's audit documentation purporting to list Biocoral's patents, a listing of finished goods inventory, and a handwritten summary referencing the valuation of Biocoral's inventory, failed to contain this information.

Audits of the 2006 and 2007 Financial Statements of China Clean and China Kangtai

28. China Clean is a Delaware corporation with principal operations in Fujian, China. China Clean's filings disclose that its primary activity is the manufacture and distribution of biodiesel and specialty chemical products. At all relevant times, China Clean was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

29. China Kangtai is a Nevada corporation headquartered in Harbin, China, with principal operations in China. China Kangtai's public filings disclose that it produces and markets products derived from cacti, including cactus drinks and nutritional supplements. At all relevant times, China Kangtai was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

30. The Firm issued unqualified audit reports on China Clean's and China Kangtai's financial statements for the years ended December 31, 2006 and December 31, 2007, (dated March 8, 2007 and March 7, 2008 (China Clean) and March 30, 2007

34/ See AU §§ 342.04, .07, .11, Auditing Accounting Estimates.

35/ See AS No. 3, ¶6.

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and April 11, 2008 (China Kangtai), respectively).[36/] Those reports accompanied the issuers' Form 10-KSB filings with the Commission on March 13, 2007, March 12, 2008, April 2, 2007, and April 15, 2008, respectively. Studer understood he had final responsibility, as that phrase is used in AU § 311, for these audits.

31. In August 2006, Studer, on behalf of the Firm, entered into an agreement with a Canadian consulting firm, which was not registered with the PCAOB, to serve as assistants on audits of the Firm's issuer clients, including China Clean and China Kangtai. Studer had not previously worked with the Canadian firm or any of the provided assistants.

32. Studer primarily communicated with the assistants in Canada via e-mail and telephone. He did not visit the assistants except for once in August 2006, when he met some, but not all, of the assistants his Firm relied upon for the Firm's China Clean and China Kangtai audits. Studer never traveled to China to observe or supervise field work for the Firm's audits of China Clean and China Kangtai's 2006 and 2007 financial statements.

Audit Documentation Failure and Failure to Supervise

33. Studer understood that the Firm's audits of China Clean and China Kangtai's 2006 and 2007 financial statements were required to be documented in accordance with AS No. 3 and that he was responsible for ensuring that the audit engagement's documentation complied with PCAOB standards. Studer understood that as the auditor with final responsibility for the Firm's audits, he was responsible for supervising the work of his assistants, including those assistants provided by the Canadian firm.

34. Certain documentation prepared by the Firm's assistants based in Canada for the Firm's audits of China Clean and China Kangtai's 2006 and 2007 financial statements was not prepared in accordance with AS No. 3.[37/]

35. The deficient audit documentation appears in multiple audit areas in both the China Clean and China Kangtai audits. For example, for the 2006 audit of China

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[36/] Of 42 issuer audit reports issued by the Firm for the periods ended March 31, 2011 and 2012, 16 were for issuers with substantially all of their operations in the People's Republic of China, the Hong Kong Special Administrative Region, or Taiwan.

[37/] The Firm's assistants provided the audit documentation relating to these two China-based issuer audits to Studer in the United States.

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Clean, the Firm's fixed assets and cash lead sheets for Fujian Zhongde Technology Co., Ltd., the operating subsidiary for China Clean, do not contain any preparer or reviewer sign-offs and do not indicate the date of completion or review, as required by PCAOB standards.[38/] Inventory and receivables lead sheets from the audit work papers lack dates or any indication that they were reviewed during the audit. Similarly, the audit programs for the Firm's 2006 audit of China Clean show preparer initials in the "prepared by and date" column, but lack dates of completion or any evidence of review.

36. As these examples indicate, certain of Respondents' audit documentation for the Firm's audits of China Clean and China Kangtai's 2006 and 2007 financial statements does not, in violation of PCAOB standards, contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to determine who performed the work and the date such work was completed, and the person who reviewed the work and the date of such review.[39/] As such, it is difficult to determine if certain work was in fact performed.[40/] For example, the Firm's fraud risk procedures with respect to the 2006 and 2007 China Clean and China Kangtai audits, to the extent performed, were not documented.

37. In addition, certain of the audit programs in English included in the China Clean and China Kangtai audit work papers for the fiscal year ended December 31, 2007 were prepared by Firm assistants in late 2008, several months after the documentation completion dates for these audits. These audit programs include programs for the operating subsidiaries of China Clean and China Kangtai addressing planning; general auditing and completion; cash; accounts receivable and sales; inventory and cost of sales; inventory observation; property; other assets; accounts payable and other liabilities; notes payable and long-term debt; income taxes, capital stock and other equity accounts; income and expenses; and internal control procedures. This audit documentation failed to indicate the date the documentation was added, the name of the person who prepared the additional documentation, and the reason for adding the programs to the audit work papers after the documentation completion date.[41/]

[38/] See AS No. 3, ¶6.

[39/] Id.

[40/] Id.

[41/] See AS No. 3, ¶16.

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38. Respondents failed, in violation of PCAOB standards, to appropriately supervise the work of the Canada-based assistants. Studer, as the auditor with final responsibility for the audits, failed to ensure that the assistants understood the procedures to be performed in order to comply with PCAOB audit documentation standards, and he failed to adequately review the work performed.[42/]

D. Respondents Violated PCAOB Quality Control Standards and Studer Caused those Violations

39. PCAOB standards provide that a firm should establish policies and procedures to provide it with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[43/] A firm should establish policies and procedures to encompass, among other things, engagement performance, including the establishment of policies and procedures to provide reasonable assurance that, among other things, personnel consult on a timely basis with individuals within or outside the firm when appropriate, for example, when dealing with unfamiliar issues.[44/]

40. A firm should also establish quality control policies and procedures relating to monitoring to provide reasonable assurance that the firm's policies and procedures regarding, among other things, engagement performance, are suitably designed and are being effectively applied.[45/] A firm should also communicate its quality control policies and procedures to its personnel in a manner that provides reasonable assurance that those policies and procedures are understood and complied with, and establish policies and procedures to provide reasonable assurance that work is assigned to personnel having the degree of technical training and proficiency required in the circumstances.[46/] As described below, the Firm violated these quality control standards, and Studer directly and substantially contributed to those violations.

[42/] See AU § 311.11. Given that a significant portion of the audit documentation was in Chinese, and Studer did not read Chinese and did not have the audit documentation translated into English, he also could not adequately review those portions of the work performed.

[43/] QC § 20.17.

[44/] QC §§ 20.17-.19.

[45/] QC §§ 20.20, 30.03.

[46/] QC §§ 20.13, .23.

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41. The Firm maintained and updated its quality control policies and procedures during the relevant audits. Those policies dictated, among other things, that work assigned to the Firm's assistants would, in accordance with PCAOB standards, be assigned to personnel having a requisite level of technical training and proficiency;[47/] that the work of assistants would be supervised and reviewed;[48/] and the Firm, when necessary, would consult with individuals with appropriate expertise within or outside the Firm to ensure the work performed meets appropriate standards of quality.[49/] The Firm also established monitoring procedures to effectuate the evaluation of, and compliance with, the Firm's quality control policies and procedures.[50/] The Firm, however, under Studer's direction, failed to adhere to these policies and procedures during the relevant audits.

42. During the Biocoral engagement, Studer, who had never performed an ICFR audit, failed to consult with individuals with appropriate expertise in order to ensure that the Firm's integrated audit met PCAOB standards, even though the Firm's quality control policies and procedures mandated that he do so.

43. During the China Clean and China Kangtai audits, the Firm heavily relied on audit assistants located in Canada who were unfamiliar with PCAOB audit documentation requirements. The Firm did not ensure that the work was assigned to assistants having the degree of technical training and proficiency required in the circumstances to comply with PCAOB audit documentation standards and did not provide adequate supervision to evaluate compliance with PCAOB standards. Studer failed to ensure that the Firm's quality control policies and procedures were followed, or ensure that the work of the Firm's Canada-based assistants was appropriately reviewed, supervised and evaluated to determine whether it complied with PCAOB standards.

44. Despite creating quality control monitoring policies and procedures during the relevant audits, Studer never performed, in accordance with those policies and procedures, an evaluation of their efficiency and effectiveness, an assessment of the Firm's compliance with its quality control policies and procedures, an evaluation of the

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47/ See QC §20.13.

48/ See QC § 20.18.

49/ See QC § 20.19.

50/ See QC §§ 20.20, 30.03.

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training and experience of Firm personnel, or a review of whether the Firm's policies and procedures were reasonably designed and were being effectively applied.

45. Studer was the President of the Firm during the relevant time period. At all relevant times, Studer was responsible for designing, implementing, and monitoring the Firm's system of quality control. All of the Firm's conduct described above was either conduct of Studer's, or omissions to act for which Studer was responsible. With respect to all such acts and omissions, Studer knew, or was reckless in not knowing, that the act or omission would directly and substantially contribute to the quality control failings described above, which constituted violations of the Board's quality control standards. Studer thereby violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Michael T. Studer, CPA, P.C. and Michael T. Studer, CPA, are hereby censured;

B. Pursuant to Sections 105(c)(4)(C), (F), and (G) of the Act and PCAOB Rules 5300(a)(3), (6), (7) and (9); the Board ORDERS that:

1. Acceptance of New SEC Issuer Audit Clients. From the date of this Order, the Firm shall not accept any new SEC Issuer Audit clients prior to the issuance of the Certificate of Compliance (defined at paragraph B(7)(i) below). The term "SEC Issuer Audit" is defined to mean an engagement to audit the consolidated financial statements filed with the Commission of an "Issuer" as that term is defined in Section 2(a)(7) of the Act.

2. Issuance of Audit Reports for SEC Issuers Subject to Section 404(b) of the Act. For a period of three years from the date of this Order, the Firm shall not issue an audit report for an SEC Issuer subject to the attestation and reporting requirements of Section 404(b) of the Act. Further, the Firm shall not issue such a report prior to the issuance of the Certificate of Compliance, and unless and until Michael T. Studer, CPA obtains 60 hours of continuing professional education relating to PCAOB audit standards, including 20 hours relating to PCAOB Auditing Standard No. 5, *An Audit of*

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Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements. The term "audit report" is defined in Section 2(a)(4) of the Act.

3. Issuance of Audit Reports for SEC Issuers in the China Region. From the date of this Order, the Firm shall not issue an audit report for an SEC Issuer client with substantially all of its operations in the People's Republic of China, the Hong Kong Special Administrative Region, or Taiwan prior to the issuance of the Certificate of Compliance.

4. Certification of Broker-Dealer Financial Statements. From the date of this Order, the Firm shall not certify the financial statements, including the balance sheet and income statement, of a broker or dealer to be filed with the Commission pursuant to Section 17(e)(1)(A) of the Securities Exchange Act of 1934 ("Exchange Act") prior to the issuance of the Certificate of Compliance. The term "broker" means, as set forth in PCAOB Rule 1001(b)(iii), a broker (as defined in Section 3(a)(4) of the Exchange Act), that is required to file a balance sheet, income statement, or other financial statement under Section 17(e)(1)(A) of that Act, where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm. The term "dealer" means, as set forth in PCAOB Rule 1001 (d)(iii), a dealer (as defined in Section 3(a)(5) of the Exchange Act), that is required to file a balance sheet, income statement, or other financial statement under Section 17(e)(1)(A) of that Act, where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm.

5. Playing a Substantial Role in the Preparation or Furnishing of an Audit Report. From the date of this Order, the Firm shall not "play a substantial role in the preparation or furnishing of an audit report" of another PCAOB-registered public accounting firm, as that phrase is defined by PCAOB Rule 1001(p)(ii), prior to the issuance of the Certificate of Compliance.

6. Service as Assistant, Engagement Partner or Engagement Quality Reviewer. From the date of this Order, Studer shall not serve as an assistant, the auditor with primary responsibility, or as engagement quality reviewer for an audit (as defined in Section 2(a)(2) of the Act) performed by another PCAOB-registered public accounting firm prior to the issuance of the Certificate of Compliance.

7. Undertakings Related to the Role of the Independent Monitor.

a. Independent Monitor Selection and Retention. Michael T. Studer, CPA, P.C., will retain and pay for an independent third-party monitor not unacceptable

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to the PCAOB staff ("Independent Monitor") to review Respondents' compliance with the undertakings set forth in this Order.

Within 60 days after the entry of this Order, Respondents shall submit to the PCAOB staff a proposal setting forth the identity, qualifications, and proposed terms of retention of the Independent Monitor. Respondents may not retain as the Independent Monitor any individual or entity that has provided legal, auditing, or other services to, or has had any affiliation with either of the Respondents or any of the Firm's SEC Issuer, broker or dealer audit clients during the prior two years.

Respondents agree that their engagement agreement with the Independent Monitor shall require the Independent Monitor to agree that, for the period of engagement and for a period of two years from completion of the engagement, the Independent Monitor shall not enter into any employment, consultant, attorney-client, auditing, or other professional relationship with Respondents, or any of their present or former affiliates, directors, officers, employees, or agents acting in their capacity as such, and shall require that any firm with which the Independent Monitor is affiliated or of which the Independent Monitor is a member, or any person engaged to assist the Independent Monitor in performance of the Independent Monitor's duties under the Order shall not, without prior written consent of the PCAOB staff, enter into any employment, consultant, attorney-client, auditing, or other professional relationship with Respondents, or any of their present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement. Respondents will provide to the PCAOB staff a copy of the engagement letter detailing the scope of the Independent Monitor's responsibilities. The date Respondents sign the engagement letter is the "Retention Date."

The term of the Independent Monitor shall expire upon the Certificate of Compliance Date. Respondents shall not have the authority to terminate the Independent Monitor before the Certificate of Compliance Date without the prior written approval of the PCAOB staff.

b. Role and Responsibilities Overview. The Independent Monitor will review and evaluate the quality control policies and procedures of Michael T. Studer, CPA, P. C., in areas including, but not limited to:

i. the requirements of PCAOB Rule 3400T, *Interim Quality Control Standards*, and related training;

ii. the requirements of QC § 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*, and related training;

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iii. the requirements of QC § 30, *Monitoring a CPA Firm's Accounting and Auditing Practice*, and related training;

iv. the requirements of PCAOB Auditing Standard No. 3, *Audit Documentation*, and related training;

v. the requirements of PCAOB Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements*, and related training;

vi. the requirements of PCAOB Auditing Standard No. 9, *Audit Planning*, and related training; and

vii. the requirements of PCAOB Auditing Standard No. 10, *Supervision of the Audit Engagement*, and related training.

c. Review and Evaluation. The Independent Monitor's review and evaluation will assess the foregoing areas to determine whether the Firm has complied with this Order and whether the Firm's quality control policies and procedures provide reasonable assurance of compliance of the Firm's interim reviews and audits of SEC Issuer clients with PCAOB standards. Respondents will cooperate fully with the Independent Monitor and will provide reasonable access to firm personnel, information, and records as the Independent Monitor may reasonably request for the Independent Monitor's reviews and evaluations.

d. PCAOB Inspections. Respondents shall provide the Independent Monitor with PCAOB inspection comment forms and responses, and draft and final inspection reports in Respondents' possession pertaining to all prior PCAOB inspections of the Firm. The goal of this undertaking is to provide the Independent Monitor with additional information concerning criticisms or potential defects in the Firm's quality control system.

e. Report. Within 60 days of the Retention Date, the Independent Monitor will issue a written report ("Report") to the Firm: (a) summarizing the Independent Monitor's review and evaluation; and (b) making recommendations, where appropriate, reasonably designed to provide reasonable assurance of compliance of the Firm's interim reviews and audits of SEC Issuer clients with PCAOB standards. The Independent Monitor will provide a copy of the Report to the PCAOB staff when the Report is issued.

f. Firm Certification. Michael T. Studer, CPA, P.C, will adopt, as soon as practicable, all recommendations of the Independent Monitor in the Report. Within 30 days of the date of the issuance of the Report, Michael T. Studer, CPA, P. C., will certify in writing to the PCAOB staff that it has adopted and has implemented, or will implement without unnecessary delay, all recommendations of the Independent

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Monitor ("Firm Certification"). The Firm Certification shall identify recommendations the Firm has implemented and a timeline for any recommendations to be implemented; provide written evidence of implementation in the form of a narrative; and set forth evidence sufficient to demonstrate that the recommendations have been, or will be, implemented in a timely manner. PCAOB staff may make reasonable requests for further evidence of implementation and Respondents agree to provide such evidence.

g. Second Review and Evaluation. Within 90 days of the date of issuance of the Firm Certification, the Independent Monitor will conduct a "Second Review and Evaluation," to assess whether the Firm has effectively adopted and implemented all recommendations of the Independent Monitor, and whether the Firm's quality control policies and procedures provide reasonable assurance of compliance of the Firm's interim reviews and audits of SEC Issuer clients with PCAOB standards. Respondents will cooperate fully with the Independent Monitor and will provide reasonable access to firm personnel, information, and records as the Independent Monitor may reasonably request for the Second Review and Evaluation.

h. Subsequent Evaluations. If the Independent Monitor does not issue the Certificate of Compliance within 30 days of the Second Review and Evaluation, the Independent Monitor shall make, on a quarterly basis, additional recommendations to, and subsequent periodic evaluations of, Respondents, until such time as the Independent Monitor issues the Certificate of Compliance. Respondents will adopt and implement, or implement without unnecessary delay, all recommendations of the Independent Monitor. The Independent Monitor shall notify the PCAOB staff of all such recommendations and evaluations. Respondents will cooperate fully with the Independent Monitor and will provide reasonable access to firm personnel, information, and records as the Independent Monitor may reasonably request for any such further review and evaluation.

i. Certificate of Compliance. Upon findings by the Independent Monitor that: (i) the Firm has complied with the undertakings set forth in this Order; and that (ii) the Firm has evidenced that its quality control policies and procedures provide reasonable assurance of compliance of the Firm's interim reviews and audits of SEC Issuer clients with PCAOB standards, the Independent Monitor will certify in writing that the Firm has satisfied each of the above specified conditions (the "Certificate of Compliance"). The Certificate of Compliance shall include a narrative supported by exhibits sufficient to demonstrate compliance. The Independent Monitor will provide a copy of the Certificate of Compliance to the PCAOB staff when issued.

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C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm shall provide a copy of this Order to its SEC Issuer audit clients by no later than 30 days after the date of this Order;

In determining whether to accept the Offers, the Board has considered these undertakings. Respondents agree that if the PCAOB staff believes that Respondents have not satisfied these undertakings within a reasonable time, said staff may petition the Board to reopen the matter to determine whether additional findings and sanctions are appropriate.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

September 7, 2012

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Lawrence H. Wolfe, CPA,* *Respondent.*	PCAOB Release No. 105-2012-005 September 7, 2012

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Lawrence H. Wolfe, CPA ("Wolfe" or "Respondent") and permanently barring him from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings that Wolfe (a) violated PCAOB rules and auditing standards in connection with the audits of four issuer clients; (b) violated Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 thereunder in connection with one of those issuer audits; and (c) directly and substantially contributed to a registered public accounting firm's violation of PCAOB quality control standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Wolfe.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary

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Proceedings, Making Findings, and Imposing Sanctions (the "Order") as set forth below.[1/]

III.

On the basis of Respondent's Offer, the Board finds[2/] that:

A. Respondent

1. Lawrence H. Wolfe, 49, of Weston, Florida, is a certified public accountant licensed under the laws of the State of Arizona (License No. 14587), the State of Florida (License No. AC0027223) and the State of New York (License No. 096865). At all relevant times, Wolfe was a partner at the public accounting firm, Jewett, Schwartz, Wolfe & Associates, P.L. ("JSW" or the "Firm"), which was the independent auditor for each of the issuers identified in footnote 5, below.[3/] Wolfe was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Wolfe had final responsibility for each audit at issue within the meaning of AU § 311, *Planning and Supervision*, was responsible for the supervision of the JSW engagement teams, and authorized the issuance of JSW's reports for each of the audits at issue. Wolfe was one of only two JSW partners

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[1/] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2/] The sanctions that the Board is imposing on Respondent in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3/] *See Jewett, Schwartz, Wolfe & Associates, P.L.*, PCAOB Release No. 105-2012-004 (September 7, 2012).

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performing audits of public companies and was the leader of JSW's public company audit practice.[4/]

B. Summary

2. As detailed below, Wolfe violated PCAOB rules and PCAOB auditing standards in connection with the audits of four issuers' financial statements over a multiple year period (collectively, the "Audits").[5/] For each of the Audits, Wolfe failed to perform or ensure the performance of adequate, or sometimes any, audit procedures on material accounts; failed to properly supervise the engagement team personnel who performed most of the work on the Audits; and failed to ensure that the limited procedures that were performed during the Audits were properly documented.

3. Moreover, in one of the Audits, Wolfe and the JSW engagement team under his supervision failed to perform any procedures at all. Nevertheless, Wolfe authorized the issuance of an unqualified audit opinion on that issuer's financial statements, in violation of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

4. Finally, prior to August 2009, Wolfe also was responsible for the development, implementation and monitoring of JSW's quality control policies and procedures. Despite those responsibilities, during the Audits, Wolfe took or omitted to take action knowing, or recklessly not knowing, that his acts and/or omissions would directly and substantially contribute to JSW's violation of PCAOB quality control standards, in contravention of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

[4/] *See Uma D. Basso, CPA*, PCAOB Release No. 105-2012-006 (September 7, 2012).

[5/] Specifically, the Audits consist of JSW's audits of: (a) the 2006 through 2008 financial statements of MedCom USA, Incorporated; (b) the 2008 financial statements of Dynamic Response Group, Inc.; (c) the 2008 financial statements of American Defense Systems, Inc.; and (d) the 2008 financial statements of Dolphin Digital Media, Inc.

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C. Respondent's Violations of the Securities Laws, PCAOB Rules and Auditing Standards

Audits of MedCom's 2006-2008 Financial Statements

5. At all relevant times, MedCom USA, Incorporated ("MedCom") was a Delaware corporation with its headquarters in Scottsdale, Arizona. The company's public filings disclosed that it processed medical information, including insurance eligibility verification. MedCom's common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all relevant times, MedCom was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

6. MedCom appointed JSW as its independent auditor on or about February 7, 2007. In audit reports dated September 14, 2007 and September 28, 200[8],[6/] JSW expressed unqualified opinions on MedCom's financial statements. Wolfe authorized the issuance of both audit reports. The September 14, 2007 audit report concerned MedCom's financial statements for the year ended June 30, 2007 and its restated financial statements for the year ended June 30, 2006, and was included in a Form 10-KSB that MedCom filed with the Securities and Exchange Commission (the "Commission") on September 28, 2007. The September 28, 2008 audit report concerned MedCom's financial statements for the years ended June 30, 2008 and June 30, 2007, and was included in a Form 10-K that MedCom filed with the Commission on September 29, 2008. Both reports, which included going concern explanatory paragraphs, stated that, in JSW's opinion, MedCom's financial statements presented fairly, in all material respects, the company's financial position in conformity with accounting principles generally accepted in the United States ("US GAAP"), and that JSW's audits were conducted in accordance with PCAOB standards.

MedCom's Restated 2006 Financial Statements

7. Another registered public accounting firm initially audited MedCom's financial statements for the year ended June 30, 2006. After JSW accepted the MedCom engagement, MedCom restated its 2006 financial statements and included those restated financial statements in the Form 10-KSB it filed with the Commission on September 28, 2007.

[6/] The audit report issued in 2008 was erroneously dated September 28, 2007.

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8. JSW did not conduct an audit of MedCom's restated 2006 financial statements. Wolfe nonetheless authorized the issuance of an audit opinion that stated that JSW had conducted an audit of MedCom's restated 2006 financial statements, and had done so in accordance with PCAOB standards.

9. Section 10(b) of the Exchange Act and Commission Rule 10b-5 thereunder prohibit a person, in connection with the purchase or sale of a security, from making an untrue statement of a material fact or from omitting to state a material fact necessary to make statements made, in light of the circumstances under which they were made, not misleading. To violate Section 10(b) or Rule 10b-5, a defendant must act with scienter,[7/] which the Supreme Court has defined as "a mental state embracing intent to deceive, manipulate, or defraud."[8/] Scienter encompasses knowing or intentional conduct, or recklessness.[9/]

10. An auditor violates Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by issuing an audit report stating that the audit has been performed in accordance with PCAOB standards when he knows, or is reckless in not knowing, that the statement is false.[10/] These statements are clearly material, as "[f]ew matters could be more important to investors than that of whether an issuer's financial statements, contained in its filings with the Commission, had, in fact, been subjected to an annual audit conducted in accordance with [PCAOB standards] in all material respects."[11/]

11. Wolfe knew, or was reckless in not knowing, that JSW personnel had not performed any audit procedures with respect to MedCom's restated 2006 financial statements. By nevertheless authorizing issuance of an audit report on those financial statements, Wolfe violated Section 10(b) and Rule 10b-5.

7/ *Aaron v. SEC*, 446 U.S. 680, 695, 701-02 (1980).

8/ *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 n.12 (1976).

9/ *See*, *e.g.*, *IIT v. Cornfeld*, 619 F.2d 909, 923 (2d Cir. 1980).

10/ *See In re: The Blackwing Group, LLC and Sara L. Jenkins, CPA*, PCAOB Rel. No. 105-2009-007, at *9-10 (Dec. 22, 2009); *In re: Moore & Associates, Chartered, and Michael J. Moore, CPA*, PCAOB Rel. No. 105-2009-006, at *16 (Aug. 27, 2009); *In re: Richard P. Scalzo, CPA*, Exchange Act Rel. No. 48328, 2003 SEC LEXIS 1915, at *1 (August 13, 2003).

11/ *Scalzo*, 2003 SEC LEXIS 1915, at *52-53.

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Audits of MedCom's 2007 and 2008 Financial Statements

12. Wolfe also failed to comply with applicable professional standards in connection with the audits of MedCom's 2007 and 2008 financial statements. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[12/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[13/] Among other things, PCAOB standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[14/] PCAOB standards also prohibit an auditor from relying on management representations as a substitute for performing audit procedures necessary to afford a reasonable basis for an opinion on an issuer's financial statements and require an auditor to investigate when management representations are contradicted by other audit evidence.[15/]

13. PCAOB auditing standards also require that audits be adequately planned and assistants be properly supervised.[16/] Supervision includes "directing the efforts of assistants who are involved in accomplishing the objectives of the audit," reviewing their work, and "determining whether th[e] objectives [of the audit] were accomplished."[17/] In reviewing the work of assistants, an auditor should take care to both "determine whether it was adequately performed and to evaluate whether the

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[12/] *See* PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards*, and 3200T, *Interim Auditing Standards*.

[13/] AU § 508.07, *Reports on Audited Financial Statements*. All references to PCAOB auditing standards are to the versions of those standards in effect for the Audits.

[14/] AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 326, *Evidential Matter*.

[15/] *See* AU § 333, *Management Representations*.

[16/] AU § 311, *Planning and Supervision*.

[17/] AU § 311.11.

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results are consistent with the conclusions to be presented in the auditor's report."[18/] In supervising assistants, "[t]he auditor with final responsibility for the audit should direct assistants to bring to his attention significant accounting and auditing questions raised during the audit so that he may assess their significance."[19/]

14. Wolfe failed to comply with these and other auditing standards in connection with the 2007 and 2008 MedCom audits. First, Wolfe failed to appropriately supervise both of those audits.[20/] The engagement team for both audits consisted of Wolfe, as the auditor with final responsibility, and one JSW staff member who was not licensed as a certified public accountant in the United States and had limited experience auditing public companies. The staff member performed almost all of the audit work during the 2007 and 2008 MedCom audits, and Wolfe failed to review much of that work.

15. Second, during the 2007 and 2008 MedCom audits, Wolfe failed to exercise due professional care and failed to obtain, or ensure that the engagement team obtained, sufficient competent evidential matter to support JSW's audit opinions.[21/] Specifically, Wolfe failed to perform, or ensure the performance of, any audit procedures during the 2007 audit with respect to MedCom's reported revenue of $4 million. Wolfe also failed to obtain, or ensure that the engagement team obtained, any competent evidence during the 2007 audit as to the existence, completeness and valuation of MedCom's reported notes payable. Wolfe's failures with respect to MedCom's notes payable were particularly significant because those notes were Medcom's primary means of funding its business, were its largest liability, representing 69% of MedCom's total reported liabilities in 2007, and, according to MedCom's 2007 Form 10-KSB, had been substantially renegotiated during 2007.

16. Additionally, in both the 2007 and 2008 MedCom audits, Wolfe failed to obtain, or ensure that the engagement team obtained, sufficient competent evidential matter with respect to MedCom's largest reported asset, contract receivables, which represented 63% and 47% of MedCom's total reported assets in 2007 and 2008, respectively. In 2007, the JSW engagement team prepared a memorandum with

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18/ AU § 311.13.

19/ AU § 311.12.

20/ *See* AU § 230.06; AU §§ 311.11-.13.

21/ *See* AU § 230; AU §§ 326.01, .25.

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respect to contract receivables in which the team described work it had purportedly performed and documented in other work papers. JSW and Wolfe, however, were unable to identify those other work papers, and neither Wolfe nor the other engagement team member recalled performing any such procedures. In 2008, the engagement team obtained copies of certain contracts and a management schedule listing contract receivable balances as of year-end. However, Wolfe failed to obtain, or ensure that the engagement team obtained, any evidence to substantiate or test those year-end balances provided by management.

17. Finally, Wolfe failed to comply with PCAOB documentation standards in the 2007 MedCom audit.[22/] PCAOB documentation standards require that an auditor make certain written disclosures if the auditor adds documentation to the audit work papers after the documentation completion date.[23/] Specifically, information added to the work papers after the documentation completion date must indicate the date the information was added, the person preparing the additional information, and the reason for adding the information to the work papers after the documentation completion date.[24/] Wolfe and the other member of the engagement team under his supervision violated these requirements in the 2007 MedCom audit. Specifically, well after the documentation completion date for the 2007 audit, the staff member under Wolfe's supervision prepared a "Supervision, Review, and Approval" form that Wolfe signed and dated as if it had been prepared prior to the documentation completion date. The staff member under Wolfe's supervision also prepared a "Disclosure Requirements" checklist well after the documentation completion date and similarly dated it to make it appear that it had been prepared prior to the documentation completion date. Those documents were then included in the work papers, without any explanation as to why they had been added after the documentation completion date and without any indication that they had actually been prepared after the sign-off dates.

Audit of DRG's 2008 Financial Statements

18. At all relevant times, Dynamic Response Group, Inc. ("DRG") was a Florida corporation with its headquarters in Miami, Florida. The company's public filings disclosed that it marketed, developed and distributed personal development, wellness and entertainment consumer goods and services. DRG's common stock was registered

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22/ *See* Auditing Standard No. 3, *Audit Documentation* ("AS3").

23/ AS3 ¶ 16.

24/ *Id*.

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under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all relevant times, DRG was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

19. Wolfe authorized the issuance of an audit report dated March 10, 2009, in which JSW expressed an unqualified opinion on DRG's financial statements for the year ended December 31, 2008. The report was included in a Form 10-K that DRG filed with the Commission on April 15, 2009. The audit report, which included a going concern explanatory paragraph, stated that, in JSW's opinion, DRG's 2008 financial statements presented fairly, in all material respects, the company's financial position in conformity with US GAAP, and that JSW's audit was conducted in accordance with PCAOB standards. Wolfe failed to comply with applicable PCAOB standards in connection with the audit of DRG's 2008 financial statements.

20. DRG reported in the notes to its 2008 financial statements that it had incurred advertising expenses during 2008 and that it had capitalized approximately $840,000 of those expenses as "direct response advertising" pursuant to AICPA Statement of Position ("SOP") 93-7, *Reporting on Advertising Costs* (December 29, 1993). DRG's capitalized direct response advertising balance for 2008 represented an increase of over 350% from the prior year and constituted 21% of DRG's total reported assets.

21. SOP 93-7 provides that a company may only capitalize advertising expenses as direct response advertising if (1) the primary purpose of the advertising "is to elicit sales to customers who could be shown to have responded specifically to the advertising;" and (2) the advertising "results in probable future benefits."[25/] In addition, SOP 93-7 states that direct response advertising costs reported as assets are to be "amortized on a cost-pool-by-cost-pool basis over the period during which the future benefits are expected to be received."[26/]

22. During the 2008 audit, Wolfe failed to exercise due professional care and failed to obtain, or ensure that the engagement team obtained, sufficient audit evidence to conclude that DRG was appropriately capitalizing, as opposed to expensing, the costs it reported as direct response advertising.[27/] Specifically, Wolfe failed to obtain, or

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[25/] SOP 93-7 at ¶ .33; *see also* SOP 93-7 at ¶ .26a.

[26/] *Id.* at ¶ .46.

[27/] *See* AU § 230; AU §§ 326.01, .25.

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ensure that the engagement team obtained, audit evidence indicating that sales were to customers responding specifically to the advertising. Nor did Wolfe obtain, or ensure that the engagement team obtained, sufficient competent audit evidence indicating that the advertising would result in probable future benefits to DRG. In addition, Wolfe failed to perform, or ensure the performance of, any procedures to evaluate whether DRG was appropriately amortizing the amounts it capitalized as direct response advertising. Indeed, JSW's work papers include a schedule, provided by DRG, indicating that the company was not amortizing those amounts.

23. During the 2008 audit, Wolfe also failed to exercise due professional care and failed to obtain, or ensure that the engagement team obtained, sufficient competent evidential matter concerning promissory note obligations that represented approximately 21% of DRG's total reported liabilities. In the notes to the financial statements, DRG reported that the maturity dates on its promissory notes had been extended until late 2010 and early 2011. Confirmations included in JSW's work papers, however, indicated that DRG's promissory notes matured in 2009. Wolfe failed to take any steps, or ensure that the engagement team took any steps, to reconcile the disclosures in the financial statements with the contradictory information contained in the work papers.[28/] Wolfe also failed to perform, or ensure the performance of, audit procedures to evaluate whether the outstanding note balance was complete, and whether the notes were properly classified, described, and disclosed as current liabilities.

Audit of ADS's 2008 Financial Statements

24. American Defense Systems, Inc. ("ADS") is a Delaware corporation with its headquarters in Hicksville, New York. The company's public filings disclose that it develops defense and security products. ADS's common stock is registered under Section 12(b) of the Exchange Act and is quoted on the American Stock Exchange. At all relevant times, ADS was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

25. In April 2009, Wolfe authorized the issuance of an audit report in which JSW expressed an unqualified audit opinion on ADS's financial statements for the year ended December 31, 2008. The report was included in a Form 10-K that ADS filed with the Commission on April 15, 2009. The audit report stated that, in JSW's opinion, ADS's 2008 financial statements presented fairly, in all material respects, the company's

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28/ *See* AU § 333.04; *see also* AU § 326.25.

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financial position in conformity with US GAAP, and that JSW's audit was conducted in accordance with PCAOB standards.

26. Wolfe failed to comply with applicable PCAOB standards in connection with the audit of ADS's 2008 financial statements. Specifically, Wolfe failed to exercise due professional care and failed to obtain, or ensure that the engagement team obtained, sufficient competent evidential matter as to the existence and valuation of ADS's accounts receivable.[29/] As of year-end 2008, those receivables represented approximately 30% of ADS's current assets and 20% of its total assets, and ADS maintained no allowance for doubtful accounts.

27. During the audit, the engagement team, under Wolfe's supervision, concluded that sending confirmations to ADS's customers would be ineffective and, accordingly, planned to review subsequent cash receipts to test ADS's accounts receivable balance.[30/] However, that subsequent cash receipts testing was inadequate. First, the testing was not completed until several months after the audit. Second, although JSW's work papers indicate that ADS had collected certain receivables after year-end 2008, in fact, the engagement team was aware that some of those receivables were still outstanding as of June 30, 2009.

Audit of DDM's 2008 Financial Statements

28. Dolphin Digital Media, Inc. ("DDM") is a Nevada corporation with its principal offices located in Miami, Florida. The company's public filings disclose that it creates and manages social networking websites for children. DDM's common stock is registered under Section 12(g) of the Exchange Act and trades on the OTC Bulletin Board. At all relevant times, DDM was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

29. Wolfe authorized the issuance of an audit report dated April 13, 2009, in which JSW expressed an unqualified audit opinion on DDM's financial statements for the year ended December 31, 2008. The report was included in a Form 10-K that DDM filed with the Commission on April 14, 2009. The audit report, which included a going

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29/ *See* AU § 230; AU §§ 326.01, .25.

30/ Under PCAOB standards, "there is a presumption that the auditor will request the confirmation of accounts receivable during an audit," though certain exceptions apply, one of which is that confirmations would be ineffective. *See* AU § 330.34, *The Confirmation Process*.

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concern explanatory paragraph, stated that, in JSW's opinion, DDM's 2008 financial statements presented fairly, in all material respects, the company's financial position in conformity with US GAAP, and that JSW's audit was conducted in accordance with PCAOB standards.

30. Wolfe failed to comply with applicable PCAOB standards in connection with the audit of DDM's 2008 financial statements. The audit team consisted of Wolfe, as auditor with final responsibility, and two JSW staff members with limited experience auditing public companies. The staff members performed almost all of the audit work, and Wolfe again failed to review much of that work. Wolfe's failure to appropriately supervise the 2008 DDM audit violated PCAOB standards.[31/]

31. Wolfe also failed to obtain, or ensure that the engagement team obtained, sufficient audit evidence with respect to DDM's largest assets. As of year-end 2008, more than 75% of DDM's total reported assets were classified as intangible assets and consisted mostly of website and platform development costs for an unlaunched product. During the audit of DDM's 2008 financial statements, Wolfe failed to appropriately test, or ensure that the engagement team appropriately tested, DDM's intangible asset balance for impairment. The work papers reflect that management's basis for not recognizing an impairment on its intangible assets in 2008 was a cash flow projection. Wolfe and the engagement team, however, performed no procedures to assess the reasonableness of the cash flow projection, including the relevance, sufficiency, and reliability of the data supporting the projection and the assumptions management made in formulating the projection.[32/] In addition, the untested cash flow projection was inconsistent with Wolfe's conclusion that there was substantial doubt as to DDM's ability to continue operating as a going concern.[33/]

32. Wolfe also failed to comply with AS3 in connection with the audit of DDM's 2008 financial statements. AS3 provides that the documentation for an audit "must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement: [a.] [t]o understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and [b.] [t]o determine who performed the work and the date such work was completed as

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[31/] *See* AU § 311.13; *see also* AU § 311.11, AU § 230.06.

[32/] *See* AU § 326.01; *see also* AU §§ 230.07-.09.

[33/] *See* AU § 333.04; *see also* AU § 326.25.

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well as the person who reviewed the work and the date of such review."[34/] Significant portions of the audit documentation, prepared under Wolfe's supervision, did not contain sufficient information to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, conclusions reached, and the dates such work was completed and reviewed.

D. Respondent Violated PCAOB Rule 3502

33. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[35/] PCAOB quality control standards require that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[36/] PCAOB quality control standards state that policies and procedures "should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[37/] Additionally, PCAOB quality control standards provide that policies and procedures "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied," and that "its system of quality control is effective."[38/] Finally, quality control policies and procedures should be communicated to a firm's personnel in a manner that provides reasonable assurance that they are understood and complied with.[39/]

34. PCAOB rules also prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not

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[34/] AS3 at ¶ 6.

[35/] PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[36/] QC § 20.02, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[37/] QC § 20.17.

[38/] QC § 20.20; *see also* QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[39/] *See* QC § 20.23.

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knowing, that the act or omission would directly and substantially contribute to a violation of Board standards by that firm.[40/] As detailed below, JSW failed to comply with PCAOB quality control standards in connection with the Audits, and Wolfe took, or omitted to take, actions that he knew, or was reckless in not knowing, would directly and substantially contribute to JSW's violations.

35. In connection with filing its Application for Registration with the PCAOB in 2003, JSW submitted a list of quality control policies covering, among other things, engagement performance and monitoring. Subsequently, JSW generated other quality control documents based on commercial publications.

36. At all relevant times, Wolfe was responsible for designing, implementing, communicating, and monitoring JSW's quality control policies and procedures. Wolfe, however, failed to adequately implement or communicate to JSW personnel any such policies and procedures.[41/] In particular, Wolfe failed to implement and communicate policies and procedures to ensure that engagement personnel performed audit procedures necessary to comply with PCAOB standards.[42/] As a result, in multiple instances, JSW personnel failed to complete necessary audit work before the Firm released its audit opinions for the Audits, and, in other instances, failed to perform any significant work in critical audit areas.

37. Wolfe also failed to implement and communicate policies and procedures with respect to monitoring the application of the Firm's system of quality control.[43/] Indeed, although JSW's written quality control documents stated that the Firm would "evaluate on an ongoing basis whether the other elements of quality control established by the firm are suitably designed and are being effectively applied," no such monitoring actually occurred in the period during which Wolfe had responsibility for JSW's quality control policies and procedures.

[40/] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

[41/] *See* QC §§ 20.02, 20.23.

[42/] *See* QC § 20.17.

[43/] *See* QC § 20.20; QC § 30.03.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Lawrence H. Wolfe, CPA is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Lawrence H. Wolfe, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____
Phoebe W. Brown
Secretary

September 7, 2012

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Dale Arnold Hotz, CPA, Jyothi Nuthulaganti Manohar, CPA and Michael Jared Fadner, CPA*, *Respondents.*	PCAOB Release No. 105-2012-008 November 13, 2012

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Dale Arnold Hotz, CPA ("Hotz") and barring him from being an associated person of a registered public accounting firm;[1/] (2) censuring Jyothi Nuthulaganti Manohar, CPA ("Manohar") and suspending her from being an associated person of a registered public accounting firm for a period of one year from the date of this Order; and (3) censuring Michael Jared Fadner, CPA ("Fadner"). The Board is imposing these sanctions on the basis of its findings that Hotz, Manohar and Fadner (collectively, "Respondents") violated PCAOB rules and auditing standards in connection with the improper creation, addition, alteration and/or backdating of audit documentation prior to a Board inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

[1/] Hotz may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, each Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2/]

III.

On the basis of Respondents' Offers, the Board finds[3/] that:

A. Respondents

1. Dale Arnold Hotz, 54, of Harpers Ferry, West Virginia, is a certified public accountant who is licensed under the laws of the States of Maryland (license no. 35577), New Jersey (license no. 20CC03329100) and North Carolina (license no. N645), the Commonwealth of Pennsylvania (license no. CA051121), and the District of Columbia (license no. CPA901337). At all relevant times, Hotz was a partner in the Frederick, Maryland office of the registered public accounting firm of McGladrey & Pullen, LLP (the "Firm" or "M&P"),[4/] and an associated person of a registered public

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[2/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[3/] The sanctions that the Board is imposing on Respondents Hotz and Manohar in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents Hotz's and Manohar's conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4/] In May 2012, the Firm changed its legal name to "McGladrey LLP."

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accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Based upon his conduct in connection with the Board inspection of the audit discussed below, M&P disciplined Hotz; among other things, M&P restricted Hotz from serving on engagements governed by PCAOB standards for audit and interim review periods ending on or before March 15, 2012.

2. Jyothi Nuthulaganti Manohar, 52, of Rose Valley, Pennsylvania, is a certified public accountant who is licensed under the laws of the State of New Jersey (license no 20CC03303900) and the Commonwealth of Pennsylvania (license no. CA025959L). At all relevant times, Manohar was a director in M&P's Blue Bell, Pennsylvania office, and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Based upon her conduct in connection with the Board inspection of the audit described below, M&P disciplined Manohar; among other things, M&P restricted Manohar from serving on engagements governed by PCAOB standards for audit and interim review periods ending on or before March 15, 2012.

3. Michael Jared Fadner, 31, of Souderton, Pennsylvania, is a certified public accountant who is licensed under the laws of the Commonwealth of Pennsylvania (license no. CA051200) and the State of Texas (license no. 087301). At all relevant times, Fadner was an assurance manager in M&P's Blue Bell, Pennsylvania office, and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Based upon his conduct in connection with the Board inspection of the audit described below, M&P disciplined Fadner; among other things, M&P placed restrictions upon Fadner's role on engagements governed by PCAOB standards for audit and interim review periods ending on or before March 15, 2012. In July 2011, Fadner resigned from M&P and ceased participating in issuer audit engagements.

B. Summary

4. M&P has been the independent auditor for the "Company" (as defined below in ¶6) since March 2007. M&P issued an audit report expressing an unqualified opinion on the Company's December 31, 2009 financial statements. Hotz was the engagement partner for the Firm's audit of the Company's December 31, 2009 financial statements (the "Audit"). Hotz supervised the members of the Audit engagement team and had overall responsibility for ensuring their compliance with PCAOB rules and auditing standards related to the Audit. Manohar served as engagement manager on the Audit. Her work on the Audit was supervised by Hotz, she supervised junior members of the Audit team, and she had responsibility for ensuring their compliance

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with PCAOB rules and auditing standards related to the Audit. Fadner served as in-charge on the Audit. During the Audit, Hotz and Manohar supervised Fadner.

5. This matter concerns Respondents' violations of PCAOB rules and auditing standards. Respondents repeatedly violated both PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, and Auditing Standard No. 3, *Audit Documentation* ("AS3"). In advance of field work for the Board's inspection of the Audit, Respondents Hotz, Manohar, and Fadner improperly created and/or added documents to the audit documentation, Hotz altered certain audit documentation by adding information to documents, and Fadner backdated a document added to the audit documentation, all in violation of Rule 4006. Further, Hotz provided false and misleading information to the PCAOB, in violation of Rule 4006. In violation of AS3, Respondents added documents to the audit documentation, and Hotz altered certain audit documentation, without indicating the date that information was added to the work papers, the name of the persons preparing the additional documentation, and the reason for adding it after the documentation completion date.

C. Respondents Violated PCAOB Rules and Auditing Standards

6. The Company is an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). In December 2010, the Board inspected M&P's audit of the Company's December 31, 2009 financial statements.

7. PCAOB rules require that an associated person of a registered public accounting firm "shall cooperate with the Board in the performance of any Board inspection."[5/] This cooperation obligation "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes."[6/] PCAOB rules also require that associated persons of registered public

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[5/] PCAOB Rule 4006, Duty to Cooperate with Inspectors.

[6/] *Peter C. O'Toole, CPA*, PCAOB Release No. 105-2011-005 (Aug. 1, 2011) ¶ *5; Darrin G. Estella, CPA*, PCAOB Release No. 105-2011-004 (Aug. 1, 2011) ¶ 5; *Jacqueline A. Higgins, CPA*, PCAOB Release No. 105-2010-008 (Dec. 3, 2010) ¶ 5*; Drakeford & Drakeford, LLC*, PCAOB Release No. 105-2009-002 (June 16, 2009) ¶ 8. *See also Gately & Associates, LLC*, SEC Release No. 34-62656 at 22-23, 2010 SEC LEXIS 2535, at *23 (Aug. 5, 2010) (sustaining Board finding that respondents failed to cooperate with Board inspection).

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accounting firms comply with the Board's auditing standards.[7/] Among other things, PCAOB auditing standards require that certain written disclosures be included if the auditor adds to the audit documentation after the documentation completion date.[8/] As detailed below, Respondents violated PCAOB rules and auditing standards when they: (1) improperly created, added to, altered, and/or backdated audit work papers; and (2) provided misleading audit documentation and information to the Board in connection with the Board's inspection of the Audit.

The Audit

8. M&P audited the Company's December 31, 2009 financial statements. M&P's audit report expressed an unqualified opinion and stated that the Audit was conducted in accordance with PCAOB standards. The audit report stated that the Company's December 31, 2009 financial statements presented fairly, in all material respects, the Company's financial position, results of operations and cash flows in conformity with U.S. Generally Accepted Accounting Principles. The audit report was included in the Company's annual report, included within a Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission").

9. The report release date for the Audit is defined as "the date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements."[9/] The documentation completion date is defined as "a date not more than 45 days after the report release date."[10/] Audit documentation must not be deleted or discarded after the documentation completion date; however, information may be added.[11/] Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.[12/]

[7/] PCAOB Rule 3100, Compliance with Auditing and Related Professional Practice Standards.

[8/] AS3 ¶ 16.

[9/] *Id*. ¶ 14.

[10/] *Id*. ¶ 15.

[11/] *Id*. ¶ 16.

[12/] *Id*.

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Steps Taken in Advance of the Board's Inspection

10. On November 17, 2010, the Board notified M&P that the Board's Division of Registration and Inspections ("Board's Inspection Division") would inspect the Audit (the "Inspection"). The Act "requires the Board to conduct a 'continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons . . . with [the Act], the rules of the Board, the rules of the Commission, or professional standards.'"[13/]

11. On or about November 17, 2010, Respondents were notified that the Audit would be inspected by the Board's Inspection Division. Field work for the Inspection was scheduled to begin on Monday, December 6, 2010.

Respondents Reviewed the Work Papers on December 3, 2010

12. The audit documentation for the Audit included both electronic work papers and hard copy work papers (the "hard copy work papers").

13. On December 1, 2010, an M&P colleague recommended to Hotz that, before a PCAOB inspection, he should review the work papers to refresh his memory about the audit focus areas.

14. Also on December 1, 2010, Hotz and Manohar received an email from M&P, reminding them to have the hard copy work paper files for the Audit available for the PCAOB Inspections team to review. They were told that M&P would separately make the electronic work papers for the Audit available to the Board's Inspection Division. Manohar forwarded this message to Fadner, who then retrieved the hard copy work papers for the Audit from the file room in the Firm's Blue Bell office. On December 3, 2010, Fadner informed Manohar that he had the hard copy work paper files in his office. Later that morning, he brought those hard copy work papers to Manohar's office.

15. Respondents planned a teleconference for Friday, December 3, 2010, to prepare for the PCAOB's Inspection field work scheduled to begin on Monday, December 6, 2010.

13/ *Gately & Associates, LLC*, SEC Release No. 34-62656 at 2 n.3, 2010 SEC LEXIS 2535, *2 n.3 (quoting Section 104(a) of the Act).

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16. On the morning of Friday, December 3, 2010, prior to the planned teleconference, Manohar and Fadner met in Manohar's office to begin preparing for the Inspection field work. During this meeting, Manohar and Fadner reviewed the audit documentation and, as is discussed below, they identified two documents that were absent from the audit documentation – an engagement letter with an original client signature, and a cash flow worksheet – and decided to obtain and/or create those documents and add them to the hard copy work papers.

17. Later on December 3, 2010, Hotz, from his office in Frederick, Maryland, spoke with Manohar and Fadner via teleconference, to prepare for the Inspection. During this teleconference, Respondents reviewed the audit documentation and, as is discussed below, Hotz and Manohar identified a document absent from the audit documentation – a document relating to the fair value of financial instruments – and decided to create and add it to the hard copy work papers.

Fadner Altered and Backdated the Cash Flow Worksheet,
and Upon Manohar's Instructions,
Fadner Improperly Added the Cash Flow Worksheet to the Hard Copy Work Papers

18. During the Audit, the Company had sent its auditors a package to support its financial statements, including a document (the "cash flow worksheet") the engagement team could use to review the statement of cash flows. The engagement team had a practice of using the cash flow worksheet in its audits of the Company (adding handwritten tick-marks and cross-references to the document during its use) and maintaining the cash flow worksheet in the audit documentation.

19. During the December 3, 2010 meeting between Manohar and Fadner, Manohar noticed that the electronic Audit work papers did not contain a cash flow worksheet. Fadner reviewed the hard copy work paper files, but could not find the cash flow worksheet there, either. On his laptop computer's hard drive, Fadner found an electronic copy of a cash flow worksheet that was prepared and provided by the Company and that was not in the electronic work papers. There were no tick-marks or other evidence that it was used during the Audit.

20. Manohar directed Fadner to print the cash flow work sheet from his computer and add it to the hard copy work papers. On December 3, 2010, Fadner printed the cash flow worksheet from his computer.

21. On the morning of December 6, 2010, the day Inspection field work began, Fadner handwrote tick-marks, cross-references, footings and recalculations to the cash flow worksheet he printed on December 3, 2010, to reflect work purportedly performed during the audit. On the cover page of the cash flow worksheet, Fadner

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wrote his initials and backdated the cash flow worksheet to March 6, 2010 (a date during the Audit). Fadner added the cash flow worksheet, with his new tick-marks, cross-references, footings and recalculations, to the hard copy work paper files. Manohar knew that Fadner added the cash flow worksheet to the hard copy work papers. The cash flow worksheet that Fadner added to the hard copy work papers, upon Manohar's instructions, did not indicate the date it was added to the audit documentation or the reason for adding it.

Manohar and Fadner Improperly Added the Engagement Letter with Original Client Signature to the Hard Copy Work Papers

22. During the December 3, 2010 meeting between Manohar and Fadner, Manohar noticed that the hard copy work papers for the Audit did not contain an engagement letter bearing an original client signature. Manohar understood that M&P policy required an audit team to maintain an engagement letter with an original signature. On December 3, 2010, Manohar contacted the Company to request the hard copy engagement letter with an original client signature so that it could be added to the hard copy work papers before Inspection field work commenced on December 6, 2010. Manohar asked Fadner to follow-up on her request.

23. On December 3, 2010, Fadner contacted the Company's corporate controller via email to obtain a hard copy engagement letter with an original client signature. Fadner asked that the letter be delivered early on the morning of December 6, 2010. After a series of emails, the Company's controller told Fadner that the Company would have the engagement letter with original client signature delivered to Manohar by 8:30 a.m. on December 6, 2010.

24. On the morning of December 6, 2010, the day Inspection field work began, the engagement letter with original client signature was delivered to the Firm's Blue Bell, Pennsylvania office. That morning, Manohar received the courier envelope containing the engagement letter, removed the engagement letter from the envelope, verified that the engagement letter bore an original client signature and brought the engagement letter to Fadner's office, where the hard copy work papers were. The engagement letter with original client signature was added to the hard copy work paper files on December 6, 2010, after the documentation completion date. The engagement letter with original client signature did not indicate the date it was added to the audit documentation, the names of the persons who prepared it, or the reason for adding it.

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Hotz and Manohar Created the Fair Value Memorandum and Improperly Added it to the Hard Copy Work Papers

25. In advance of his December 3, 2010 teleconference with Manohar and Fadner, Hotz reviewed the Firm's electronic work papers for the Audit and noticed that they did not contain a "Fair Value Memorandum." Hotz and Manohar had a practice of summarizing the work performed by the engagement team to test their client's fair value measurements of financial instruments and related disclosures in such a memorandum. During the December 3, 2010 teleconference, Manohar also noticed that the electronic work papers did not contain the Fair Value Memorandum and asked Hotz whether she should prepare a Fair Value Memorandum for the Audit; Hotz responded that Manohar should do so.

26. On the evening of Sunday, December 5, 2010, Manohar drafted a Fair Value Memorandum for the Audit (using the format of a Fair Value Memorandum that was prepared in connection with another audit). Manohar emailed her first draft of the Fair Value Memorandum to Hotz. Hotz commented to and corrected Manohar on the first draft of the Fair Value Memorandum. The first draft of the Fair Value Memorandum stated that Company management had provided certain assumptions to one of the specialists retained by the Company to calculate its fair value calculations. Hotz commented, "Kind of begs the questions whether we reviewed those assumptions and if they were reasonable." In response, Manohar revised the draft Fair Value Memorandum to remove reference to management providing those specific assumptions. In an email, Manohar also stated that she added information to the next draft of the memo about the evaluation of a specialist because "[w]e indicated in the partner planning memo that we would."

27. Manohar sent a revised draft Fair Value Memorandum to Hotz, who approved it as the final memorandum. Hotz printed the final Fair Value Memorandum; initialed it; wrote "Footnote 20" at the top of the first page; and added the newly-created final Fair Value Memorandum to the hard copy work paper files for the Audit. The Fair Value Memorandum did not indicate the date it was added to the audit documentation or the reason for adding it.

Hotz Improperly Added the Specialist Memo to the Hard Copy Work Papers

28. For its December 31, 2009 financial statements, the Company utilized the work of a specialist (the "Specialist") in its calculation of certain fair value measurements for the Audit. During the Audit, M&P relied on the work of the Specialist. This Specialist provided specialist services both to the Firm (in other audits) and to the Firm's clients (as in this Audit).

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29. After the Audit and the documentation completion date, Hotz obtained a memorandum (the "Specialist Memo") prepared by the Specialist that described its qualifications, and generally described the nature of the type of work it performed in its engagements, the assumptions and other sources of data it used in its engagements, and the way that an auditor could obtain an understanding of the nature of the work the Specialist performed. The Specialist Memo was not obtained, created, or considered in connection with the Audit, and it was not placed in the audit documentation before the documentation completion date. Hotz maintained a copy of the Specialist Memo on his computer's hard drive.

30. In advance of the Inspection field work, Hotz remembered that he had received the Specialist Memo from the Specialist, and between December 3, 2010 and December 5, 2010, Hotz located it on his computer's hard drive. Hotz printed a copy of the Specialist Memo from his computer, initialed its bottom right hand corner, and on December 5, 2010, he added the Specialist Memo to the hard copy work paper files for the Audit. The Specialist Memo that Hotz added to the hard copy work papers on December 5, 2010 did not indicate the date it was added to the audit documentation or the reason for adding it.

Hotz Improperly Signed Documents Within the Hard Copy Work Papers

31. During the December 3, 2010 teleconference, Manohar mentioned that the three Quarterly Engagement Release Records in the hard copy work papers, for the first three quarters of 2009, were not manually signed. On December 5, 2010, Hotz searched through the hard copy work papers for these documents and located them. Hotz manually signed, but did not date, the three Quarterly Engagement Release Records, months after the documentation completion date, without indicating the date he added his signature to these documents in the hard copy work papers or the reasons for signing them after the documentation completion date.

Hotz Improperly Initialed Documents Within the Hard Copy Work Papers

32. On the evening of December 5, 2010, Hotz also added handwritten initials to eleven hard-copy documents within the hard copy work papers. These documents were:

a. four hard copy Management Representations:

   i. three Management Representation Letters, one for each of the Company's first, second and third quarter Forms 10-Q; and

   ii. a Management Representation Letter relating to the Audit.

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b. three hard copy Legal Representations:

i. a Legal Representation letter from the Company's legal counsel;

ii. a Legal Representation email from the Company's legal counsel, updating the prior legal representation letter; and

iii. a Legal Representation letter from another of the Company's legal counsel that Hotz did not review during the Audit.

c. a Confirmation Selection Memo.

d. an Engagement Report Release and Delivery Record for the Audit.

e. two Engagement Letters: an engagement letter[14/] and an amended engagement letter.

Hotz initialed these documents in the hard copy work papers without indicating the date the initials were added to the hard copy work papers or the reasons for initialing them after the documentation completion date.

Hotz Improperly Altered a Document
Within the Hard Copy Work Papers by Adding Information

33. Among the hard copy work papers was a copy of Exhibit 13 to the Company's 2009 Form 10-K, *Management's Discussion & Analysis of Financial Condition & Results of Operations* ("Exhibit 13"), which included M&P's audit opinion and the Company's financial statements with accompanying footnotes. The copy of Exhibit 13 bore handwritten annotations, including cross-references. The electronic work papers did not contain a copy of this annotated Exhibit 13.

34. On the evening of December 5, 2010, Hotz reviewed that document, noted that the last three footnotes to the financial statements were not cross-referenced,

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[14/] On December 5, 2010, Hotz initialed a black and white copy of this engagement letter that was in the hard copy work papers. The next day, Manohar and Fadner obtained the same engagement letter – with an original client signature – and improperly added it to the hard copy work papers. (*See* ¶24, above.)

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and added handwritten annotations (cross-references) to the last three footnotes to the financial statements within the hard copy Exhibit 13. Hotz added this information without indicating the date he had done so, the name of the person who added the information, or the reasons for adding it.

Misleading Documents Provided to the Board During the Board's Inspection

35. Field work for the Board's Inspection took place during the week of December 6, 2010. On December 6, 2010, Fadner delivered the hard copy work papers to the Board's inspectors, including the documents that were improperly created, backdated, and/or added to the hard copy work papers shortly before the Board's Inspection field work commenced. The hard copy documents that Fadner delivered to the Board's inspectors also included the documents that were improperly altered within the hard copy work papers shortly before the Board's Inspection field work began. Respondents did not advise the inspectors that any of these documents were improperly created, backdated, added to the work papers, or altered in December 2010.

36. As a result of the conduct described above, Respondents violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors,* and AS3, *Audit Documentation*.

The Misleading Updated Engagement Profile

37. On November 29, 2010 (before Inspection field work began), Hotz submitted to the Board a document entitled *Public Company Accounting Oversight Board 2010 Inspection Period Engagement Profile* (the "Engagement Profile"). Hotz drafted the Engagement Profile, with the assistance of others on the Audit engagement team.

38. One of the questions in the Engagement Profile asked: "Have there been any changes made to the audit documentation subsequent to the documentation complete [sic] date [?] If yes, please explain the nature of the changes below, and provide a summary log of when the changes were made." In reply to this question, Hotz represented: "No changes have been made."

39. During field work for the PCAOB Inspection of the Audit, the PCAOB inspectors asked Hotz to revise the Engagement Profile. Hotz made the revisions. On December 8, 2010, Hotz updated and submitted another Engagement Profile to the Board's Inspection Division. The updated Engagement Profile that Hotz submitted to the Board's Inspection Division falsely represented that no changes had been made to the audit documentation subsequent to the documentation completion date when, in fact, changes had been made just days before field work for the PCAOB Inspection began.

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40. At no time did Hotz disclose to the Board's Inspection Division that the Respondents had, in fact, made changes to the audit documentation subsequent to the documentation completion date, by improperly creating and/or adding documents to the hard copy work papers, and altering (by initialing, signing, or adding information) documents in the hard copy work papers, after the documentation completion date, and shortly before the Inspection fieldwork began.

41. As a result of Hotz's submission of the misleading Engagement Profile, Hotz violated Rule 4006.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Dale Arnold Hotz, CPA is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Dale Arnold Hotz, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

C. After two years from the date of this Order, Dale Arnold Hotz, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Jyothi Nuthulaganti Manohar, CPA is censured;

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jyothi Nuthulaganti Manohar, CPA is suspended for one (1) year from the date of this Order from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

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F. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Michael Jared Fadner, CPA is censured.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

November 13, 2012

PCAOB
Public Company Accounting Oversight Board

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *Baumgarten & Company LLP,* *Respondent.*	PCAOB Release No. 105-2013-001 February 21, 2013

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Baumgarten & Company LLP (the "Firm" or "Baumgarten") and imposing a civil money penalty in the amount of $2000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in 2010, 2011 and 2012 and timely pay an annual fee in 2010, 2011 and 2012.

I.

On December 11, 2012, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Baumgarten did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

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Public Company Accounting Oversight Board

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III.

On the basis of Respondent's Offer, the Board finds[1/] that:

A. Respondent

1. Baumgarten & Company LLP is a limited liability partnership located in Cleveland, Ohio. It is licensed under the laws of Ohio to engage in the practice of public accounting (License No. EMPL.4115008-PR). The firm registered with the Board on August 15, 2007, pursuant to Section 102 of the Act and Board rules. The firm last issued an audit report on February 21, 2003, prior to the Board's registration requirements.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Baumgarten failed to timely file an annual report for 2010, 2011, and 2012.

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Baumgarten failed to timely pay its annual fee in 2010, 2011, and 2012.

C. Subsequent Events

4. The Board instituted these proceedings on December 11, 2012. Baumgarten failed to file an answer pursuant to PCAOB Rule 5421(b).

5. On December 18, 2012, Baumgarten paid its annual fees for 2010, 2011, and 2012.

6. On January 9, 2013, Baumgarten filed its annual reports for 2010, 2011 and 2012.

[1/] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

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7. On January 9, 2013, Baumgarten filed a Form 1-WD to request leave to withdraw its registration from the Board.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Baumgarten is censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2000 is imposed upon Baumgarten. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Baumgarten shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies Baumgarten as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

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V.

Upon performance by Baumgarten of Part IV above, pursuant to PCAOB Rule 2107, the Board shall consider Baumgarten's Form 1-WD and whether to grant it leave to withdraw. In doing so, the Board shall not take into consideration its findings contained in Part III herein.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

February 21, 2013

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of P. Parikh & Associates, Ashok B. Rajagiri, CA, Sandeep P. Parikh, CA, and Sundeep P S G Nair, CA,* *Respondents.*	PCAOB Release No. 105-2013-002 April 24, 2013

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring P. Parikh & Associates[1/] (the "Firm" or "Parikh & Associates"), revoking Parikh & Associates' registration and imposing a civil money penalty in the amount of $10,000 upon Parikh & Associates;[2/] (2) censuring Ashok B. Rajagiri, CA ("Rajagiri") and barring him from being an associated person of a registered public accounting firm; (3) censuring Sandeep P. Parikh, CA ("Parikh") and barring him from being an associated person of a registered public accounting firm;[3/] and (4) censuring Sundeep P S G Nair, CA ("Nair") and for a period of two years, limiting his activities in connection with audits, as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), by prohibiting him from serving in the role of engagement partner or engagement quality reviewer, and requiring that he complete forty (40) additional hours of continuing professional education in subjects that are directly related to the audits of issuer financial statements under PCAOB standards.

The Board is imposing these sanctions on the basis of its findings that: (a) Rajagiri and Parikh & Associates violated Section 10(b) of the Securities Exchange Act

[1/] The Firm has issued audit reports under the name of P. Parikh & Associates, Chartered Accountants.

[2/] Parikh & Associates may reapply for registration after two (2) years from the date of this Order.

[3/] Parikh may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

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of 1934 ("Exchange Act") and Rule 10b-5 thereunder and PCAOB rules and auditing standards in auditing the financial statements of an issuer client from 2006 to 2007; (b) Rajagiri, Nair, and Parikh & Associates violated PCAOB rules and auditing standards in auditing the financial statements of an issuer client from 2008 to 2010; (c) Parikh, Nair, and Parikh & Associates violated PCAOB rules and auditing standards in auditing the financial statements of an issuer client in 2011; (d) Rajagiri and Parikh & Associates violated Section 10A of the Exchange Act and PCAOB rules in connection with the audit of the financial statements of an issuer client in 2008; (e) Parikh & Associates violated PCAOB quality control standards; and (f) Parikh directly and substantially contributed to a registered public accounting firm's violation of PCAOB quality control standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Parikh & Associates, Rajagiri, Parikh, and Nair (collectively, "Respondents").

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[4/]

[4/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

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III.

On the basis of Respondents' Offers, the Board finds[5/] that:

A. Respondents

1. Parikh & Associates is a public accounting firm headquartered in Mumbai, the Republic of India. The Firm's website states that the Firm has seventeen partners. According to the Firm's most recent Annual Report Form filed with the Board, the Firm has seven offices in the Republic of India and seven offices located in countries outside of India. The Firm is registered with the Institute of Chartered Accountants of India (Firm Registration No. 107564W). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. Since registering with the Board, the Firm has issued audit reports for one issuer client, Mahanagar Telephone Nigam Limited ("MTNL"), for the years ended March 31, 2006 through March 31, 2012.

2. Ashok B. Rajagiri, age 47, of Mumbai, India, is a chartered accountant licensed by the Institute of Chartered Accountants of India (License Number 46070). Rajagiri is a partner of Parikh & Associates. At all relevant times, Rajagiri was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Rajagiri had final responsibility for the fiscal year 2006, 2007, 2008, 2009, and 2010 audits within the meaning of AU § 311, *Planning and Supervision*, was responsible for the supervision of the Parikh & Associates engagement teams, and authorized the issuance of Parikh & Associates' reports for each of the fiscal year 2006-2010 audits.

3. Sandeep P. Parikh, age 53, of Mumbai, India, is a chartered accountant licensed by the Institute of Chartered Accountants of India (License Number 39713). Parikh is a partner of Parikh & Associates. At all relevant times, Parikh was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Parikh had final responsibility

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[5/] The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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for the fiscal year 2011 audit within the meaning of AU § 311, was responsible for the supervision of the Parikh & Associates engagement team, and authorized the issuance of Parikh & Associates' report for the fiscal year 2011 audit.

4. Sundeep P S G Nair, age 32, of Mumbai, India, is a chartered accountant licensed by the Institute of Chartered Accountants of India (License Number 131489). Nair is a partner of Parikh & Associates. At all relevant times, Nair was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). For the fiscal year 2008 through 2011 audits of MTNL's financial statements discussed below, Nair served in the role of audit manager, under the supervision of Rajagiri, the engagement partner for the fiscal year 2008-2010 audits, and Parikh, the engagement partner for the fiscal year 2011 audit. For the fiscal year 2011 MTNL audit, Nair assumed responsibility for coordinating and managing the audit.

B. Summary

5. This matter concerns Respondents' numerous and repeated violations of PCAOB rules, quality control standards, and auditing standards in connection with the audits of its sole issuer client MTNL's financial statements for the fiscal years ended March 31, 2006 through March 31, 2011. After Parikh & Associates registered with the Board on November 19, 2007, the Firm has issued audit reports for MTNL. The Firm staffed the audits with partners who had no formal training or experience with PCAOB standards or U.S. Generally Accepted Accounting Principles ("U.S. GAAP"). The Firm failed to establish, implement, and communicate quality control policies and procedures sufficient to provide the Firm with reasonable assurance that the work performed by engagement personnel met applicable professional standards. The Firm's quality control violations resulted in or contributed to numerous and repeated violations of PCAOB auditing standards. The Firm also failed to establish monitoring procedures sufficient to enable the Firm to obtain reasonable assurance that its system of quality control was effective, and its personnel were complying with the professional standards. Parikh, as a senior partner of the Firm with responsibility for, among other things, designing, implementing, communicating, and monitoring the Firm's quality control system, directly and substantially contributed to the Firm's quality control violations.

6. In connection with the MTNL audits, the Firm failed to plan and perform audit work on critical aspects of the audits in violation of PCAOB auditing standards. In 2008, the Firm and Rajagiri also violated Section 10(b) of the Exchange Act by issuing an audit report regarding the 2006 and 2007 MTNL financial statements that represented that the audits had been conducted in accordance with PCAOB standards when they knew or were reckless in not knowing that such representations were false.

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During the 2008-2011 MTNL audits, Rajagiri, Parikh, Nair, and the Firm performed few to no audit procedures in connection with the issuance of audit reports in violation of PCAOB rules and auditing standards.

C. Parikh and the Firm Violated PCAOB Rules and Quality Control Standards

7. PCAOB rules require that a registered public accounting firm comply with certain quality control standards.[6/] A firm should establish policies and procedures to provide it with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[7/] A firm's policies and procedures should provide reasonable assurance that the firm "[u]ndertakes only those engagements that the firm can reasonably expect to be completed with professional competence."[8/] Policies and procedures, as well, should be established to provide the firm with reasonable assurance that work "is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[9/] One element of quality control is monitoring, and the firm should implement monitoring procedures to provide a firm with reasonable assurance that "its system of quality control is effective."[10/] In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation of Board standards

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[6/] *See* PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards* & 3400T, *Interim Quality Control Standards*.

[7/] QC § 20.17, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[8/] QC § 20.15a.

[9/] QC § 20.13; QC §§ 40.03 and 40.06, *The Personnel Management Element of a Firm's System of Quality Control – Competencies Required by a Practitioner-in-Charge of an Attest Engagement*. *See also* AU § 230.06, *Due Professional Care in the Performance of Work*.

[10/] QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

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by that firm.[11/] As described below, the Firm violated the Board's quality control standards, and Parikh directly and substantially contributed to those violations.

8. At the time of the Firm's MTNL audits, the Firm assigned personnel who had no prior experience with performing audits under PCAOB standards or education regarding U.S. GAAP. The Firm's partners who acted as auditors with final responsibility during the MTNL audits had no formal training in PCAOB standards or U.S. GAAP. The Firm provided no training to its staff who worked on the MTNL audits with respect to performing audits in compliance with PCAOB standards. In addition, the Firm did not require its personnel to participate in continuing professional education or professional development activities to ensure that its staff understood U.S. GAAP and applicable SEC reporting requirements.

9. Policies and procedures should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm related to each of the elements of quality control are suitably designed and are being effectively applied.[12/] There were no policies and procedures in place at the Firm to ensure that the staff performed procedures necessary to comply with PCAOB standards and regulatory requirements.

10. At all relevant times, Parikh was a senior partner of the Firm during the relevant time period. In this capacity, Parikh was responsible for, among other things, designing, implementing, communicating, and monitoring the Firm's quality control system. Parikh was aware that he, Rajagiri, Nair, and other Parikh & Associates personnel had no training or experience in conducting audits pursuant to PCAOB auditing standards. All of the Firm's quality control violations described in paragraphs 7-9, above, were the result of either Parikh's conduct or omissions to act for which Parikh was responsible. With respect to all such acts and omissions, Parikh knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's quality control failures described above, which constituted violations of the Board's quality control standards. Parikh thereby violated PCAOB Rule 3502.

[11/] *See* PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations.*

[12/] QC § 20.20.

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Public Company Accounting Oversight Board

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D. Respondents Violated the Securities Laws, PCAOB Rules and Auditing Standards

11. Section 10(b) of the Exchange Act and Commission Rule 10b-5 thereunder prohibit a person, in connection with the purchase or sale of a security, from making an untrue statement of a material fact or from omitting to state a material fact necessary to make statements made, in light of the circumstances under which they were made, not misleading. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards and related professional practice standards.[13/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[14/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements under audit.[15/] An auditor must also prepare audit documentation in sufficient detail to provide a clear understanding of its purpose, source, and the conclusions reached.[16/] In addition, the auditor must document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions, and clearly demonstrate that the work was in fact performed.[17/] As detailed below, Respondents violated the Exchange Act and failed to meet the aforementioned standards in connection with the audits of MTNL's financial statements.

[13/] *See* PCAOB Rule 3100 and PCAOB Rule 3200T, *Interim Auditing Standards*.

[14/] *See* AU § 508.07, *Reports on Audited Financial Statements.*

[15/] *See* AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; and AU § 326, *Evidential Matter*.

[16/] *See* Auditing Standard No. 3 ("AS3"), *Audit Documentation*, paragraph 4.

[17/] *See* AS3, ¶ 6.

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1. Audits of MTNL's 2006 and 2007 Financial Statements

Rajagiri and the Firm Violated PCAOB Rules and Auditing Standards and Violated Section 10(b) of the Exchange Act and Commission Rule 10b-5 Thereunder

12. MTNL was, at all relevant times, an Indian corporation headquartered in New Delhi, India. According to its public filings, MTNL was established by the government of India in 1986 and provides basic or fixed-line, cellular, broadband, Internet, and other telecommunications services in New Delhi and Mumbai in India.[18/] MTNL provides all of its telecommunications services, other than Internet, under a single, general, non-exclusive license granted by the Indian Department of Telecommunications.[19/] MTNL derives its revenue primarily from local, domestic long distance, and international calls that originate from its network.[20/] At all relevant times, MTNL's common stock was registered under Section 12(b) of the Exchange Act. Its American Depository Shares were listed on the New York Stock Exchange and was an "issuer," as that term is defined by Section 2(a)(7) of the Sarbanes-Oxley Act and PCAOB Rule 1001(i)(iii).

13. In February 2008, MTNL engaged Parikh & Associates as the U.S. GAAP auditor for MTNL's fiscal year 2008 and 2009 financial statements. Two different audit firms previously issued audit reports for MTNL's fiscal year 2006 and 2007 financial statements, respectively. MTNL was unable to obtain permission from the two predecessor audit firms to issue reports previously issued for the fiscal year 2006 and 2007 financial statements. On August 29, 2008, MTNL engaged Parikh & Associates to be the U.S. GAAP auditor for the fiscal year 2006 and 2007 financial statements. The Firm continued to serve as MTNL's U.S. GAAP auditor for fiscal years 2009, 2010, and 2011.

14. In its 2008 audit report, dated September 25, 2008, the Firm expressed unqualified opinions on MTNL's financial statements. Rajagiri, the partner with final responsibility for the audit, authorized the issuance of the audit report. The September 25, 2008 audit report concerned MTNL's consolidated balance sheet as of March 31,

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18/ MTNL, Annual Report (Form 20-F), at 20-21 (Sep. 29, 2011).

19/ *Id.* at 21.

20/ *Id.* at 20.

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2008 and March 31, 2007 and related Consolidated Statements of Operations, Shareholders' Equity, and Cash Flow Statement for the years ended March 31, 2008, March 31, 2007, and March 31, 2006. The audit report was included in the Form 20-F that MTNL filed with the United States Securities and Exchange Commission (the "Commission") on September 29, 2008.[21/] In the audit report, the Firm stated that MTNL's financial statements presented fairly, in all material respects, the company's financial position as of March 31, 2007 and 2008, and results of operations and cash flows for the years ended March 31, 2006, March 31, 2007, and March 31, 2008 in conformity with U.S. GAAP, and that the Parikh & Associates' audits were conducted in accordance with PCAOB standards.

15. Rajagiri and the Firm failed to perform any audit procedures relating to MTNL's 2006 and 2007 financial statements prior to issuing its 2008 audit report and consenting to its inclusion in MTNL's 2008 Form 20-F. When asked in the course of the Board's investigation about whether the Firm performed any audit procedures relating to MTNL's 2006 and 2007 financial statements, Rajagiri admitted that he did not audit the financial statements. Despite not performing any audit procedures, Rajagiri authorized the Firm's issuance of an audit report on September 25, 2008, containing an unqualified opinion.[22/]

16. Section 10(b) of the Exchange Act and Commission Rule 10b-5 thereunder prohibit a person, in connection with the purchase or sale of a security, from making an untrue statement of a material fact or from omitting to state a material fact necessary to make statements made, in light of the circumstances under which they were made, not misleading. To violate Section 10(b) or Rule 10b-5, a defendant must act with scienter,[23/] which the Supreme Court has defined as "a mental state embracing intent to deceive, manipulate, or defraud."[24/] Scienter encompasses knowing or intentional conduct, or recklessness.[25/] An auditor violates Section 10(b) of the Exchange Act and Commission Rule 10b-5 thereunder by issuing an audit report

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21/ MTNL, Annual Report (Form 20-F), at F-1 and F-2 (Sep. 29, 2008).

22/ MTNL, Annual Report (Form 20-F), at F-1 and F-2 (Sep. 29, 2008).

23/ *Aaron v. SEC*, 446 U.S. 680, 695, 701-02 (1980).

24/ *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 n. 12 (1976).

25/ *See*, *e.g.*, *IIT v. Cornfeld*, 619 F.2d 909, 923 (2d Cir. 1980).

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stating that the audit has been performed in accordance with PCAOB standards when he or she knows, or is reckless in not knowing, that the statement is false.[26/] These statements are clearly material, as "[f]ew matters could be more important to investors than that of whether an issuer's financial statements, contained in its filings with the Commission, had, in fact, been subjected to an annual audit conducted in accordance with [PCAOB standards] in all material respects."[27/]

17. Rajagiri and the Firm violated Section 10(b) of the Exchange Act and Commission Rule 10b-5 thereunder by their issuance of an audit report that falsely stated that the MTNL fiscal year 2006 and 2007 audits had been conducted in accordance with PCAOB standards, when Rajagiri and the Firm knew, or were reckless in not knowing, that Parikh & Associates personnel had not performed any audit procedures prior to the issuance of the Firm's audit report. Rajagiri and the Firm nevertheless authorized the issuance of the 2008 audit report on those financial statements.

2. Audits of MTNL's 2008, 2009, 2010, and 2011 Financial Statements

18. The Firm continued to serve as MTNL's auditors for the fiscal year 2008-2011 MTNL audit engagements. Rajagiri served as the engagement partner for the fiscal year 2008 through 2010 MTNL audits and had final responsibility for the audit as that phrase is used in AU § 311. He authorized the issuance of MTNL's audit reports dated September 25, 2008, September 25, 2009, and September 30, 2010.[28/] Parikh was the engagement partner for the fiscal year 2011 MTNL audit and had final responsibility for the audit as that phrase is used in AU § 311. He authorized the

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[26/] *See Lawrence H. Wolfe, CPA*, PCAOB Rel. No. 105-2012-005, at *5 (Sep. 7, 2012); *The Blackwing Group, LLC and Sara L. Jenkins, CPA*, PCAOB Rel. No. 105-2009-007, at *9-10 (Dec. 22, 2009); *Moore & Associates, Chartered and Michael J. Moore, CPA*, PCAOB Rel. No. 105-2009-006, at *16 (Aug. 27, 2009); and *In re Richard P. Scalzo, CPA*, Exchange Act Rel. No. 48328, 2003 SEC LEXIS 1915 (August 13, 2003).

[27/] *Scalzo*, 2003 SEC LEXIS 1915, at *52-53.

[28/] MTNL, Annual Report (Form 20-F), at F-1 and F-2 (Sep. 29, 2008); MTNL, Annual Report (Form 20-F), at F-1 and F-2 (Sep. 29, 2009); MTNL, Annual Report (Form 20-F), at F-2 and F-3 (Sep. 30, 2010).

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issuance of MTNL's audit report dated September 29, 2011.[29/] Nair was a partner of Parikh & Associates, and a member of the engagement team for the fiscal year 2008-2011 MTNL audits. For the fiscal year 2011 MTNL audit, Nair assumed responsibility for coordinating and managing the audit. In connection with the MTNL engagements, the Firm issued audit reports on MTNL's 2008, 2009, 2010, and 2011 financial statements. Each report stated that the audits had been conducted in accordance with PCAOB standards, expressed an unqualified opinion, and stated that, in Parikh & Associates' opinion, MTNL's financial statements were fairly presented in all material respects in conformity with U.S. GAAP. The audit reports were dated September 25, 2008, September 25, 2009, September 30, 2010, and September 29, 2011, and were included as part of the following MTNL filings with the Commission: (a) the Form 20-F filed on September 29, 2008; (b) the Form 20-F filed on September 29, 2009; (c) the Form 20-F filed on September 30, 2010; and (d) the Form 20-F filed on September 29, 2011.[30/]

19. Audit work should be adequately planned.[31/] In planning an audit, an auditor should consider the nature, extent, and timing of work to be performed and should prepare a written audit program.[32/] The audit program should set forth in reasonable detail the audit procedures that the auditor believes are necessary to accomplish the objectives of the audit.[33/]

20. During their respective tenures on the fiscal year 2008-2011 audits, Respondents failed to comply with this standard in connection with the audits of MTNL's 2008, 2009, 2010, and 2011 financial statements. Respondents failed to perform or document adequate planning procedures.[34/] Respondents failed to consider

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[29/] MTNL, Annual Report (Form 20-F), at F-1, F-2, and F-3 (Sep. 29, 2011).

[30/] MTNL, Annual Report (Form 20-F), at F-1 and F-2 (Sep. 29, 2008); MTNL, Annual Report (Form 20-F), at F-1 and F-2 (Sep. 29, 2009); MTNL, Annual Report (Form 20-F), at F-2 and F-3 (Sep. 30, 2010); MTNL, Annual Report (Form 20-F), at F-1, F-2, and F-3 (Sep. 29, 2011).

[31/] AU § 311.

[32/] AU § 311.05.

[33/] *Id.*

[34/] *Id.*

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or determine the nature, extent, and timing of the work to be performed, and they failed to prepare a written audit program for the audit setting forth the audit procedures they believed were necessary to accomplish the objectives of the audit.

21. Inquiry of the predecessor auditor is a necessary procedure because the predecessor auditor may be able to provide information that will assist the successor auditor in determining whether to accept the engagement.[35/] As MTNL's new auditors, Respondents were required to make specific inquiries of MTNL's predecessor auditor. Further, Respondents were required to obtain sufficient competent evidential matter to afford a reasonable basis for expressing an opinion on the financial statements they were engaged to audit, including evaluating the consistency of the application of accounting principles.[36/] Respondents, however, failed to make the required inquiries of the predecessor auditor before accepting the MTNL engagement and failed to obtain sufficient competent evidential matter to analyze the impact of the opening balances on current financial statements.

22. As described in detail below, Respondents also failed to perform any procedures regarding significant balances and transactions reported in the financial statements of MTNL. Specifically, Respondents failed to test the balances of: (1) cash and bank deposits, (2) accounts receivable, due from related parties, and other receivables, (3) property and equipment, and (4) accounts payable, accrued expenses and other current liabilities, as well as accrued employee cost.

23. In its 2008, 2009, 2010, and 2011 financial statements, MTNL reported cash and bank deposits of $845 million (USD), $947 million (USD), $1.088 billion (USD), and $39 million (USD), respectively. These asset balances represented 17%, 24%, 16%, and 1% of the total assets at the end of each of the respective years. Respondents failed to test cash and bank deposits balances during the audit periods by failing to: (a) test the existence of cash and bank deposits; (b) test whether the company had the rights to the cash and bank deposits; and (c) determine whether the values included in the financial statements for cash and bank deposits were appropriate.

35/ AU § 315.07, *Communications Between Predecessor and Successor Auditors.*

36/ AU § 315.12.

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24. For example, despite the fact that Rajagiri and Nair thought it was necessary to confirm cash balances, they failed to perform confirmation procedures concerning MTNL's cash balances at banks for the fiscal year 2008 and 2009 audits. In addition, Rajagiri and Nair failed to maintain control over the cash confirmation requests sent by MTNL for fiscal year 2010, and Parikh and Nair failed to maintain control over the cash confirmation requests sent by MTNL for fiscal year 2011. Rajagiri, Parikh, and Nair failed to comply with the PCAOB standards governing the confirmation process, which requires the auditor to make direct contact with a third party.[37/] MTNL requested the purported confirmations from its banks. MTNL subsequently received the responses directly from the banks. The Firm obtained the purported confirmations responses from MTNL. As a result, Respondents failed to maintain control over purported confirmation requests and responses for the fiscal year 2010 and 2011 MTNL audits.[38/]

25. In its 2008, 2009, 2010, and 2011 financial statements, MTNL reported certain asset balances, including accounts receivables, due from related parties (current and non-current), and other receivables of $1.267 billion (USD), $1.045 billion (USD), $1.335 billion (USD), and $1.316 billion (USD), respectively. These asset balances represented 26%, 27%, 19%, and 24% of MTNL's total assets at the end of each of the respective years. Other than relying on management's representations on the non-current portion of due from related parties, Respondents failed to test the asset balances during the audit periods by failing to: (a) test the existence of these assets; (b) test whether the company had the rights to these assets; and (c) determine whether the values included in the financial statements for these assets were appropriate.

[37/] AU § 330.28 states that: "[d]uring the performance of confirmation procedures, the auditor should maintain control over the confirmation requests and responses. Maintaining control means establishing direct communication between the intended recipient and the auditor to minimize the possibility that the results will be biased because of interception and alteration of the confirmation requests or responses."

[38/] *See Price Waterhouse, Bangalore, Lovelock & Lewes, Price Waterhouse & Co., Bangalore, Price Waterhouse, Calcutta, and Price Waterhouse & Co., Calcutta*, PCAOB Rel. No. 105-2011-002 (April 5, 2011) where the Board found that auditors failed to control the cash confirmation process by relying on audit clients to send cash confirmation requests to banks and to return cash confirmation responses to the auditors.

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26. For example, PCAOB standards state that confirmation of accounts receivable is a generally accepted auditing procedure. There is a presumption that the auditor will request the confirmation of accounts receivable during an audit.[39/] In the aforementioned audits, Respondents failed to request confirmations for MTNL's claims against customers that arose from the sale of goods and services in the normal course of business.

27. In its 2008, 2009, 2010, and 2011 financial statements, MTNL reported net property and equipment balances of $2.036 billion (USD), $1.545 billion (USD), $1.828 billion (USD), and $1.862 billion (USD), respectively. These asset balances represented 42%, 39%, 26%, and 34% of the total assets at the end of each of the respective years. The predecessor auditor stated in its 2007 audit report that it had identified the following material weakness: "the Company did not maintain effective controls over the accounting for properties and equipments. Specifically, the Company has ineffective controls in its Mumbai unit over physical verification and reconciling the results thereof with the assets register as well as updating and reconciling the assets register with the books of account."[40/] Despite being aware of this material weakness, Respondents failed to test the balances of property and equipment, including the opening balances[41/] during the audits by failing to: (a) test the existence of the property and equipment balances; (b) test whether the company had the rights to the property and equipment; and (c) determine whether the values included in the financial statements for property and equipment were appropriate.

28. For example, during fiscal years 2008-2011, MTNL purchased additional property and equipment. However, in its audits, Respondents failed to test the additions during the year. Further, Respondents failed to test the depreciation rates, salvage values, and useful lives used in the calculation during the fiscal year 2008-2011 audits.

[39/] AU § 330.34, *The Confirmation Process*.

[40/] MTNL, Annual Report (Form 20-F), at F-2 (Oct. 15, 2007).

[41/] As described in paragraph 21 above, no audit procedures were performed on any opening balances, including property and equipment. The untested opening balance amounts remaining in property and equipment was 95% for the year-end 2008, 84% for the year-end 2009, 66% for the year-end 2010, and 51% for the year-end 2011.

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29. In its 2008, 2009, 2010, and 2011 financial statements, MTNL's reported certain liability balances, including accounts payable, accrued expenses and other current liabilities, and accrued employee cost of $1.935 billion (USD), $1.562 billion (USD), $2.494 billion (USD), and $2.606 billion (USD), respectively. These liability balances represented 74%, 72%, 44%, and 53% of the total liabilities at the end of each of the respective years. Respondents failed to test the balances of current liabilities during the audit periods by failing to: (a) test the existence of these liabilities; (b) test whether the company had the obligations for these liabilities; and (c) determine whether the values included in the financial statements of these liabilities were appropriate.

30. For example, MTNL used actuaries to estimate its liabilities related to the retirement benefits and obtained actuarial reports supporting the estimates. PCAOB standards require auditors to perform certain procedures when using the work of a specialist, including evaluating the specialist's professional qualifications,[42/] obtaining an understanding of the methods and assumptions used by the specialist, and making appropriate tests of data provided to the specialist.[43/] Respondents obtained the actuary reports, but failed to perform these audit procedures.

31. Respondents failed to comply with Auditing Standard No. 3 in connection with the audit of MTNL's 2008-2010 financial statements. An auditor must identify all significant findings or issues in an engagement completion document. Respondents failed to create an engagement completion document for each of the fiscal year 2008-2010 MTNL audits.[44/]

E. Rajagiri and the Firm Violated Section 10A of the Exchange Act and PCAOB Rule 3520 in the Audit of MTNL's 2008 Financial Statements

32. PCAOB rules require registered public accounting firms and associated persons to comply with the Board's auditing standards and independence standards in connection with an audit.[45/] PCAOB rules also require that an auditor be independent.

[42/] AU § 336.08, *Using the Work of a Specialist*.

[43/] AU §§ 336.08,.12.

[44/] AS3, ¶ 13.

[45/] *See* PCAOB Rule 3100, PCAOB Rule 3200T, PCAOB Rule 3520, *Auditor Independence*, and PCAOB Rule 3600T, *Interim Independence Standards*.

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Section 10A(g) of the Exchange Act prohibits an accounting firm and associated persons from providing internal audit outsourcing services during the audit engagement period.[46/] Under PCAOB rules, "a registered public accounting firm or associated person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws."[47/]

33. Rule 2-01(c)(4) of Commission Regulation S-X provides that an accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides any internal audit service that has been outsourced by the audit client that relates to the audit client's internal controls, financial systems, or financial statements.[48/] The "audit and professional engagement period" includes both the "period covered by any financial statements being audited or reviewed (the 'audit period'); and . . . [t]he period of the engagement to audit or review the audit client's financial statements or to prepare a report filed with the Commission (the 'professional engagement period') . . ."[49/]

34. Rajagiri and the Firm failed to comply with Section 10A(g) of the Exchange Act and PCAOB Rule 3520 by providing internal audit outsourcing services for units of MTNL from April 1, 2007 through January 31, 2008 and auditing MTNL's consolidated balance sheet as of March 31, 2008 and related consolidated statements of operations, shareholders' equity, and cash flow statement for the year ended March 31, 2008. Specifically, Rajagiri and the Firm were engaged to provide internal audit services from June 1, 2005 to January 31, 2008 and the Firm issued quarterly internal audit reports for certain MTNL units for fiscal years 2006-2008. On February 4, 2008, MTNL appointed Parikh & Associates as the U.S. GAAP auditor for MTNL's fiscal year 2008 and 2009 financial statements, and the Firm accepted the engagement on February 5, 2008.

[46/] Exchange Act, Section 10A(g).

[47/] *See* PCAOB Rule 3520, Note 1.

[48/] Rule 2-01 of Regulation S-X, 17 C.F.R. § 210.2-01(c)(4).

[49/] Rule 2-01 of Regulation S-X, 17 C.F.R. § 210.2-01(f)(5).

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IV.

In view of the foregoing and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), P. Parikh & Associates is hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of P. Parikh & Associates is revoked;

C. After two (2) years from the date of this Order, P. Parikh & Associates may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon P. Parikh & Associates. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. P. Parikh & Associates shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies P. Parikh & Associates as the Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

E. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Ashok B. Rajagiri, CA is hereby censured;

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F. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Ashok B. Rajagiri, CA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

G. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Sandeep P. Parikh, CA is hereby censured;

H. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Sandeep P. Parikh, CA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

I. After three (3) years from the date of this Order, Sandeep P. Parikh, CA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

J. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Sundeep P S G Nair, CA is hereby censured;

K. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two (2) years from the date of the issuance of this Order, Sundeep P S G Nair, CA's role in any "audit," as that term is defined in Section 110(1) of the Act, shall be restricted as follows: Nair shall not (1) serve as the "engagement partner," as that term is used in the Board's Auditing Standard No. 10, *Supervision of the Audit Engagement*; (2) serve as the "engagement quality reviewer," as that term is used in the Board's Auditing Standard No. 7, *Engagement Quality Review*; (3) serve in any role that is equivalent to engagement partner or engagement quality review partner, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); or (4) exercise authority either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker or dealer; and

L. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Sundeep P S G Nair, CA is required to complete, within two (2) years from the date of the issuance of this Order, forty (40) hours of continuing professional education ("CPE") in subjects that are directly related to the audits of issuer financial statements under PCAOB standards (such hours

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shall be in addition to, and shall not be counted in, the CPE that he is required to obtain in connection with any Indian Chartered Accountant licenses).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

April 24, 2013

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Michael F. Cronin, CPA and Michael F. Cronin, CPA,* *Respondents.*	PCAOB Release No. 105-2013-003 May 14, 2013

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring the registered public accounting firm Michael F. Cronin, CPA (the "Firm"), revoking the Firm's registration, and imposing a civil money penalty in the amount of $10,000 upon the Firm;[1/] and censuring Michael F. Cronin, CPA ("Cronin") and barring him from being an associated person of a registered public accounting firm.[2/] The Board is imposing these sanctions on the basis of its findings concerning the Firm and Cronin's (collectively, "Respondents") repeated violations of Section 10A(j) of the Securities Exchange Act of 1934 ("Exchange Act"), Exchange Act Rule 10A-2, and PCAOB rules and auditing standards in connection with the Firm's audits of five issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Cronin and the Firm.

[1/] The Firm may reapply for registration after three (3) years from the date of this Order.

[2/] Cronin may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3/]

III.

On the basis of Respondents' Offers, the Board finds[4/] that:

A. Respondents

1. Michael F. Cronin, CPA, is, and at all relevant times was, a public accounting firm located in Winter Springs, Florida, with another office located in Rochester, New York. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. At all relevant times, the Firm was the external auditor for each of the issuers identified below.

2. Michael F. Cronin, 57, of Winter Springs, Florida, is a certified public accountant licensed in the State of Florida (License No. AC38391) and in the State of New York (License No. 045325). He is the sole employee of the Firm and, at all relevant times, was the sole owner of the Firm and an associated person of a registered public

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[3/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4/] The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). According to a Form 10-K filed by SaveDaily, Inc. with the Securities and Exchange Commission ("Commission") on April 11, 2013, Cronin is serving as its Chief Financial Officer.[5/]

B. Summary

3. This matter concerns Respondents' repeated failure to comply with PCAOB auditing standards in connection with the audits of Baltia Air Lines, Inc.'s ("Baltia") financial statements for the years ended December 31, 2007 and December 31, 2009.[6/] As detailed below, Respondents failed to obtain sufficient competent evidential matter, failed to exercise due professional care, and failed to exercise professional skepticism in connection with the 2007 and 2009 Baltia audits.

4. As detailed below, Respondents also repeatedly violated Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, and PCAOB rules and standards that require a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period. Respondents were not independent with respect to four issuer clients because: (1) Cronin served as lead partner on two issuer audits for more than five consecutive years; and (2) Cronin served as lead partner on two other issuer audits within the five consecutive year period following the performance of services as the lead partner for the maximum permitted period.[7/]

5. This matter also involves the Firm's failure to comply with Auditing Standard No. 7, *Engagement Quality Review*, in the course of auditing the year ended June 30, 2011 financial statements of Odyssey Pictures Corporation ("Odyssey

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[5/] Pursuant to Section 105(c)(7)(B) of the Act, the bar on Cronin from being associated with a registered public accounting firm also prohibits Cronin from "becom[ing] or remain[ing] associated with any issuer, broker or dealer in an accountancy or financial management capacity . . . without the consent of the Board or the Commission." 15 U.S.C. § 7215(c)(7)(B).

[6/] Cronin and the Firm did not audit Baltia's financial statements for the year ended December 31, 2008.

[7/] *See* Section 10A(j) of the Exchange Act; Exchange Act Rule 10A-2, *Auditor Independence*; PCAOB Rule 3520, *Auditor Independence*; and AU §§ 220.01-02, *Independence*.

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Pictures"). The Firm failed to have an engagement quality review performed on the fiscal year 2011 audit of Odyssey Pictures even though an engagement quality review was required to be performed.[8/]

C. Respondents Violated PCAOB Rules and Auditing Standards, Independence Standards and the Exchange Act

Baltia Audits

6. PCAOB standards provide that an auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[9/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[10/]

7. PCAOB standards require that an auditor respond to risks of material misstatement due to fraud through the application of professional skepticism in gathering and evaluating audit evidence.[11/] In addition, "professional skepticism requires an ongoing questioning of whether the information and evidence obtained suggests that a material misstatement due to fraud has occurred."[12/] An auditor's assessment of such risk should "be ongoing throughout the audit,"[13/] and an auditor should consider whether the "nature of auditing procedures performed may need to be

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[8/] *See* Auditing Standard No. 7 ¶ 1, *Engagement Quality Review.*

[9/] See AU § 508.07, Reports on Audited Financial Statements.

[10/] See PCAOB Rules 3100, Compliance with Auditing and Related Professional Practice Standards; 3200T, Interim Auditing Standards; AU § 150.02, Generally Accepted Auditing Standards; AU § 230, Due Professional Care in the Performance of Work; and AU § 326, Evidential Matter.

[11/] See AU § 316.46, Consideration of Fraud in a Financial Statement Audit.

[12/] *Id.* at § 316.13.

[13/] *Id.* at § 316.68.

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changed to obtain evidence that is more reliable or to obtain additional corroborative information."[14/]

8. PCAOB standards also require an auditor to obtain satisfaction concerning the purpose, nature, and extent of related party transactions through the performance of certain procedures that extend beyond the inquiry of management.[15/] In addition, these standards require the auditor to evaluate the information available concerning the related party transaction in order to satisfy the auditor that it has been adequately disclosed in the financial statements.[16/] As described below, Respondents failed to comply with these standards in connection with the Baltia Audits.

Audit of Baltia's 2007 Financial Statements

9. At all relevant times, Baltia Air Lines, Inc. ("Baltia") was a New York corporation with its principal office in Rego Park, New York. At all relevant times, Baltia's common stock was registered with the Commission under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all relevant times, Baltia was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). As disclosed in its public filings, Baltia was a "Part 121 (heavy jet operator) start-up United States airline with Government fitness approval and is currently conducting the FAA [Federal Aviation Administration] Air Carrier Certification."[17/] Baltia's public filings disclosed that it intended to commence non-stop air service from New York to St. Petersburg, Russia upon completion of a certification.

10. The Firm audited Baltia's financial statements for the year ended December 31, 2007 and issued an unqualified opinion dated March 29, 2008. The 2007 audit report was included in a Form 10-KSB filed by Baltia with the Commission on April 15, 2008. Cronin had final responsibility for the 2007 Baltia audit.

11. Baltia reported in its Form 10-KSB for the year ended December 31, 2007 that since inception Baltia had raised approximately $7.4 million in cash proceeds from

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[14/] *Id.* at § 316.52.

[15/] *See* AU § 334.09, *Related Parties*.

[16/] *Id.* at § 334.11.

[17/] Baltia Air Lines, Inc., Form 10-K for the year ended December 31, 2011 (Apr. 16, 2012).

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the issuance of common stock.[18/] For the same year ended December 31, 2007, Baltia reported total assets of approximately $2.1 million with the majority consisting of a cash balance of approximately $2 million.[19/] Baltia disclosed that executive officers had not received any compensation.[20/] Baltia's Form 10-KSB indicated that there were no related party transactions.[21/]

12. During the 2007 Baltia audit, Respondents became aware of information indicating that certain payments were being made to, or on behalf of, officers of Baltia. After becoming aware of the payments during the audit, Respondents failed to perform procedures to ascertain the nature of the payments to the Baltia officers.

13. Despite being aware of these payments and the lack of disclosure in the financial statements related to these payments, Respondents failed to exercise due care and professional skepticism and failed to perform sufficient procedures. Other than obtaining management representations, Respondents failed to take any steps to evaluate the nature of these payments.

14. Respondents also failed to perform any audit procedures to determine whether the payments reflected related party transactions. Specifically, Respondents failed to perform any procedures to evaluate this issue and to determine whether any related party transactions should have been disclosed.

Audit of Baltia's 2009 Financial Statements

15. The Firm audited Baltia's financial statements for the year ended December 31, 2009 and issued an unqualified opinion dated April 12, 2010. The 2009

[18/] Baltia Air Lines, Inc., Form 10-KSB for the year ended December 31, 2007 (Apr. 15, 2008).

[19/] *Id*.

[20/] *Id*.

[21/] *Id*.

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audit report was included in a Form 10-K filed by Baltia with the Commission on April 14, 2010. Cronin had final responsibility for the 2009 Baltia audit.[22/]

16. Baltia reported in its Form 10-K for the year ended December 31, 2009 that since inception Baltia had raised approximately $11.1 million in cash proceeds from the issuance of common stock.[23/] For the same year ended December 31, 2009, Baltia reported total assets of approximately $2.1 million consisting of a cash balance of approximately $1.4 million and a net equipment balance of approximately $0.7 million.[24/] The equipment balance consisted primarily of a used Boeing 747.[25/] In 2009, Baltia disclosed that the CEO had received compensation of $123,395, but did not disclose any compensation paid to other Baltia executives.[26/] Baltia's Form 10-K indicated that there were no related party transactions.[27/]

17. As in the 2007 audit, Respondents again became aware of information indicating that certain payments were being made to, or on behalf of, officers of Baltia.

18. Despite being aware of these payments, Respondents again failed to exercise due care and professional skepticism and failed to perform sufficient procedures. Respondents failed to take any steps to evaluate the nature of these payments.

19. Respondents also failed to perform any audit procedures to determine whether the payments reflected related party transactions. Although compensation paid to the CEO in 2009 was disclosed, Respondents failed to evaluate additional payments

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[22/] Baltia filed a Form 10-K/A for fiscal year 2009 with the Commission, disclosing related party transactions and additional executive compensation during the years 2008 and 2009. *See* Baltia, Form 10-K/A for the year ended December 31, 2009, (Mar. 1, 2013).

[23/] Baltia Air Lines, Inc., Form 10-K for the year ended December 31, 2009 (Apr. 14, 2010).

[24/] *Id*.

[25/] *Id*.

[26/] *Id.*

[27/] *Id*.

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made on behalf of the CEO and payments to other officers of Baltia, and whether these payments were properly disclosed.

Independence Standards

20. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[28/] "[A] registered public accounting firm or associated person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws."[29/]

21. Section 10A(j) of the Exchange Act provides, "[i]t shall be unlawful for a registered public accounting firm to provide audit services to an issuer if the lead (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, has performed audit services for that issuer in each of the 5 previous fiscal years of that issuer."[30/]

22. Exchange Act Rule 10A-2 provides that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the partner rotation requirements of Commission Regulation S-X.[31/]

23. Rule 2-01 of Commission Regulation S-X provides that an accountant is not independent of an audit client when an audit partner performs the services of lead or concurring audit partner for the same issuer for more than five consecutive years and

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28/ *See* PCAOB Rule 3520; *see also* AU §§ 220.01-02.

29/ *See* PCAOB Rule 3520, Note 1.

30/ *See* Section 10A(j) of the Exchange Act.

31/ *See* Exchange Act Rule 10A-2.

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within the five consecutive year period following the performance of services for the maximum period permitted.[32/]

24. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from omitting to take an action knowing, or recklessly not knowing, that the omission would directly and substantially contribute to violations by that firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.[33/]

25. As described below, Respondents failed to comply with Exchange Act Rule 10A-2 and PCAOB rules and standards, the Firm failed to comply with Section 10A(j) of the Exchange Act, and Cronin directly and substantially contributed to the Firm's violations of Section 10A(j) of the Exchange Act.

Respondents Receive Notice from PCAOB Inspection of Potential Independence Issues

26. In connection with an October 2007 inspection of the Firm, the PCAOB inspection staff brought to the Firm's attention apparent failures by the Firm to comply with independence requirements related to lead partner rotation for certain of the Firm's issuer clients. The Firm responded, in part, by representing that it had implemented a revised client acceptance process to comply with independence requirements. Cronin was responsible for the Firm's adherence to the revised client acceptance process.

27. Notwithstanding the Firm's representations that it had put into place a revised client acceptance policy, the Firm failed to comply with independence requirements in connection with subsequent audits for four issuer clients.[34/]

[32/] *See* Rule 2-01 of Regulation S-X, 17 C.F.R. §§ 210.2-01(c)(6)(i)(A)(1) and (c)(6)(i)(B)(1).

[33/] See PCAOB Rule 3502, Responsibility Not to Knowingly or Recklessly Contribute to Violations.

[34/] Because of the importance of an auditor's independence to the integrity of the financial reporting system, the Commission has made clear that circumstances that raise questions about an auditor's independence always merit heightened scrutiny. *See In the Matter of KPMG Australia*, Exchange Act Rel. No. 63987 at 13 (Feb. 28, 2011).

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Audits of Peregrine Industries' Financial Statements

28. At all relevant times, Peregrine Industries, Inc. ("Peregrine Industries") was a Florida corporation with its headquarters in New York, New York. The company's public filings disclosed that it was a smaller reporting company as defined by Rule 12b-2 of the Exchange Act and it had no present operations other than seeking new business opportunities. Peregrine Industries' common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all relevant times, Peregrine Industries was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

29. The Firm was engaged as Peregrine Industries' external auditor in May 2004. The Firm issued audit reports that were included in Peregrine Industries' financial statements, which were filed with the Commission, expressing unqualified opinions on Peregrine Industries' year ended financial statements in five consecutive fiscal years between 2004 and 2008. Cronin served as lead audit partner on the Peregrine Industries engagements and authorized the issuance of all audit reports during this five year period.

30. After serving as lead partner for the aforementioned five year period, Cronin continued to serve as lead partner on the audit of Peregrine Industries' June 30, 2009 year ended financial statements in violation of Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520 and AU § 220. Cronin also authorized the issuance of an audit report dated October 13, 2009, that was included in a Form 10-K that Peregrine Industries filed with the Commission on October 13, 2009, even though the Firm and Cronin were not independent of the client.

Audits of Zaxis International's Financial Statements

31. At all relevant times, Zaxis International, Inc. ("Zaxis International") was a Delaware corporation with its headquarters in Los Angeles, California. The company's public filings disclosed that it was a smaller reporting company as defined by Rule 12b-2 of the Exchange Act and it had no present operations other than pursuing and effecting a business combination. Zaxis International has securities registered under Section 12(g) of the Exchange Act and its common stock is quoted on the OTC Bulletin Board. At all relevant times, Zaxis International was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

32. The Firm was engaged as Zaxis International's external auditor in February 2005. The Firm issued audit reports that were included in Zaxis International's financial statements, which were filed with the Commission, expressing unqualified

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opinions on Zaxis International's year ended financial statements in five consecutive fiscal years between 2004 and 2008. Cronin served as lead audit partner on the Zaxis International engagements and authorized the issuance of all audit reports during this five year period.

33. After serving as lead partner for the aforementioned five year period, Cronin continued to serve as lead partner on the audit of Zaxis International's December 31, 2009 year ended financial statements in violation of Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520 and AU § 220. Cronin also authorized the issuance of an audit report dated April 13, 2010, that was included in a Form 10-K that Zaxis International filed with the Commission on April 15, 2010, even though the Firm and Cronin were not independent of the client.

Audits of Destination Television's Financial Statements

34. At all relevant times, Destination Television, Inc. ("Destination Television")[35/] was a Delaware corporation with its headquarters in Fort Lauderdale, Florida. The company's public filings disclosed that it was a smaller reporting company as defined by Rule 12b-2 of the Exchange Act and was engaged in media production, promotion and advertising. Destination Television's common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all relevant times, Destination Television was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). As Destination Television has over 300 record holders per its most recent Form 10-K, it has a reporting obligation under Section 15(d) of the Exchange Act. At all relevant times, Destination Television was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

35. The Firm issued audit reports that were included in Destination Television's financial statements, which were filed with the Commission, expressing unqualified opinions on Destination Television's year ended financial statements in five consecutive fiscal years between 2002 and 2006. Cronin served as lead audit partner on the Destination Television engagements and authorized the issuance of all audit reports for this five year period.

[35/] Destination Television was formerly known as Magic Media Networks, Inc. through the fiscal year ended October 31, 2005. The Company also reported in its Form 10-K for the year ended October 31, 2009 that "[t]he Company intends to change its name of operations from Destination Television, Inc. to The Movie Studio, Inc.…." *See* The Movie Studio, Inc. Form 10-K for the year ended October 31, 2009 (Dec. 31, 2012).

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36. In a Form 8-K filed with the Commission on January 22, 2008, Destination Television announced that it had accepted the resignation of Michael F. Cronin, CPA as its principal registered public accounting firm. Concurrent with the acceptance of the resignation of the Firm as its auditor, Destination Television announced that it had engaged another Board registered firm as the registered public accounting firm to audit Destination Television's financial statements for the year ending October 31, 2007.

37. That named firm subsequently performed the audit of Destination Television's financial statements for the year ending October 31, 2007, and authorized the issuance of an audit report dated February 13, 2008 that was included in a Form 10-KSB that Destination Television filed with the Commission on the same day.

38. In violation of Exchange Act Rule 10A-2, PCAOB Rule 3520 and AU § 220, the Firm was re-engaged as Destination Television's external auditor in February 2009, and Cronin served as the lead partner on the audit of Destination Television's October 31, 2008 year ended financial statements. Specifically, Cronin served as the lead audit partner within the five consecutive year period following the performance of services as the lead audit partner for the maximum permitted period. Cronin also authorized the issuance of an audit report dated February 13, 2009, that was included in a Form 10-K that Destination Television filed with the Commission on the same day, even though the Firm and Cronin were not independent of the client.

Audits of Baltia's Financial Statements

39. The Firm was engaged as Baltia's external auditor in February 2004. The Firm issued audit reports that were included in Baltia's financial statements, which were filed with the Commission, expressing unqualified opinions on Baltia's year ended financial statements in five consecutive fiscal years between 2003 and 2007. Cronin served as lead audit partner on the Baltia engagements and authorized the issuance of all audit reports for this five year period.

40. In a Form 8-K filed with the Commission on March 20, 2009,[36/] Baltia announced that it had accepted the resignation of Michael F. Cronin, CPA as its principal registered public accounting firm. Concurrent with the acceptance of the resignation of the Firm as its auditor, Baltia announced that it had engaged another Board registered firm as the registered public accounting firm to audit Baltia's financial statements for the year ending December 31, 2008.

[36/] An amended Form 8-K was subsequently filed by Baltia on March 27, 2009 providing additional details in connection with the change in auditors. *See* Baltia Air Lines, Inc., Form 8-K/A (Mar. 27, 2009).

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41. That named firm subsequently performed the audit of Baltia's financial statements for the year ending December 31, 2008, and authorized the issuance of an audit report dated April 13, 2009, that was included in a Form 10-K that Baltia filed with the Commission on April 15, 2009.

42. In violation of Exchange Act Rule 10A-2, PCAOB Rule 3520 and AU § 220, the Firm was re-engaged as Baltia's external auditor in March 2010, and Cronin served as lead partner on the audit of Baltia's December 31, 2009 year ended financial statements. Specifically, Cronin served as the lead audit partner within the five consecutive year period following the performance of services as the lead audit partner for the maximum permitted period. Cronin also authorized the issuance of an audit report dated April 12, 2010, that was included in a Form 10-K that Baltia filed with the Commission on April 14, 2010, even though the Firm and Cronin were not independent of the client.

Audit of the 2011 Financial Statements of Odyssey Pictures

43. PCAOB Auditing Standard No. 7, *Engagement Quality Review* ("AS No. 7"), requires that an engagement quality review and concurring approval of issuance are required for all audits and interim reviews for fiscal years beginning on or after December 15, 2009.[37/]

44. At all relevant times, Odyssey Pictures Corporation ("Odyssey Pictures") was a Nevada corporation with its headquarters in Plano, Texas. The company's public filings disclosed that it was a smaller reporting company as defined by Rule 12b-2 of the Exchange Act and engaged in brand marketing services, web site design and development services. Odyssey Pictures has securities registered under Section 12(g) of the Exchange Act and its common stock is quoted on the OTC Bulletin Board. At all relevant times, Odyssey Pictures was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

45. The Firm was engaged as Odyssey Pictures' external auditor in August 2011 for the audit of Odyssey Pictures' financial statements for the year ended June 30, 2011. The Firm issued an audit report dated October 13, 2011, expressing an unqualified opinion on Odyssey Pictures' financial statements which accompanied Odyssey Pictures' Form 10-K filed with the Commission on the same day.

[37/] *See* AS No. 7 ¶ 1.

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46. AS No. 7 required that the Firm have an engagement quality review performed on the fiscal year 2011 audit of Odyssey Pictures. Specifically, AS No. 7 states that a firm may grant permission to a client to use the engagement report only after the engagement quality reviewer provides concurring approval of issuance.[38/] However, even though Cronin was aware that an engagement quality review needed to be performed, the Firm failed to have an engagement quality review performed on the fiscal year 2011 audit of Odyssey Pictures. While Cronin planned for a partner at another Board registered firm to perform an engagement quality review, he failed to notify the partner in time and the engagement quality review was not performed. Consequently, Respondents violated AS No. 7 in connection with the audit of Odyssey Pictures' financial statements for the year ended June 30, 2011.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Michael F. Cronin and Michael F. Cronin, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Michael F. Cronin is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

C. After three (3) years from the date of this Order, Michael F. Cronin may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Michael F. Cronin, CPA is revoked;

38/ *Id*. at ¶ 13.

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E. After three (3) years from the date of this Order, Michael F. Cronin, CPA may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Michael F. Cronin, CPA. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Michael F. Cronin, CPA shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Michael F. Cronin, CPA as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

May 14, 2013

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Rehan Saeed, CPA,* *Respondent.*	PCAOB Release No. 105-2013-004 May 21, 2013

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Rehan Saeed, CPA ("Respondent" or "Saeed") and barring him from being an associated person of a registered public accounting firm.[1/] The Board is imposing these sanctions on the basis of its findings that Saeed violated PCAOB rules and auditing standards in connection with his failure to perform timely concurring reviews and his backdating of concurring review documentation.

I.

On June 15, 2012, the Board instituted disciplinary proceedings against Respondent pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1). Pursuant to Section 105(c)(2) and PCAOB Rule 5203, these proceedings were not public. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in these proceedings public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in these proceedings public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, Respondent did not consent to making the hearing public.

II.

In response to these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or

[1/] Respondent may file a petition for Board consent to associate with a registered public accounting firm after eighteen (18) months from the date of this Order.

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denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.[2/]

III.

On the basis of Respondent's Offer, the Board finds[3/] that:

A. Respondent

1. Rehan Saeed, 50, of Walnut, California, is a certified public accountant licensed by the California Board of Accountancy (license no. 59167). At all relevant times, Saeed was an employee of, or independent contractor with, registered public accounting firm Kabani & Company, Inc. ("Firm"), was based in the Firm's Los Angeles, California office, and was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Saeed's work with the Firm was part-time, on a project basis, and included the performance of concurring reviews on audits for issuer clients of the Firm. In 2009, Saeed decided not to perform further Firm-assigned work, and has not since worked at or with the Firm. Saeed has a law degree and has been a member of the State Bar of California since 2006.

B. Summary

2. Saeed violated PCAOB standards requiring the exercise of due professional care in the performance of concurring partner reviews for two issuer audits.

[2/] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3/] The sanctions that the Board is imposing on Respondent in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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Although Saeed had been assigned to perform concurring partner reviews for those audits and was aware that he needed to perform those reviews before the Firm released its audit reports, Saeed failed to perform his concurring review procedures until after the Firm had released its audit reports and the issuers had filed their financial statements with the Securities and Exchange Commission ("Commission"). He then backdated certain documents to make it appear that he had performed those procedures before the release of the audit reports. With respect to one of those audits, Saeed's backdating also violated PCAOB Auditing Standard No. 3, *Audit Documentation* ("AS3").

C. Respondent Violated PCAOB Rules and Auditing Standards

3. PCAOB rules require that an associated person of a registered public accounting firm comply with the Board's auditing standards.[4/] Among other things, PCAOB auditing standards provide that "[d]ue professional care is to be exercised in the performance of the audit and the preparation of the report."[5/] In particular, PCAOB standards require all auditors, including concurring partners, to perform their work with "reasonable care and diligence."[6/] PCAOB auditing standards also require that audit documentation contain sufficient information to enable an experienced auditor, having no previous connection with an engagement, to determine who performed the work that has been documented, the date the work was completed, who reviewed that work, and the date of the review.[7/]

4. As described below, Saeed violated PCAOB due care standards by failing to perform two concurring partner review assignments until after the Firm had released its audit reports and after the issuers had filed their financial statements with the Commission and then backdating certain documents to make it appear that he had performed those procedures before the release of the audit reports. In one of the audits, Saeed's backdating of a work paper to make it appear that he had performed a

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[4/] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[5/] AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230.01, *Due Professional Care in the Performance of Work*; see PCAOB Rule 3200T.

[6/] AU § 230.01, .05.

[7/] See AS3 ¶ 6.b, *Audit Documentation*.

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timely concurring partner review also violated PCAOB auditing standards relating to audit documentation.

5. The Firm was a member of the SEC Practice Section of the AICPA ("SECPS") prior to and as of April 16, 2003. At all relevant times, PCAOB rules required that registered public accounting firms that were members of the SECPS as of April 16, 2003 obtain timely concurring partner reviews of issuer audit reports for fiscal years beginning before December 15, 2009.[8/]

Hartcourt Audit

6. The Firm served as the auditor of the May 31, 2008 financial statements of The Hartcourt Companies, Inc ("Hartcourt"). On September 2, 2008, Hartcourt filed with the Commission a Form 10-K for its fiscal year ending May 31, 2008. Included in that filing was an audit report signed by the Firm dated June 17, 2008. The audit report release date for the Hartcourt audit was August 29, 2008.

7. Saeed was assigned to perform the concurring partner review for the Hartcourt audit and was aware that he needed to perform his review before the Firm issued its audit report. Saeed was also aware that Hartcourt planned to file its Form 10-K on or around September 2, 2008. Saeed failed, however, to perform his concurring partner review procedures until after the date of the Firm's audit report, after the report release date, and after Hartcourt filed its Form 10-K.

8. Specifically, although Saeed ultimately sent concurring partner review comments to Firm staff, he did not do so until September 23, 2008, three weeks after Hartcourt had filed its 2008 Form 10-K.

9. Saeed's comments concerned significant omissions and deficiencies in the Hartcourt work papers related to basic planning and substantive audit procedures. Saeed backdated his comments to August 29, 2008, to make it appear that he had performed concurring partner review procedures before the Firm had released its audit report on Hartcourt's 2008 financial statements.

10. As a result of the conduct described above, Saeed violated PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and Rule

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[8/] PCAOB Rule 3400T; SECPS § 1000.08(f), *Concurring Partner Review of the Audit Report and the Financial Statements of Commission Registrants*; SECPS § 1000.39, Appendix E, *Concurring Partner Review*.

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3200T, *Interim Auditing Standards*, by failing to comply with AU § 150, *Generally Accepted Auditing Standards*, and AU § 230, *Due Professional Care in the Performance of Work*.

NetSol Audit

11. The Firm served as the auditor of the June 30, 2008 financial statements of NetSol Technologies, Inc ("NetSol"). On September 19, 2008, NetSol filed with the Commission a Form 10-KSB for its fiscal year ending June 30, 2008. Included in that filing was an audit report signed by the Firm dated September 12, 2008. The audit report release date for the NetSol audit was September 18, 2008.

12. Saeed was assigned to perform a concurring partner review on the NetSol audit and was aware that he needed to perform his review before the Firm issued its audit report. Saeed was also aware that NetSol planned to file its Form 10-KSB on or around September 19, 2008. Saeed, however, did not perform his review until after the September 18, 2008 report release date and after the September 19, 2008 date on which NetSol filed its Form 10-KSB.

13. On October 3, 2008, Saeed provided to Firm staff his concurring partner review comments on the NetSol audit. Saeed backdated his comments to September 15, 2008. That same day, Saeed also sent the Firm a signed "PX-14: Supervision, Review, and Approval Form" work paper indicating that he had completed his concurring partner review by September 15, 2008. Saeed backdated both his comments and the PX-14 work paper to make it appear as if he had completed the concurring partner review before the Firm had released its audit report on NetSol's 2008 financial statements.

14. As a result of the conduct described above, Saeed violated PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and Rule 3200T, *Interim Auditing Standards*, by failing to comply with AU § 150, *Generally Accepted Auditing Standards*, and AU § 230, *Due Professional Care in the Performance of Work*. Saeed also violated PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, by failing to comply with AS3.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Rehan Saeed, CPA is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Rehan Saeed, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

C. After eighteen (18) months from the date of this Order, Rehan Saeed, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

May 21, 2013

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Gruber & Co., LLC, and E. Randall Gruber, CPA* *Respondents.*	PCAOB Release No. 105-2013-005 June 27, 2013

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) permanently revoking the registration of Gruber & Co., LLC ("G&C"); and (2) permanently barring E. Randall Gruber, CPA ("Gruber") from being an associated person of a registered public accounting firm. The Board is imposing these sanctions against G&C and Gruber (collectively "Respondents") on the basis of its findings concerning Respondents' violations of PCAOB rules and auditing standards in connection with their non-cooperation with a Board inspection in which they improperly created, added, and backdated audit documentation prior to and during a Board inspection in violation of PCAOB Rule 4006 and Auditing Standard No. 3.

I.

On March 21, 2012, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act") and PCAOB Rule 5200(a)(1) against Respondents. Pursuant to Section 105(c)(2) of the Act and PCAOB Rule 5203, these proceedings were not public. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, Respondents did not consent to making the hearing public.

II.

In response to these proceedings and pursuant to PCAOB Rule 5205, Respondents each submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted,

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Respondents consent to the entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.[1/]

III.

On the basis of Respondents' Offers, the Board finds that:[2/]

A. Respondents

1. G&C is a limited liability company headquartered in Lake Saint Louis, Missouri. G&C is registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. It is licensed by the Missouri State Board of Accountancy (License No. 2002009503). At all times relevant to this Order, Gruber was the sole principal and owner of G&C, and G&C had no other audit staff. From the time the Board instituted these proceedings until issuance of this Order, G&C issued 11 audit reports for issuers.

2. E. Randall Gruber, age 61, of Lake Saint Louis, Missouri, is the Managing Member of G&C, its sole principal and owner, and a certified public accountant licensed in the state of Missouri (License No. 006667). At all times relevant to this matter, Gruber was an associated person of G&C, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

[1/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2/] The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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B. Other Entities and Individuals

3. Firm A is registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. At all times relevant to this matter, Firm A had one principal and owner, Individual A, and no audit staff.

4. Individual A, is the sole owner of Firm A, and a certified public accountant. At all times relevant to this matter, Individual A was an associated person of Firm A, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

5. Individual B is a former CPA. Although Individual B was not an employee of G&C, individual B referred work to G&C.

6. Individual C is a non-accountant hired by G&C to assist in a number of audits performed by G&C. Individual C was employed by G&C at all times relevant to this matter.

C. Summary

7. This matter concerns Respondents' violations of PCAOB rules and auditing standards. Respondents repeatedly violated Rule 4006, *Duty to Cooperate with Inspectors,* and Auditing Standard No. 3 ("AS3"), *Audit Documentation*.

8. In violation of Rule 4006, Respondents provided a misleading document and other information concerning the purported audit of the 2007 financial statements of Issuer A to the Board in connection with the Board's inspection of that audit. In addition, Respondents and others acting on their behalf improperly created, altered, and backdated audit documentation concerning G&C's purported audit of Issuer A and improperly created, altered and backdated audit documentation related to G&C's audits of the 2007 financial statements of Issuer B and Issuer C. Respondents took these actions after being informed that the Board was inspecting G&C, in violation of Rule 4006.

9. In violation of AS3, Respondents, and others acting on their behalf, added documents as well as signatures and other markings to audit documentation related to the above-mentioned audits without indicating the dates that those documents and markings were added to the working papers, the names of the persons preparing the additional documentation, and the reason for adding the documentation months after the documentation completion date.

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D. Respondents Violated PCAOB Rules and Auditing Standards

10. PCAOB Rule 4006 provides, in part, that "[e]very registered public accounting firm, and every associated person of a registered public accounting firm, shall cooperate with the Board in the performance of any Board inspection."[3/] This cooperation responsibility "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes."[4/] PCAOB rules also require that registered public accounting firms and their associated persons comply with the Board's auditing standards.[5/] Among other things, PCAOB auditing standards require that an auditor make certain written disclosures if the auditor makes additions to audit documentation after the documentation completion date.[6/]

a. Issuer A 2007 Audit

11. On April 14, 2008, Issuer A filed a Form 10-KSB with the Commission, for the year ending December 31, 2007. Included in that filing was an audit report dated April 7, 2008, signed by "Gruber & Company, LLC" ("Issuer A 2007 audit report"). Although the audit report bore the signature of G&C, it was prepared by Individual B, who had performed the audit without Gruber's knowledge or authorization.

[3/] PCAOB Rule 4006, *Duty to Cooperate with Inspectors*.

[4/] *Drakeford & Drakeford, LLC,* PCAOB Rel. No. 105-2009-002 (June 16, 2009) ¶ 8; *Darrin G. Estella, CPA,* PCAOB Rel. No. 105-2011-004 (Aug. 1, 2011); *Peter O'Toole, CPA*, PCAOB Rel. No. 105-2011-005 (Aug. 1, 2011); *Chisholm, Bierwolf, Nilson & Morrill, LLC,* PCAOB Rel. No. 105-2011-003 (Apr. 8, 2011). *See also Gately & Assocs., LLC,* SEC Rel. No. 34-62656 at 22-23 (Aug. 5, 2010) (sustaining Board finding that respondents failed to cooperate with Board inspection).

[5/] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[6/] *See* AS3 ¶ 15-16.

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12. The audit report release date was April 14, 2008.[7/] The documentation completion date, therefore, was May 29, 2008.[8/] Although information may be added to the working papers after the documentation completion date, any such documentation must disclose the date the information was added, the name of the person preparing the additional documentation, and the reason for adding it.[9/]

i. Respondents Provided a Misleading Document and Other Information to the Inspections Division Prior to the Field Work

13. On April 7, 2008, just prior to the issuance of the Issuer A 2007 audit report, the Board's Division of Registration and Inspections ("Inspections Division") confirmed in writing with G&C, through Gruber, that it had selected G&C for inspection. Field work for the inspection was scheduled to commence in September 2008.

14. On April 7, 2008, as part of the Board's notification of the inspection, the Inspections Division provided G&C with a form, entitled "Exhibit B – Issuer Information Form" ("Exhibit B"). Exhibit B required G&C to provide, among other information, a list of all audit opinions for issuers released under the firm's name between May 1, 2007 and March 31, 2008.

15. Gruber completed Exhibit B and, on or about May 2, 2008, provided it to the Inspections Division. On the completed Exhibit B, Gruber represented that Issuer A became a client of G&C in March 2008, and that on April 7, 2008, the Firm issued an audit report on Issuer A's December 31, 2007 financial statements. On the completed Exhibit B, Gruber listed himself as the engagement partner for the Issuer A audit, indicating that he had incurred 48 hours on the audit, and that his concurring review partner had incurred six hours on that audit.

16. At the time Gruber completed Exhibit B and provided it to the Inspections Division, he knew that: (a) G&C had not authorized the issuance of the Issuer A 2007 audit report, and (b) G&C and Gruber had not conducted any work in connection with

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[7/] *See id.* at ¶ 14 (defining the audit report release date as "date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements").

[8/] *See id.* at ¶ 15 (defining documentation completion date as "a date not more than 45 days after the report release date").

[9/] *See id.* at ¶ 16.

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the issuance of the Issuer A 2007 audit report. At no point in time did Gruber inform the Inspections Division of these facts in connection with the inspection of the Firm.

17. The Inspections Division was originally scheduled to visit G&C's office on September 8, 2008, to conduct a review of certain audits conducted by the Firm. Gruber requested a delay of the inspection, and on August 28, 2008, the Inspections Division granted Gruber's request, and notified Gruber that it would visit the Firm during the week of October 6, 2008.

18. During the week preceding the Inspections Division's planned visit of G&C's office commencing on October 6, 2008, Gruber arranged for Individual A, Individual B, and Individual C to meet him in Missouri for a "firm retreat," held in a hotel conference room. Gruber and Individual B paid the travel and other expenses of Individual A and Individual C. The firm retreat occurred from September 29, 2008 through October 8, 2008. During the firm retreat, Gruber, Individual A, Individual B and Individual C met and prepared for the upcoming visit by the Inspections Division.

19. Gruber asked Individual B to attend in order to facilitate the handover of working papers related to any opinions Individual B had issued under the G&C name in case the Inspections Division selected that audit and related opinion for inspection. Individual A and Individual C were present due to their involvement in other G&C 2007 audits. Individual C had assisted in several audits. Individual A had acted as a concurring review partner in several audits including the Issuer B and Issuer C 2007 audits.

20. On October 3, 2008, Gruber contacted the Inspections Division to confirm the dates of its visit and to inquire about which audit engagements the Inspections Division would review. The Inspections Division confirmed the dates with Gruber, and identified to him four issuers' audits for review, including Issuer A, Issuer B and Issuer C.

21. Immediately upon learning that the Inspections Division planned to examine the Issuer A audit, Gruber, during the firm retreat, instructed Individual B to provide him with all documentation for the Issuer A 2007 audit. Individual B then arranged to have Issuer A management provide this documentation to Gruber, which Gruber received on or about October 3, 2008. This was the first time Gruber had seen any audit documentation related to the Issuer A 2007 Audit Report.

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ii. Gruber Altered, Created, Backdated, and Instructed Others to Backdate Issuer A Audit Documentation

22. At the time of the firm retreat, the AS3 documentation completion date for the Issuer A 2007 Audit Report had passed.

23. At the time of the firm retreat, Gruber was aware of AS3's requirements. In particular, Gruber was aware of AS3's requirement that an auditor must complete audit documentation within 45 days of an audit report release date, and that any changes to that documentation after the documentation completion date must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.

24. During the firm retreat on October 3, 2008, Gruber altered, created, and backdated a set of audit working papers purporting to relate to the Issuer A 2007 Audit Report. Gruber's actions included: (a) signing off on and backdating audit working papers that neither G&C nor Gruber prepared or reviewed in connection with issuance of the Issuer A 2007 Audit Report; (b) making handwritten entries on certain audit working papers for work that neither G&C nor Gruber had performed prior to issuance of the Issuer A 2007 Audit Report, including audit work related to Cash in Bank ("A4 Working Paper"); (c) adding a handwritten list of procedures to the A4 working paper; (d) permitting Individual B to include Gruber's initials on multiple PCAOB audit checklists; (e) and permitting Individual B to include Gruber's name as G&C's engagement partner on the Engagement Completion Document.

25. Gruber also instructed Individual C and Individual A to sign and backdate certain Issuer A working papers. For example, regarding audit work related to Commercial Paper ("A5 Working Paper"), Gruber directed Individual C to sign and backdate the working paper to March 17, 2008, then Gruber himself signed the "approved by" block, which he backdated to March 22, 2008. Gruber then instructed Individual A to place his initials and the date March 30, 2008 on the A5 Working Paper, which Individual A did.

iii. At Gruber's Direction, Individual A Created, Altered, and Backdated Issuer A Audit Documentation

26. During the firm retreat, Gruber informed Individual A that the Inspections Division planned to review the Issuer A 2007 audit.

27. At Gruber's request, Individual A assisted Individual B and Gruber in the creation of various audit documentation that had not previously existed, including

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documentation related to planning, risk assessment, internal control and audit completion.

28. Also at Gruber's request, Individual A initialed and backdated to April 3, 2008, certain documentation related to audit planning, risk assessment, internal control and completion, and signed and backdated an audit working paper to July 30, 2008.

iv. Respondents Provided Misleading Audit Documentation to the Inspections Division

29. Field work for the Board's inspection occurred during the week of October 6, 2008. During the field work, Gruber and G&C presented the misleading audit working papers for the Issuer A 2007 Audit to the Inspections Division.

30. At no time during the inspection, did Gruber indicate to the Inspections Division that neither he nor Individual A had performed any audit work prior to issuance of the Issuer A 2007 Audit Report, or that in October 2008, they and others had improperly created and modified audit documentation to associate with the audit report.

31. Additionally, at no time during the inspection, did Gruber inform the inspection team of his belief or knowledge that Individual B had, without G&C's authorization, issued the Issuer A 2007 Audit Report as well as other audit reports in G&C's name that were not the subject of the Board's 2008 inspection.

32. Immediately following the field work of the Inspections Division, Gruber directed Individual A to prepare and backdate to March 2008, an independence letter purportedly related to the Issuer A 2007 Audit, which Individual A did. Gruber then produced the backdated independence letter to the inspection team. Neither Gruber nor Individual A informed the Inspections Division that this document was backdated.

33. On October 30, 2009, the Inspections Division provided Gruber's Firm with a draft report of its October 2008 inspection. On November 29, 2009, Gruber submitted to the Inspections Division a response to the draft inspection report. In the Firm's response, Gruber reiterated that the Firm had performed an audit of Issuer A's 2007 financial statements.

34. At no point prior to the Division's investigation into this matter did Gruber withdraw or disassociate himself or G&C from the Issuer A 2007 audit report. It was only in response to the Division's March 2010 request for documentation related to the Issuer A 2007 audit report as part of its investigation that Gruber represented for the

first time to the Board that he and G&C had not been involved in the Issuer A 2007 audit.

35. It was not until his September 2010 testimony as part of the Division's investigation, and the Division's inquiry about the creation or modification of certain audit work papers, that Gruber acknowledged that in fact, Gruber, Individual A, Individual B and Individual C had created, altered and backdated audit documentation related to Issuer A's 2007 financial statements.

b. Issuer B 2007 Audit

36. G&C audited Issuer B's 2007 financial statements. Gruber served as the auditor with final responsibility for the engagement. Individual A served as the concurring review partner.

37. On April 15, 2008, Issuer B filed a Form 10-KSB with the Commission. Included in that filing was an audit report dated April 11, 2008, signed by "Gruber & Co. LLP" ("Issuer B 2007 audit report").

38. The audit report release date was April 15, 2008. The documentation completion date, therefore, was May 30, 2008.

39. During the October 2008 firm retreat addressed above, the Inspections Division informed Gruber that the inspection team would be examining G&C's audit of Issuer B's 2007 financial statements.

40. At the time of the firm retreat, Gruber understood that the documentation completion date for the Issuer B audit had passed.

41. At the time of the firm retreat, Gruber was also aware of AS3's requirements. In particular, Gruber was aware of AS3's requirement that an auditor must complete audit documentation within 45 days of an audit report release date, and that any changes to that documentation after the documentation completion date must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.

42. In response to learning that the Inspections Division would be examining G&C's audit of Issuer B's 2007 financial statements, Gruber asked Individual A to "clean up" the Issuer B audit working papers and to memorialize Individual A's concurring review work in the working papers.

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43. In October 2008 and prior to the inspection visit, Gruber provided Individual A for the first time with a set of working papers and financial statements for the Issuer B 2007 audits. At that time, Gruber and Individual A decided that Individual A would initial and backdate to April 15, 2008, audit programs and checklists including various audit planning and audit program documents. After receiving these documents, Individual A initialed and backdated them to April 15, 2008.

44. In addition, during the firm retreat, after discussions with Gruber, Individual A initialed and backdated to April 15, 2008, audit working papers related to the audit of financial statement balances and altered or created working papers related to planning and audit completion.

45. During field work for the Board's inspection, Respondents presented the misleading audit working papers for the Issuer B 2007 Audit to the Inspections Division.

46. At no time prior to the investigation of this matter, did Gruber disclose to the Board that he and Individual A had improperly created, signed off, and backdated these documents before or during the Inspections Division's inspection of the Gruber Firm.

47. During the field work, the Inspections Division noted the absence of an independence letter from Individual A. Again, at Gruber's request, Individual A prepared and backdated to January 1, 2008, an independence letter for the 2007 Issuer B audit, which Gruber then provided to the Inspections Division. Neither Individual A nor Gruber informed the Inspections Division at any time that this document was backdated.

c. Issuer C 2007 Audit

48. G&C audited Issuer C's 2007 financial statements. Gruber served as the auditor with final responsibility for the engagement. Individual A served as the concurring review partner.

49. On March 24, 2008, Issuer C filed a Form 10-KSB with the Commission. Included in that filing was an audit report dated March 17, 2008, signed by "Gruber & Co. LLP" ("Issuer C 2007 audit report").

50. The audit report release date was March 24, 2008. The documentation completion date, therefore, was May 7, 2008.

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51. During the October 2008 firm retreat addressed above, the Inspections Division informed Gruber that the inspection team would be examining G&C's audit of Issuer C's 2007 financial statements.

52. At the time of the firm retreat, Gruber understood that the documentation completion date for the Issuer C audit had passed.

53. At the time of the firm retreat, Gruber was also aware of AS3's requirements. In particular, Gruber was aware of AS3's requirement that an auditor must complete audit documentation within 45 days of an audit report release date, and that any changes to that documentation after the documentation completion date must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.

54. In response to learning that the Inspections Division would be examining G&C's audit of Issuer C's 2007 financial statements, Gruber asked Individual A to help "clean up" the Issuer C audit working papers and to memorialize Individual A's concurring review work in the working papers.

55. In October 2008, Gruber provided Individual A for the first time with various audit planning and audit program documents. Gruber and Individual A then decided that Individual A would initial and backdate those documents to March 22, 2008.

56. Although Individual A had not previously seen these working papers, in consultation with Gruber, he initialed and backdated all of them, except PCA-AP-2, Audit Program for General Auditing and Completion Procedures, to March 22, 2008.

57. During field work for the Board's inspection, Respondents Gruber and G&C presented the misleading audit working papers for the Issuer C 2007 Audit to the Inspections Division.

58. At no time prior to the investigation of this matter, did Gruber disclose to the Board that he and Individual A had improperly created, signed off, and backdated these documents prior to or during the Inspections Division's inspection of the Gruber Firm.

59. During the field work, the inspection team noted the absence of an independence letter from Individual A. Again at Gruber's request, Individual A prepared and backdated to January 1, 2008, an independence letter for the 2007 Issuer C audit

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which Gruber provided to the Inspections Division. Neither Individual A nor Gruber informed the Inspections Division at any time that this document was backdated.

60. As a result of the conduct described above, Respondents violated Rule 4006, *Duty to Cooperate with Inspectors*, and AS3, *Audit Documentation*.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

Pursuant to Sections 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Gruber & Co., LLC is permanently revoked; and

Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), E. Randall Gruber, CPA is permanently barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 27, 2013

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Lake & Associates, CPA's LLC, and Jay Charles Lake, CPA,* Respondents.	PCAOB Release No. 105-2013-006 August 13, 2013

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Lake & Associates, CPA's LLC (the "Firm"), and Jay Charles Lake, CPA ("Lake"), revoking the registration of the Firm,[1/] and barring Lake from being an associated person of a registered public accounting firm.[2/] The Board is imposing these sanctions on the Firm and Lake (collectively, "Respondents") on the basis of its findings that Respondents violated PCAOB rules and auditing standards in auditing the 2009 financial statements of four issuer clients, that the Firm violated PCAOB quality control standards, and that Lake directly and substantially contributed to the Firm's violation of PCAOB quality control standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against the Firm and Lake.

[1/] The Firm may reapply for registration after three (3) years from the date of this Order.

[2/] Lake may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

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II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3/]

III.

On the basis of Respondents' Offers, the Board finds[4/] that:

A. Respondents

1. Lake & Associates, CPA's LLC, is a professional limited liability company organized under the laws of the State of Florida and headquartered in Schaumburg, Illinois. The Firm is licensed by the State of Florida (license no. AD62907) and the State of Illinois (license no. 066-004126). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. At all relevant times, the Firm was the independent auditor for each of the issuers identified below. As of the time the Firm filed its 2012 annual report on Form 2 with the Board, it had two partners and four other professional staff members.

2. Jay Charles Lake, CPA, 50, of Boca Raton, Florida, is a certified public accountant licensed by the State of Florida (license no. AC0034533) and by the State of Illinois (license no. 065-022654). He is the managing member of the Firm, was the

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[3/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4/] The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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auditor with final responsibility for the Firm's audits of the financial statements of all four of the issuers discussed below, and authorized the issuance of the Firm's audit reports on those financial statements. Lake is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' numerous and repeated violations of PCAOB rules and auditing standards in connection with the issuance of audit reports on the 2009 financial statements of four issuers (collectively, the "Audits").[5/] Specifically, Respondents failed to, among other things: (a) plan the Audits adequately; (b) perform sufficient audit procedures on material accounts, including revenue, accounts receivable, and inventory; and (c) prepare and maintain sufficient audit documentation.

4. Furthermore, as detailed below, the Firm failed to establish and implement quality control policies and procedures sufficient to provide it with reasonable assurance that the work performed by engagement personnel met all applicable professional standards. At all relevant times, Lake was responsible for the development, implementation and monitoring of the Firm's quality control policies and procedures. Despite those responsibilities, during the Audits, Lake took or omitted to take action knowing, or recklessly not knowing, that his acts and/or omissions would directly and substantially contribute to the Firm's violation of PCAOB quality control standards, in contravention of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.[6/]

C. Respondents Violated PCAOB Rules and Auditing Standards In Connection with the Audits

5. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards.[7/] An auditor may express an unqualified opinion

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[5/] Specifically, the Audits consist of the Firm's audits of the 2009 financial statements of: (a) MediaNet Group Technologies, Incorporated; (b) Hutech21 Company, Limited, f/k/a China Logistics Incorporated; (c) China Education Technology, Incorporated; and (d) China Fruits Corporation.

[6/] All references to PCAOB auditing and quality control standards in this Order are to the versions of those standards in effect for the Audits.

[7/] See PCAOB Rules 3100, 3200T.

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on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[8/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[9/]

6. PCAOB standards also require that audit work be adequately planned[10/] and require auditors to perform procedures to identify, assess, and respond to risks of material misstatement due to fraud.[11/] Among other procedures, audit team members should conduct a discussion concerning the risks of material misstatement due to fraud and must perform analytical procedures to identify "unusual transactions or events, and amounts, ratios, and trends that might indicate matters that have financial statement and audit planning implications."[12/] Further, PCAOB standards identify certain procedures, such as those relating to confirming accounts receivable and observing inventories, as "generally accepted auditing procedure[s]."[13/]

7. Additionally, PCAOB audit documentation standards require an auditor to prepare an engagement completion document that identifies all "significant findings or issues," such as significant unusual transactions, matters that could result in a modification of the audit report, and audit adjustments.[14/]

8. As detailed below, Respondents failed to comply with the aforementioned rules and standards, among others, in connection with the Audits.

[8/] See AU § 508.07, *Reports on Audited Financial Statements.*

[9/] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 326, *Evidential Matter*.

[10/] See AU § 150.02; AU § 311, *Planning and Supervision*.

[11/] AU § 316, *Consideration of Fraud in a Financial Statement Audit*.

[12/] AU § 316.14-18, .20-27, 28.

[13/] AU § 330.34, *The Confirmation Process*; AU § 331.01, *Inventories*.

[14/] Auditing Standard No. 3 ("AS 3") ¶¶ 12, 13, *Audit Documentation*. PCAOB standards define "significant findings or issues" as "substantive matters that are important to the procedures performed, evidence obtained, or conclusions reached." Id. ¶ 12.

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The Audit of MediaNet's 2009 Financial Statements

9. MediaNet Group Technologies, Inc. ("MediaNet"), was, at all relevant times, a Nevada corporation with its principal executive office in Florida. MediaNet's public filings disclose that it was a global network marketing firm that was engaged in selling merchandise, predominantly consumer electronics, jewelry, and electronic gift cards, to consumers through Internet-based auctions conducted under the trade name "DubLi.com." Its common stock was registered under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act"), and its stock is currently quoted on the Pink Sheets. At all relevant times, MediaNet was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

10. The Firm expressed an unqualified opinion on MediaNet's 2009 fiscal year-end financial statements in an audit report dated December 7, 2009, which was included in MediaNet's January 13, 2010 Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission").[15/] The report stated that the audit was conducted in accordance with PCAOB standards and that, in the Firm's opinion, the company's financial statements were fairly presented in all material respects in conformity with GAAP. Lake authorized the issuance of the audit report.

11. Respondents failed to comply with applicable PCAOB standards in connection with the audit of MediaNet's fiscal year 2009 financial statements. Specifically, Respondents failed to perform appropriate audit procedures with respect to MediaNet's reported accounts receivable and revenue.

Accounts receivable

12. In its 2009 financial statements, MediaNet reported accounts receivable of $70,375 at year end, which represented more than 34 percent of MediaNet's reported assets. Although Respondents identified MediaNet's accounts receivable as a significant audit area that presented the risk of material misstatement due to fraud, they failed to exercise due professional care and failed to obtain sufficient competent evidential matter concerning accounts receivable.[16/]

13. During the audit, MediaNet management provided Respondents with a report purporting to list all of the company's accounts receivable. The report contained more than 4,000 entries, including amounts totaling $1,158,912 and off-setting amounts totaling $1,150,165. The net balance of the accounts receivable listed on the report

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15/ MediaNet's fiscal year 2009 comprised January through September 2009.

16/ See AU § 150.02; AU § 230; AU § 326.

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was thus $8,747, i.e., less than 13 percent of the accounts receivable balance MediaNet ultimately reported in its 2009 financial statements.

14. Other than agreeing 11 of the 4,000 entries on the report management provided to various account statements, Respondents performed no procedures with respect to MediaNet's accounts receivable.[17/] Instead, Respondents proposed that MediaNet increase the accounts receivable total reflected in management's report by $61,628. In fact, Respondents highlighted various entries in the report that management could double count to support the $61,628 increase.

Revenue

15. Respondents also violated PCAOB standards by failing to perform adequate procedures to test the existence and valuation of MediaNet's reported revenue.[18/] Those failures occurred despite Respondents' recognition when planning the audit that MediaNet's revenue presented a risk of material misstatement due to fraud.[19/]

16. For fiscal year 2009, MediaNet reported revenue of approximately $1.7 million. During the audit, Respondents failed to perform any substantive testing of that reported revenue. That failure occurred even though Respondents obtained a schedule from management indicating that revenue may have been overstated by more than 80 percent.

17. Specifically, during the audit, Respondents obtained from management a system-generated report purporting to summarize MediaNet's sales by customer for the

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[17/] Under PCAOB standards, "there is a presumption that the auditor will request the confirmation of accounts receivable during an audit," unless the accounts receivable are immaterial or the auditor concludes that the use of confirmations would be ineffective. AU § 330.34, *The Confirmation Process*. Respondents did not request any confirmations of accounts receivable and, instead, documented that confirmation procedures were "not applicable," without further explanation. That statement was not sufficient under PCAOB standards to overcome the presumption that Respondents would request confirmation of accounts receivable. See id. § 330.35 ("[A]n auditor who has not requested confirmations in the examination of accounts receivable should document how he or she overcame this presumption").

[18/] See AU § 311; AU § 326.

[19/] Under PCAOB standards, an "auditor should ordinarily presume that there is a risk of material misstatement due to fraud relating to revenue recognition." AU § 316.41.

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entire fiscal year ("Sales Report"). According to the Sales Report, MediaNet's total sales for the year were only $277,454. Respondents failed both to test the revenue items contained in the Sales Report and to investigate or address the discrepancy between the Sales Report balance and MediaNet's reported revenue.

The Audit of China Logistics' 2009 Financial Statements

18. Hutech21 Co. Ltd. (f/k/a China Logistics, Inc.) ("China Logistics") was, at all relevant times, a Nevada corporation headquartered in the People's Republic of China ("PRC"). China Logistics' public filings disclose that it was engaged in the business of providing logistical services for car manufacturers, car components, food assortments, chemicals, paper, and machinery. Its common stock was registered under Section 12(b) of the Exchange Act, and its stock was quoted on the Pink Sheets. At all relevant times, China Logistics was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

19. The Firm expressed an unqualified opinion on China Logistics' 2009 fiscal year-end financial statements in an audit report dated April 12, 2010, which was included in China Logistics' Form 10-K filed with the Commission on April 16, 2010. The report stated that the audit was conducted in accordance with PCAOB standards and that, in the Firm's opinion, the company's financial statements were fairly presented in all material respects in conformity with GAAP. Lake authorized the issuance of the audit report.

20. Respondents failed to comply with applicable PCAOB standards in connection with the audit of China Logistics' fiscal year 2009 financial statements ("2009 China Logistics Audit"). Specifically, Respondents failed to obtain sufficient competent evidential matter as to the existence or valuation of approximately $3.8 million of China Logistics' inventory, which represented more than 35 percent of the Company's total reported assets.

21. PCAOB standards specify that "[o]bservation of inventories is a generally accepted auditing procedure," and that an auditor who has not employed that procedure "has the burden of justifying the opinion expressed."[20/] During the 2009 China Logistics Audit, Respondents failed to perform observation procedures or any other procedures to test the existence of the inventory the company reported.

22. Additionally, with respect to 89 percent of reported inventory (by value), Respondents did not perform any audit procedures at all, including any procedures

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20/ AU § 331.01.

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concerning valuation.[21/] As to the other 11% of reported inventory, Respondents purported to conduct valuation testing, but selected for testing only one item. Such limited testing failed to provide Respondents with adequate assurance concerning the valuation of the recorded inventory balance.

The Audit of China Education's 2009 Financial Statements

23. China Education Technology, Inc. ("China Education") was, at all relevant times, a Nevada corporation with its principal executive office in the PRC. China Education's public filings disclose that it was a high-tech company specializing in the research and development of education products and technology applications. Its common stock was registered under Section 12(g) of the Exchange Act, and its stock was quoted on the Pink Sheets. Since that time, China Education has filed a Form 15-12G Certification and Notice of Termination of Registration with the Commission. At all relevant times, China Education was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

24. The Firm expressed an unqualified opinion on China Education's 2009 fiscal year-end financial statements in an audit report dated May 12, 2010, which was included in China Education's Form 10-K filed with the Commission on May 14, 2010. The report stated that the audit (the "2009 China Education Audit") was conducted in accordance with PCAOB standards and that, in the Firm's opinion, the company's financial statements were fairly presented in all material respects in conformity with GAAP. Lake authorized the issuance of the audit report.

25. Just as in the 2009 China Logistics Audit, Respondents failed to exercise due professional care and failed to obtain sufficient competent evidential matter as to the existence and valuation of inventory in the 2009 China Education Audit.[22/] At year-end 2009, China Education reported inventory of $372,971, which was approximately 17.5 percent of reported assets. Respondents failed to conduct physical inventory counts or perform other procedures sufficient to verify the existence of this inventory.[23/] In fact, Respondents' work papers contain a template for an inventory count form that is blank. Respondents also failed to obtain any audit evidence or perform any audit

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[21/] Management represented to Respondents that that portion of China Logistics' inventory was in transit from its vendor to the end users.

[22/] See AU § 230; AU § 326.01, .25; AU § 331.

[23/] See AU §§ 326.01, .22, .25; AU §§ 331.09, .12.

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procedures concerning the valuation of China Education's inventory, also leaving blank audit programs related to testing inventory valuation.[24/]

The Audit of China Fruits' 2009 Financial Statements

26. China Fruits Corp. ("China Fruits") was, at all relevant times, a Nevada corporation headquartered in the PRC. China Fruits' public filings disclose that it was engaged in the business of manufacturing, trading, and distributing Nanfeng tangerines and tangerine-based products. China Fruits' common stock was registered under Section 12(g) of the Exchange Act and its stock is currently quoted on the OTC Bulletin Board. At all relevant times, China Fruits was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

27. The Firm expressed an unqualified opinion on China Fruits' 2009 fiscal year-end financial statements in an audit report dated April 12, 2010, which was included in China Fruits' Form 10-K filed with the Commission on April 15, 2010. The report stated that the audit was conducted in accordance with PCAOB standards and that, in the Firm's opinion, the company's financial statements were fairly presented in all material respects in conformity with GAAP. Lake authorized the issuance of the report. Respondents failed to comply with applicable PCAOB standards in connection with the audit of China Fruits' fiscal year 2009 financial statements.

28. China Fruits disclosed in its Form 10-K (and Respondents knew at the time of the audit) that it had sold one of its business lines in the second quarter of 2009. China Fruits treated the sale as discontinued operations and recast its historical financial statements for prior periods, including for 2008, to account for the discontinued operations. Respondents failed to perform adequate audit procedures concerning the presentation and disclosure of the company's discontinued operations.

29. In fact, Respondents failed to plan or carry out essentially any audit procedures relating to China Fruits' classification of the results of its discontinued operations for 2008.[25/] Although China Fruits provided Respondents with an adjusting entry and an adjusted trial balance showing the reclassification for 2008, Respondents failed to perform any procedures to evaluate the reasonableness of the amounts attributed to discontinued operations for that year.[26/]

[24/] See AU § 326.22.

[25/] See AU § 230; AU § 311; AU § 326.

[26/] See AU § 230; AU § 326.01, .25.

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30. Respondents also failed to appropriately evaluate the amounts that China Fruits had attributed to discontinued operations for 2009.[27/] China Fruits' 2009 statement of operations included $683,603 in general and administrative expenses, which represented more than 60 percent of the total operating expenses China Fruits reported. Respondents' work papers, however, indicate that $174,950 of that amount should have been included in the results of discontinued operations rather than in general and administrative expenses. Respondents failed to plan or perform any steps to reconcile the reported amounts of general and administrative expenses from continuing operations with the contradictory information contained in the work papers.

31. After being alerted to these failures during a Board inspection, Respondents requested that China Fruits restate its financial statements to present properly its results from discontinued operations, which China Fruits did.[28/]

Violations Relating to Multiple Audits

32. Respondents also repeatedly violated PCAOB standards requiring them to identify, assess, and respond to risks of material misstatement due to fraud and to prepare appropriate audit documentation.

33. Specifically, Respondents failed, in connection with each of the Audits, to conduct the required audit team discussion concerning the risks of material misstatement due to fraud. Respondents also failed, in connection with three of the four Audits, to perform the required analytical procedures to identify "unusual transactions or events, and amounts, ratios, and trends that might indicate matters that have financial statement and audit planning implications."[29/]

34. With respect to the documentation of significant findings or issues required by AS 3, Respondents failed to document, in connection with three of the four Audits, significant unusual transactions or matters that could result in a modification of the audit report. Further, Respondents failed to document audit adjustments in connection with all four of the Audits.[30/]

27/ See id.

28/ See China Fruits Form 10-K/A, filed on May 3, 2011.

29/ AU § 316.14-18, .20-27, 28.

30/ See AS 3 ¶ 12.

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D. The Firm Violated PCAOB Rules and Quality Control Standards and Lake Knowingly or Recklessly Contributed to Those Violations

35. PCAOB rules require registered public accounting firms to comply with the Board's quality control standards,[31/] which, in turn, require every registered firm to "have a system of quality control for its accounting and auditing practice."[32/]

36. Under PCAOB quality control standards, a firm should establish policies and procedures that "provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[33/] Those procedures should encompass "all phases of the design and execution of the engagement," including "planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement."[34/] The Firm failed to comply with these PCAOB quality control standards in connection with the Audits.

37. At all relevant times, the Firm failed to put policies and procedures in place to ensure that engagement personnel performed audit procedures necessary to comply with all PCAOB standards.[35/] As a result, in multiple instances, the Firm's personnel failed to complete necessary audit work before the Firm released its audit opinions for the Audits, and, in other instances, failed to document any significant work in critical audit areas.

38. In particular, the Firm failed to establish sufficient policies and procedures to provide it with reasonable assurance that its engagement personnel evaluated the risk that the financial statements under audit may be misstated due to fraud.[36/] As noted above, as a result of these quality control failures, the Firm failed, in conducting the Audits, to comply with PCAOB standards requiring engagement team members to

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[31/] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[32/] Quality Control ("QC") § 20.02, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[33/] QC § 20.17; see also QC § 20.03.

[34/] QC § 20.18.

[35/] See QC § 20.17.

[36/] See AU § 316.

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discuss the potential for material misstatement due to fraud[37/] and to perform analytical procedures designed to assist in identifying risks of material misstatement due to fraud.[38/]

39. The Firm's system of quality control also failed to provide reasonable assurance that engagement personnel complied with PCAOB audit documentation requirements, as set forth in AS 3. As noted above, as a result, the Firm's Audits violated AS 3 in multiple respects.

40. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation of Board standards by that firm. Respondent Lake, the managing member of the Firm, was principally responsible for designing, implementing, and monitoring the Firm's system of quality control.[39/] Accordingly, Lake had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. All of the Firm's conduct described in paragraphs 37 through 39 above was either conduct of Lake's or omissions to act for which Lake was responsible. With respect to all such acts and omissions, Lake knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's quality control violations described above. Lake thereby violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Lake & Associates, CPA's LLC, is hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Lake & Associates, CPA's LLC, is revoked;

37/ See AU § 316.14-18, .20-27.

38/ AU § 316.28.

39/ See QC § 20.01, .17, .20, .22.

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C. After three (3) years from the date of this Order, Lake & Associates, CPA's LLC, may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Jay Charles Lake, CPA, is hereby censured;

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jay Charles Lake, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

F. After three (3) years from the date of this Order, Jay Charles Lake, CPA, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.[40/]

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 13, 2013

[40/] In considering any such petition, the Board will assess all of the factors described in PCAOB Rule 5302(b) and, among other things, will give weight to whether Mr. Lake has, in the period after the date of this Order, completed at least 200 hours of continuing professional education directly related to the audit of financial statements of issuers.

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Nathan M. Suddeth, CPA,* *Respondent.*	PCAOB Release No. 105-2013-007 September 10, 2013

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Nathan M. Suddeth, CPA ("Suddeth"); and (2) barring him from being an associated person of a registered public accounting firm.[1/] The Board is imposing these sanctions on the basis of its findings that Suddeth violated PCAOB rules and auditing standards by creating and improperly backdating certain audit work papers in connection with a Board inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended, (the "Act") and PCAOB Rule 5200(a)(1) against Suddeth.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Suddeth has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Suddeth

[1/] Suddeth may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2/]

III.

On the basis of Suddeth's Offer, the Board finds[3/] that:

A. Respondent

1. Nathan M. Suddeth, age 47, of Gibsonia, Pennsylvania, is a certified public accountant who is licensed under the laws of the State of Illinois (license no. 065-029071) and the Commonwealth of Pennsylvania (license no. CA052400). At all relevant times, Suddeth was a partner in the Pittsburgh, Pennsylvania office of Deloitte & Touche LLP ("Deloitte"), and an associated person of a registered public accounting firm, as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Suddeth was the engagement partner for Deloitte's audits of the fiscal year 2009, 2010, and 2011 financial statements of the "Company," as defined below in paragraph 3. As the engagement partner, Suddeth was responsible for supervising the members of the Company audit engagement team, and had overall responsibility for ensuring their compliance with PCAOB rules and auditing standards relating to the audits of the Company. In June 2010, Deloitte appointed Suddeth as the Partner in Charge of Deloitte's audit practice for the Pittsburgh office. In or about July 2012, Deloitte investigated allegations that Suddeth had improperly added work papers to the Company audit documentation in advance of a PCAOB inspection. By August 2012, Deloitte voluntarily reported the results of its investigation to the PCAOB, and removed Suddeth both from his role as Partner in Charge of the audit practice for the Pittsburgh office and from all direct audit responsibility for any public or private client. Suddeth retired from Deloitte effective June 1, 2013.

[2/] The findings herein are made pursuant to Suddeth's Offer and are not binding on any other person or entity in this or any other proceeding.

[3/] The sanctions that the Board is imposing on Suddeth in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Suddeth's conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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B. Summary

2. This matter concerns Suddeth's failure to cooperate in a Board inspection and failure to adhere to the Board's standards regarding audit documentation. Specifically, Suddeth violated Board rules and auditing standards by creating and improperly backdating three work papers for an audit, more than two months after the applicable documentation completion date, and after he knew that the Board had selected that audit for inspection. At no time did Suddeth make PCAOB inspectors aware that he had created those work papers, improperly backdated them, and caused them to be added to Deloitte's audit documentation shortly before the inspection. Through his actions, Suddeth violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*. Suddeth's conduct also violated PCAOB Auditing Standard No. 3 ("AS3"), *Audit Documentation*, because he caused documents to be added to the work papers after the documentation completion date, without indicating the actual dates that the documents were added to the work papers and the reasons for adding the documentation.

C. Suddeth Violated PCAOB Rules and Auditing Standards

3. The "Company" is an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). In June 2011, the Board began fieldwork for its inspection of Deloitte's audit of the Company's December 31, 2010 financial statements.

4. PCAOB rules require that an associated person of a registered public accounting firm "shall cooperate with the Board in the performance of any Board inspection."[4/] This cooperation obligation includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes.[5/] PCAOB rules also require that associated persons of registered public accounting firms comply with the Board's auditing standards.[6/] Among other things, PCAOB auditing standards require that an auditor make certain written disclosures if the

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[4/] PCAOB Rule 4006, *Duty to Cooperate with Inspectors*.

[5/] See *Dale Arnold Hotz, CPA*, PCAOB Rel. No. 105-2012-008 (Nov. 13, 2012) ¶ 7; *Peter C. O'Toole, CPA,* PCAOB Rel. No. 105-2011-005 (Aug. 1, 2011) ¶ 5; *Drakeford & Drakeford, LLC*, PCAOB Rel. No. 105-2009-002 (June 16, 2009) ¶ 8; see also *Gately & Associates, LLC*, SEC Rel. No. 34-62656 at 22-23 (August 5, 2010) (sustaining Board finding that respondents failed to cooperate with Board inspection).

[6/] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

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auditor adds audit work papers after the documentation completion date.[7/] As described below, Suddeth violated PCAOB rules and auditing standards when he: (1) created and improperly backdated three documents and caused them to be added to the audit work papers after the documentation completion date; (2) provided those misleading documents to the Board in connection with the Board's inspection of the audit; and (3) failed to disclose to the Board that a statement in an "Engagement Profile," submitted to the Board prior to the inspection, was no longer accurate because of the addition of the three documents after the documentation completion date.

The Audit

5. Deloitte audited the Company's December 31, 2010 financial statements. Suddeth served as the engagement partner for that audit (the "Audit").

6. Deloitte's audit report for the Audit expressed an unqualified opinion and stated that the Audit was conducted in accordance with PCAOB standards. The audit report stated that the Company's December 31, 2010 financial statements presented fairly, in all material respects, the Company's financial position, results of operations, and cash flows in conformity with U.S. Generally Accepted Accounting Principles. The audit report was included in the Company's annual report filed with the U.S. Securities and Exchange Commission ("Commission").

7. The audit report release date for the Audit was prior to March 1, 2011.[8/] The documentation completion date, therefore, was prior to April 15, 2011.[9/] While information may be added to the work papers following the documentation completion date, the new documentation must disclose the date the information was added, the person preparing the additional documentation, and the reason for adding the information to the work papers after the documentation completion date.[10/]

[7/] See AS3 ¶ 16.

[8/] See id. ¶ 14 (defining report release date as "the date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements").

[9/] See id. ¶ 15 (defining documentation completion date as "a date not more than 45 days after the report release date").

[10/] See id. ¶ 16.

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Suddeth Failed to Prepare Audit Documentation in a Timely Manner

8. During the Audit, Suddeth planned to document that he held certain meetings with the Company's management, specifically the Chief Financial Officer and General Counsel, to discuss, among other things, information relating to risks of fraud at the Company.[11/] Suddeth documented that he had those discussions in two memoranda (respectively, the "CFO Memorandum" and the "GC Memorandum"), but did not do so until more than two months after the documentation completion date.

9. During the Audit, Suddeth also planned to draft a memorandum (the "Independence Memorandum") to document Deloitte's consideration of the requirements of PCAOB Rule 3524, *Audit Committee Pre-Approval of Certain Tax Services*, PCAOB Rule 3525, *Audit Committee Pre-Approval of Non-Audit Services Related to Internal Control Over Financial Reporting,* and Rule 3526, *Communication with Audit Committees Concerning Independence*, information that those rules require to be documented. Suddeth also did not complete the Independence Memorandum until more than two months after the documentation completion date.

10. Between the audit report release date and the documentation completion date for the Audit, Suddeth was reminded by the engagement team that the CFO Memorandum, GC Memorandum, and Independence Memorandum (collectively, the "Three Memoranda") were not in the work papers.

11. Just prior to the Audit engagement team submitting the Audit documentation to Deloitte's records management office to begin the process of archival and retention, Suddeth informed the Audit engagement team that he would not complete the Three Memoranda prior to commencement of the submission process. However, Suddeth caused a work paper index for the Audit to list the Three Memoranda as manual work papers (*i.e.*, work papers in hard copy paper format, as opposed to electronic format).[12/]

[11/] AU §§ 316.20 – 316.27, *Consideration of Fraud in a Financial Statement Audit*, provide that auditors should inquire of management and others about risks of fraud during the audit. All references to PCAOB standards are to the versions of those standards in effect at the time of Deloitte's audit of the Company for fiscal year 2010.

[12/] The work paper indexes for Deloitte's audits of the Company for fiscal years 2009 and 2011 also list memoranda similar to the CFO Memorandum and GC Memorandum as manual work papers. However, those memoranda were never included in the work papers for those audits, nor did the Board inspect those audits.

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12. As of the documentation completion date for the Audit, Deloitte had assembled the Audit work papers for retention, but neither Suddeth nor anyone else had completed the Three Memoranda or added them to the work papers for the Audit.

Suddeth's Steps Taken in Advance of the Board's Inspection

13. By May 23, 2011, the Board notified Deloitte that the Board's Division of Registration and Inspections ("Board's Inspection Division") would inspect the Audit. The Act "requires the Board to conduct a 'continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons . . . with [the Act], the rules of the Board, the rules of the Commission, or professional standards.'"[13/]

14. On May 23, 2011, Deloitte informed Suddeth that the Audit would be inspected by the Board's Inspection Division. Field work for the inspection was scheduled to commence on June 13, 2011.

The Engagement Profile

15. Before inspection field work began, the Board's Inspection Division provided Deloitte with a document entitled Public Company Accounting Oversight Board 2011 Inspection Period Engagement Profile ("Engagement Profile"), and requested that the document be completed and returned by June 6, 2011. The Audit engagement team completed the Engagement Profile, and Suddeth reviewed it, signed it, and submitted it to the Board's Inspection Division on June 6, 2011.

16. One of the questions in the Engagement Profile stated: "Have there been any changes made to the audit documentation subsequent to the documentation complete [*sic*] date[?] If yes, please explain the nature of the changes below, and provide a summary log of when the changes were made." Deloitte's response in the Engagement Profile stated: "Archive was re-submitted on [a date just after the documentation completion date] in order to delete duplicate Permanent File binder records within the archive. No changes to archived file made."

Suddeth Created and Backdated the Three Memoranda

17. On June 11, 2011, two days before the Board's Inspection Division arrived at Deloitte's Pittsburgh office to inspect the Audit, Suddeth informed a member of the Audit engagement team that Suddeth intended to complete the Three Memoranda.

13/ *Gately & Associates* at 2 (quoting Section 104(a) of the Act).

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18. On the evening of June 12, 2011 and morning of June 13, 2011, Suddeth completed the Three Memoranda, identifying himself as their author and initialing by his typewritten name. He improperly backdated each of the Three Memoranda to a date on or just prior to the audit report release date for the Audit. The Three Memoranda do not indicate the date on which they had actually been completed.

Suddeth Caused the Three Memoranda to be Added to the Work Papers

19. On the morning of June 13, 2011, Suddeth caused the Three Memoranda to be added to the manual work paper binders.

20. The Audit work papers did not indicate the date the Three Memoranda actually were added to the work papers and the reasons they were added more than two months after the documentation completion date.

21. As a result of the conduct described above, Suddeth violated PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Auditing Standard No. 3, *Audit Documentation*.

Misleading Documents Provided
to the Board During the Board's Inspection

22. Field work for the Board's inspection took place during the weeks of June 13, 2011 and June 27, 2011. During field work, Suddeth knew that Deloitte made the manual work papers for the Audit, including the Three Memoranda, available to the Board's inspectors. Also during field work for the inspection, Suddeth communicated with personnel from the Board's Inspection Division. At no point in time did Suddeth disclose or instruct others to disclose to the Board's Inspection Division that he had improperly backdated the Three Memoranda and caused them to be improperly added to the Audit work papers after the documentation completion date, on the very morning that inspection field work began.

23. At no point in time did Suddeth inform or instruct others to inform the Board's Inspection Division that the Engagement Profile that he submitted the week before inspection field work was misleading as a result of his subsequently causing the misleading Three Memoranda to be added to the Audit work papers.[14/] Under the

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[14/] Suddeth submitted to the Board's Inspection Division the Engagement Profile on June 6, 2011 and caused the Three Memoranda to be added to the work papers on June 13, 2011.

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circumstances, Suddeth's duty to cooperate with the Board's inspectors required that he make such a disclosure.

24. As a result of the conduct described above, Suddeth violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*.

IV.

In view of the foregoing and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Suddeth's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Nathan M. Suddeth, CPA, is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Nathan M. Suddeth, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

C. After two (2) years from the date of this Order, Nathan M. Suddeth, CPA, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

September 10, 2013

PCAOB
Public Company Accounting Oversight Board

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS	PCAOB Release No. 105-2013-008
In the Matter of Deloitte & Touche LLP,	October 22, 2013
Respondent.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring the registered public accounting firm Deloitte & Touche LLP ("Deloitte"); (2) imposing a civil money penalty in the amount of $2,000,000; and (3) requiring Deloitte to undertake certain remedial actions.

The Board is imposing these sanctions on the basis of its findings concerning Deloitte's violations of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB rules by permitting a former partner of Deloitte, who was subject to a Board-ordered suspension, to become an "associated person" of Deloitte during the period of the suspension.

I.

On March 20, 2013, the Board instituted disciplinary proceedings against Deloitte pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1). Pursuant to Section 105(c)(2) and PCAOB Rule 5203, these proceedings were not public. Pursuant to Section 105(c) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, Deloitte did not consent to making the hearing public.

II.

In response to these proceedings and pursuant to PCAOB Rule 5205, Deloitte submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Deloitte and the subject

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matter of these proceedings, which is admitted, Deloitte consents to the entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.[1/]

III.

On the basis of Deloitte's Offer, the Board finds that:[2/]

A. Respondent

1. Deloitte is, and at all relevant times was, a public accounting firm organized as a limited liability partnership under the laws of the State of Delaware and headquartered in New York, New York. Deloitte has offices in multiple locations, including Wilton, Connecticut, where it housed certain firm-wide functions included as part of its National Office. Deloitte is registered with the Board under Section 102 of the Act and PCAOB rules.

B. Other Relevant Individual

2. Christopher E. Anderson ("Anderson"), 51, of Lake Forest, Illinois, is a certified public accountant licensed in Washington (license no. 15285). At all relevant times, Anderson was an agent of Deloitte, first as a partner in Deloitte's Chicago, Illinois office, and then, in anticipation of the settlement that resulted in the Board's issuance of an Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions, *In the Matter of Christopher E. Anderson, CPA*, PCAOB Rel. No. 105-2008-003 (Oct. 31, 2008) (the "Anderson Order"), as a salaried Director employed in Deloitte's National Office.

[1/] The findings herein are made pursuant to Deloitte's Offer and are not binding on any other persons or entities in this or any other proceeding.

[2/] The Board finds that Deloitte's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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C. Deloitte Violated the Act and PCAOB Rules

3. This matter concerns Deloitte's violations of the Act and PCAOB rules when it permitted Anderson, a former Deloitte partner, to become or remain an associated person of Deloitte during the time that Anderson was subject to a Board order suspending Anderson from being associated with a registered public accounting firm.

Background

4. On October 31, 2008, the Board issued the Anderson Order, with Anderson's consent, on a neither admit nor deny basis. The Anderson Order resulted from Anderson's violations of PCAOB rules and auditing standards when he served as the engagement partner for Deloitte's audit of the fiscal year 2003 financial statements of Navistar Financial Corporation ("NFC"). Among other things, the Anderson Order suspended Anderson for a period of one year from the date of the Anderson Order (the "suspension year") from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act, *Definitions: Person Associated with a Public Accounting Firm*, and PCAOB Rule 1001(p)(1), *Definitions of Terms Employed in Rules: Person Associated with a Public Accounting Firm (and Related Terms)*. The suspension year covered the period October 31, 2008 through October 30, 2009.

5. Under the Act and PCAOB rules, a registered public accounting firm that knows an individual is suspended from associating with any registered firm may not permit him to become or remain an "associated person" of the firm without the consent of the Board or the United States Securities and Exchange Commission ("Commission").[3/] The Act and PCAOB rules define an "associated person" as, among other things, any "professional employee of a public accounting firm . . . that, in connection with the preparation or issuance of any audit report . . . participates as agent on behalf of such accounting firm in any activity of that firm."[4/]

6. After the Board issued the Anderson Order, Deloitte permitted Anderson to become or remain an associated person of the firm by placing him in a position that allowed him to engage in activities in connection with the preparation or issuance of

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[3/] Act § 105(c)(7)(A); PCAOB Rule 5301(b).

[4/] Act § 2(a)(9); PCAOB Rule 1001(p)(i).

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issuer audit reports.[5/] It did so with knowledge of the Anderson Order and without the consent of the Board or the Commission. Although Deloitte took certain actions to limit Anderson's deployment, Deloitte failed to develop sufficient policies and procedures to ensure that Anderson did not remain associated with the firm during the suspension year. By these acts and omissions, Deloitte violated Section 105(c)(7)(A) of the Act, *Effect of Suspension: Association with a Public Accounting Firm*, and PCAOB Rule 5301(b), *Effect of Sanctions: Effect on Registered Public Accounting Firms*.

7. After the Division began its investigation of Anderson's conduct as the engagement partner for the NFC audit, but before the Anderson Order was issued, Deloitte restricted Anderson's deployment by prohibiting him from signing audit opinions for public company clients, from accepting new public company audit engagements, and from serving as a concurring reviewer on such engagements.

8. In anticipation of a potential settlement between Anderson and the Board, Deloitte began the process of removing Anderson from its Chicago audit practice and transferring him to the Audit and Assurance Services ("A&AS") Group within the firm's National Office. The A&AS Group was responsible for handling consultations with all audit engagement teams, including issuer engagement teams, and also was responsible for developing and maintaining all of Deloitte's audit policies and guidance, including for issuer audits.

9. At that time, in spring 2008, the leader of the A&AS Group in the National Office ("Group Leader"), with input from Anderson, drafted a description of Anderson's proposed job duties ("Anderson position description") for a three to five year assignment in the A&AS Group. The then-deputy managing partner of Deloitte's Audit and Enterprise Risk Services professional practice department reviewed the position description.

10. Based, in part, on the position description drafted and approved by the Group Leader, Deloitte's Leadership Oversight Committee ("LOC") approved transferring Anderson to the A&AS Group of the National Office.[6/] The LOC, among other things, had primary responsibility on behalf of Deloitte for determining and

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[5/] This order uses the term "issuer" as it is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

[6/] The LOC had responsibility and authority, among other things, to restrict individuals from serving audit clients in specific capacities (including, if necessary, to restrict these individuals from performing any audits).

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directing appropriate remedial actions to be taken with respect to Deloitte partners and employees subject to regulatory action. Anderson officially transferred into the National Office in July 2008 and remained there during the suspension year.

11. At the time Deloitte transferred Anderson to the National Office pursuant to the position description, Deloitte assigned the Group Leader to supervise Anderson. During the suspension year, the Group Leader understood that Anderson was subject to a Board-ordered suspension.

12. Anderson's position description listed three general responsibilities. Those general responsibilities included, among other things: (a) "oversee[ing] how [Deloitte] effectively and efficiently use[s] specialists on [Deloitte's] audit engagements;" (b) "oversee[ing] the reconsideration of [Deloitte's] audit approach as it related to the consideration of fraud," and (c) "lead[ing] other miscellaneous projects," including the development of Deloitte audit guidance.

13. The position description did not reference the Board-ordered suspension and did not include an analysis of how Anderson's job responsibilities were consistent with his suspension pursuant to the definition of "associated person," as set forth in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(1), or how Deloitte complied with its obligations in Section 105(c)(7)(A) of the Act and PCAOB Rule 5301(b).

14. The position description stated that, "[a]t this time, we will not be using [Anderson] on consultations or any other client specific matters." The Group Leader and Anderson believed that, consistent with the limitations of the position description, Anderson would have contact with issuer engagement teams, and might provide certain audit advice of a general nature to issuer audit engagement teams. Anderson and the Group Leader did not inform the LOC of their belief, but the Group Leader later confirmed to the LOC that Anderson was "not doing any consultations." No one on the LOC advised Anderson or the Group Leader that Anderson was not permitted to provide advice of a general nature.

15. Prior to the issuance of the Anderson Order and the commencement of the suspension year, Deloitte sought and received guidance from the Board's staff concerning whether Anderson could "continue as a partner of the firm and [continue] to be compensated as such" pursuant to the compensation prong of the definition of "associated person," and at Deloitte's suggestion Anderson resigned from the Deloitte

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partnership and became a Director, a salaried position.[7/] In seeking guidance from the Board's staff, Deloitte did not seek guidance about Anderson's intended role in Deloitte's National Office,[8/] and, during the suspension year, did not inform Board staff about Anderson's actual activities in that role.[9/]

Anderson's Activities During the Suspension Year

Anderson's Role in Deloitte's National Office

16. Each registered public accounting firm is required to develop, implement, and maintain a system of quality control for its accounting and audit practice.[10/] A firm's system of quality control is designed to provide that "firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality."[11/]

17. Deloitte maintains a system of quality control for its audit practice, including its issuer audit practice, which includes a National Office function for ensuring the development, implementation, and maintenance of, among other things, audit guidance, audit training materials, audit practice alerts, and consultations with engagement teams for use in Deloitte's audit practice.

[7/] The definition of "associated person" includes an individual who, "in connection with the preparation or issuance of any audit report," "shares in the profits of, or receives compensation in any other form from," a registered public accounting firm. Act § 2(a)(9)(A)(i); PCAOB Rule 1001(p)(i)(1).

[8/] Act § 2(a)(9)(A)(ii); PCAOB Rule 1001(p)(i)(2).

[9/] On the day the Anderson Order was issued, the CEO of Deloitte LLP circulated the Anderson Order to all Partners, Principals and Directors by email, with the instruction that Anderson was restricted for one year from performing "audit work." The e-mail did not include any other specifics about Anderson's limitations or what Anderson was or was not permitted to do.

[10/] See PCAOB Rule 3400T, *Interim Quality Control Standards*; QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[11/] QC § 20.03.

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18. During the suspension year, and consistent with his position description, Anderson participated in the development of Deloitte's quality control policies and procedures, including among other things, the development and drafting of audit guidance, training materials, and practice alerts applicable to issuer audits.[12/] Deloitte's quality control policies and procedures were designed, among other things, to help issuer engagement teams, among others, understand their responsibilities and comply with professional auditing standards, including PCAOB standards.

19. Among other things, Anderson participated in developing, drafting, and presenting training materials, firm guidance, and forms relating to a variety of topics, including, but not limited to, Pension Actuaries, Insurance Reserves, Capital Markets Valuations, Fair Value, Auditing Assumptions, Self Insurance, Journal Entry Testing, and Risk Management. Anderson did not have ultimate responsibility or approval authority within Deloitte for any of the Deloitte materials he participated in developing or drafting.

20. The individuals with access to the audit guidance that Anderson drafted or contributed to included, among others, individuals working on Deloitte's audits of issuers.

Anderson's Advice to Issuer Engagement Teams

21. During the suspension year, Anderson's name was included in the firm's internal directories as a National Office consultation resource on subject matters that related to issuer audits. As such, Anderson was listed as one of the professionals in the National Office who was a subject-matter resource for consultations related to "Fair Value/Use of Specialists and Fraud – Miscellaneous."

22. On three occasions during the suspension year, Anderson responded to questions from Deloitte engagement team members seeking guidance on the interpretation of firm-wide policies and procedures and the applicability of PCAOB audit

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12/ The Act requires the Board, by rule, to establish quality control standards "to be used by registered public accounting firms in the preparation and issuance of audit reports." Act § 103(a)(1), *Auditing, Quality Control, and Independence Standards and Rules*. See also *id.* § 2, *Definitions* (defining "professional standards" to include "quality control policies and procedures . . . that the Board . . . determines relate to the preparation or issuance of audit reports for issuers . . ."); *id.* § 101, *Establishment: Administrative Provisions* ("Duties of the Board" include establishing "quality control . . . standards relating to the preparation of audit reports for issuers").

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standards concerning subjects falling within Anderson's areas of expertise, including, for example, the use of specialists and journal-entry testing in performing audits of the financial statements of issuer clients.

23. Specifically, during the suspension year Anderson provided advice in connection with Deloitte's audits of the fiscal year-end 2009 financial statements of three issuers, each of which Anderson knew, at the time, was an issuer audit client of Deloitte. In each instance, Anderson communicated directly with a member of an audit engagement team who was seeking advice from Deloitte's National Office in connection with the audit of an issuer client.

Issuer A

24. During the suspension year, Anderson consulted with the audit engagement team for Issuer A in connection with the preparation or issuance of Deloitte's audit report on Issuer A's 2009 financial statements.

25. In September 2009, the Issuer A engagement team consulted with Deloitte's National Office to ask whether the engagement team was required to obtain an independence confirmation from a third-party specialist hired by Issuer A to value the company's asbestos reserve. The senior manager on the team contacted Deloitte's consultation hotline, and the request was received by a senior manager in Deloitte's National Office. The senior manager in the National Office forwarded the consultation request to Anderson, stating that because "this question is audit related, I prefer to send it to someone" in Deloitte's A&AS Group in the National Office.

26. Anderson contacted the senior manager on the Issuer A engagement team and consulted with him concerning whether Deloitte needed to obtain an independence confirmation from Issuer A's third-party specialist. After speaking with Anderson, the engagement team documented the consultation in an October 15, 2009 work paper, stating: "We discussed this matter with Chris Anderson, National Office Assurance Services, who agreed with the conclusions reached."

Issuer B

27. During the suspension year, Anderson also advised the audit engagement team for Issuer B in connection with the preparation or issuance of Deloitte's audit report on Issuer B's fiscal year-end 2009 financial statements.

28. In June 2009, a partner in Deloitte's National Office e-mailed Anderson selected work papers from Issuer B's 2008 audit, in connection with the planning of

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Issuer B's 2009 audit. After reviewing those work papers, Anderson participated in a conference call with members of the 2009 Issuer B audit engagement team. Following the conference call, an electronic data analysis specialist ("specialist") in Deloitte's National Office who had also participated in the call, drafted written recommendations to the 2009 Issuer B audit engagement team, and sought comments from Anderson on those draft recommendations. Anderson replied that her draft recommendations "look[ed] good," and the specialist then responded to the engagement team in a June 17, 2009 e-mail that, among other things, identified "[o]pportunities to streamline the working papers documentation" for the Issuer B audit engagement.

29. Next, in August 2009, a senior manager on the 2009 Issuer B audit engagement team sought advice from Deloitte's National Office by e-mailing the specialist and copying the e-mail to Anderson. The senior manager on the audit engagement team noted that the engagement team used a data analysis tool to select journal entries for testing through the first three quarters of 2009, and asked whether the engagement team was required to use that tool to select journal entries for testing for the fourth quarter of 2009.

30. In his August 4, 2009 e-mail response, Anderson advised the senior manager on the 2009 Issuer B audit engagement team that there was no requirement to use the data analysis tool to select journal entries for testing for the fourth quarter of 2009. Anderson further advised that the PCAOB auditing "standard requires that we [, i.e. Deloitte,] consider testing [journal entries] throughout the year." Anderson advised the engagement team that it "may conclude that it is not necessary to test the entries posted during the 4th quarter (other than those recorded as part of the financial close reporting process)."

Issuer C

31. During the suspension year, Anderson also advised the audit engagement team for Issuer C in connection with the preparation or issuance of Deloitte's audit report on Issuer C's December 31, 2009 financial statements.

32. The Issuer C audit engagement team sought input from Deloitte's National Office concerning journal entry testing. Issuer C was a new audit client for Deloitte, and the Issuer C audit engagement team sought input from the National Office regarding Deloitte's ability to rely on journal entry testing performed by Issuer C's internal audit department. At the direction of the audit engagement partner, a manager on the Issuer C audit engagement team sent an e-mail requesting assistance to Deloitte's National Office. The e-mail was received by a senior manager in the National Office, an individual whose responsibilities included forwarding consultation requests to subject-

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matter resources within the National Office. The National Office senior manager forwarded the consultation request to Anderson.

33. On or about September 25, 2009, Anderson and the manager on the Issuer C audit engagement team had a telephone conference to discuss journal entry testing for the Issuer C audit. Anderson identified the relevant Deloitte auditing guidance for the engagement team and discussed whether, and in what way, the engagement team could use the journal entry testing performed by Issuer C's internal audit department.

Deloitte Permitted Anderson to Associate with the Firm.

34. By its acts and omissions described above, Deloitte permitted Anderson to become or remain an associated person by engaging in activities on Deloitte's behalf in connection with the preparation or issuance of audit reports for Deloitte's issuer clients, during the suspension year.

35. The LOC did not develop sufficient policies or procedures to ensure that Anderson complied with the terms of the Anderson Order. The LOC did not appropriately instruct anyone at Deloitte concerning how to monitor Anderson's compliance with the limitations imposed by the Anderson Order.

36. As a result of the actions and omissions described above, Deloitte violated Section 105(c)(7)(A) of the Act, *Effect of Suspension – Association with a Public Accounting Firm*, and PCAOB Rule 5301(b), *Effect of Sanctions – Effect on Registered Public Accounting Firms*.

IV.

37. Deloitte has represented to the Board that, since the events described in this Order and after the investigation in this matter began, it has established and implemented the following changes to its quality control policies and procedures for persons subject to PCAOB-ordered restrictions on activities:

a. On February 2, 2010, the LOC adopted procedures requiring (i) definition of the individual's responsibilities while associated with Deloitte and a determination that those responsibilities are consistent with the individual's PCAOB-ordered restrictions; (ii) appointment of a supervisor to monitor the individual's work; (iii) the signing of an LOC-approved job description by both the individual subject to restriction and the supervisor; (iv) periodic meetings

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between the supervisor and the individual for the express purpose of ensuring that the individual's activities are consistent with the regulatory requirements; and (v) semi-annual reporting by the supervisor to the LOC on compliance with restrictions;

b. On August 16, 2012, the LOC (i) revised its policies to emphasize and clarify that "[t]he [LOC approved] job responsibilities will be such that there is no risk that the individual will engage in conduct that calls into question compliance with the terms of the [o]rder or other limitation;" and (ii) added the requirement that the individual's job responsibilities shall be communicated to the PCAOB staff in advance of or contemporaneously with the term of the restrictions;

c. The LOC subsequently adopted a policy of not allowing individuals subject to PCAOB-ordered restrictions to hold any role forming part of its system of quality control for its issuer audit practice; and

d. The LOC formed a subcommittee to handle, on an expedited basis, matters arising between regularly scheduled LOC meetings involving individuals subject to PCAOB-ordered restrictions.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Deloitte is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,000,000 is imposed. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Deloitte shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff, United States postal money order certified check, bank cashier's check, or bank money order; (b) made payable to the Public Company Accounting Oversight Board; (c) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W.,

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Washington, D.C. 20006; and (d) submitted under a cover letter which identifies Deloitte & Touche LLP as the respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Deloitte shall establish and implement the following additional changes to its quality control policies and procedures for persons subject to PCAOB-ordered restrictions:

1. The LOC shall document its analysis and resulting determination (see supra paragraph 37.a(i)) that a restricted individual's responsibilities are consistent with his/her PCAOB-ordered restriction;

2. A member of the LOC, in addition to the individual and supervisor, shall sign the LOC-approved job description (see supra paragraph 37.a.(iii));

3. The signing member of the LOC shall meet with the supervisor to discuss the specific LOC-approved responsibilities and restrictions, and to discuss how the LOC expects the supervisor to monitor the individual's compliance with the restrictions;

4. The reporting by the supervisor to the LOC on compliance with restrictions (see supra paragraph 37.a(v)) shall occur on a quarterly basis, rather than semi-annually as Deloitte currently requires;

5. In connection with the quarterly reporting to the LOC on compliance with restrictions, the individual, the supervisor, and the signing member of the LOC, shall all document and sign their understanding that the individual remains in compliance with the PCAOB-ordered restrictions;

6. The LOC shall ensure that the restricted individual's specific restrictions are communicated to other individuals at Deloitte, including but not limited to, those supervising the individual's daily responsibilities, those working with the individual, those in the

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issuer audit practice who may reasonably come in contact with the individual in connection with the firm's audit practice, and any others responsible for disseminating information concerning the individual to personnel within the firm or in marketing materials external to the firm; and,

7. If at any time and for any reason, Deloitte believes that the individual has not complied with PCAOB-ordered restrictions and/or the individual, supervisor, or signing member of the LOC is unable to sign the quarterly compliance document referenced in part V.C.5 above, Deloitte must promptly report this information to the PCAOB Division of Enforcement and Investigations staff.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

October 22, 2013

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Hood & Associates CPAs, P.C., and Rick C. Freeman, CPA,* *Respondents.*	PCAOB Release No. 105-2013-012 November 21, 2013

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Hood & Associates CPAs, P.C. (the "Firm"), revoking the Firm's registration, and imposing a civil money penalty in the amount of $10,000 upon the Firm;[1/] and censuring Rick C. Freeman, CPA ("Freeman") and permanently barring him from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings concerning the Firm and Freeman (collectively, "Respondents") that: (a) Respondents violated PCAOB rules and auditing standards in connection with the audits of three issuer clients and Section 10A(a) of the Securities Exchange Act of 1934 ("Exchange Act") in connection with the Firm's audit of one issuer client; (b) Respondents violated Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, and PCAOB rules and auditing standards in connection with the Firm's audits of two issuer clients; (c) the Firm violated, and Freeman directly and substantially contributed to the Firm's violations of, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder in connection with all three issuer audits in 2011; and (d) the Firm violated PCAOB quality control standards and Freeman directly and substantially contributed to the Firm's violation of PCAOB quality control standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Freeman and the Firm.

[1/] The Firm may reapply for registration after three (3) years from the date of this Order.

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II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions (the "Order") as set forth below.[2/]

III.

On the basis of Respondents' Offers, the Board finds[3/] that:

A. Respondents

1. Hood & Associates CPAs, P.C. is, and at all relevant times was, a professional corporation organized and licensed under the laws of the state of Oklahoma (License No. 13387), and headquartered in Tulsa, Oklahoma. The Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules since October 22, 2003. At all relevant times, the Firm was the external auditor for each of the issuers identified below during the relevant audit years.[4/]

[2/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[3/] The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4/] The Firm issued certain of the relevant audit reports while operating under the names Hood Sutton Robinson & Freeman CPAs, P.C., and Sutton Robinson & Freeman CPAs, P.C.

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2. Rick C. Freeman, 54, of Tulsa, Oklahoma, is a certified public accountant licensed under the laws of the State of Missouri (License No. 2001003942), the State of Oklahoma (License No. 13676), and the State of Texas (License No. 087868). At all relevant times, Freeman was the sole audit partner at the Firm, and was the auditor with final responsibility for, and authorized the issuance of, the Firm's audits of the financial statements of each of the issuers identified below. Additionally, Freeman was the only person at the Firm staffing the relevant audit engagements. At all relevant times, Freeman was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and auditing standards in connection with the issuance of audit reports on the financial statements of three issuers over a multiple year period (collectively, the "Audits").[5/] Respondents failed repeatedly, among other things, to plan, perform, and document audit work in accordance with PCAOB standards, and failed to exercise due professional care and to exercise professional skepticism in connection with the Audits. Respondents also violated Section 10A(a) of the Exchange Act by failing to include procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts in connection with the audit of one issuer client.

4. Respondents also repeatedly violated Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, and PCAOB rules and standards that require a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period. Respondents were not independent with respect to two issuer clients because Freeman served as lead audit partner on the audits of those issuers for more than five consecutive years.[6/]

[5/] Specifically, the Audits consist of the Firm's audits of: (a) the 2010 and 2011 financial statements of FullNet Communications, Inc. ("FullNet"); (b) the 2010 and 2011 financial statements of Revolutions Medical Corporation. ("Revolutions"); and (c) the 2011 financial statements of NightCulture, Inc. (f/k/a XXX Acquisitions, Inc.) ("NightCulture").

[6/] See Section 10A(j) of the Exchange Act; Exchange Act Rule 10A-2, *Auditor Independence*, 17 C.F.R. 240.10A-2; PCAOB Rule 3520, *Auditor Independence*; and AU §§ 220, *Independence*.

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5. Moreover, the Firm failed to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS No. 7"), in the course of the Audits. The Firm and Freeman failed to have an engagement quality review performed on any of the Audits, even though an engagement quality review was required to be performed.[7/]

6. By issuing audit reports stating that the 2011 audits of FullNet, Revolutions, and NightCulture had been performed in accordance with PCAOB standards when it knew, or was reckless in not knowing, that the statement was false, the Firm violated Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder. Freeman took or omitted to take actions that he knew or was reckless in not knowing, would directly and substantially contribute to the Firm's violations of Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder.

7. Finally, the Firm failed to comply with PCAOB quality control standards in connection with the Audits, and Freeman took or omitted to take, actions during the Audits that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of PCAOB quality control standards, in contravention of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

C. Respondents' Violations of PCAOB Rules and Auditing Standards, Independence Standards, and the Exchange Act

Respondents Violated PCAOB Rules and Standards in Connection with the Audits

8. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[8/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[9/] Among other things, those standards require that an auditor

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[7/] See AS No. 7 ¶ 1.

[8/] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[9/] See AU § 508.07, *Reports on Audited Financial Statements.*

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exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[10/] PCAOB standards also require that audit work be adequately planned[11/] and require auditors to perform procedures to identify, assess, and respond to risks of material misstatement due to fraud.[12/]

9. Additionally, PCAOB audit documentation standards provide that the documentation for an audit must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement: (a) to understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) to determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review.[13/] Moreover, AS No. 3 requires an auditor to prepare an engagement completion document that identifies all "significant findings or issues," such as matters that could result in a modification of the audit report and audit adjustments.[14/]

10. As detailed below, Respondents failed to comply with the aforementioned rules and standards, among others, in connection with the Audits.

Audits of FullNet's 2010-2011 Financial Statements

11. FullNet is, and at all relevant times was, an Oklahoma corporation headquartered in Oklahoma City, Oklahoma. FullNet's public filings disclose that it is an integrated communications provider for individuals, businesses, organizations, educational institutions, and government agencies. Its common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. At

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[10/] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 326, *Evidential Matter*, Auditing Standard No. 15 ("AS No. 15"), *Audit Evidence*.

[11/] See AU § 150.02; AU § 311, *Planning and Supervision*; Auditing Standard No. 9 ("AS No. 9"), *Audit Planning*.

[12/] See AU § 316, *Consideration of Fraud in a Financial Statement Audit*.

[13/] Auditing Standard No. 3 ("AS No. 3") ¶ 6, *Audit Documentation*.

[14/] AS No. 3, ¶¶ 12, 13. PCAOB standards define "significant findings or issues" as "substantive matters that are important to the procedures performed, evidence obtained, or conclusions reached…." Id. ¶ 12.

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all relevant times, FullNet was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

12. The Firm was engaged as FullNet's external auditor in October 2010 for the audit of FullNet's financial statements for the year ending December 31, 2010. The Firm issued an audit report dated March 31, 2011, expressing an unqualified opinion, with an explanatory going concern paragraph, on FullNet's 2010 financial statements that accompanied FullNet's Form 10-K filed with the Commission on the same day. For the subsequent fiscal year, the Firm issued an audit report dated March 29, 2012, expressing an unqualified opinion, with an explanatory going concern paragraph, on FullNet's 2011 financial statements filed with the Commission on March 29, 2012, in FullNet's Form 10-K. Freeman served as the lead audit partner on the FullNet engagements and authorized the issuance of all relevant audit reports.

13. During the 2010 audit, Freeman and the Firm failed to comply with the applicable professional standards. First, Freeman and the Firm failed to adequately plan the audit. Other than using a standardized audit program and checklists, Respondents failed to take any steps to obtain a level of knowledge of the company's business to enable them to appropriately plan and perform the audit.[15/] Respondents also failed to adequately assess the risk of material misstatement on numerous accounts and balances, including accounts receivable, sales, inventory and cost of sales.[16/] Freeman and the Firm additionally failed to gain an adequate understanding of and document the company's internal controls.[17/] Respondents further failed to appropriately consider the risk of fraud and failed to test journal entries.[18/]

14. In performing the 2010 audit, Freeman and the Firm failed to exercise due care and obtain sufficient competent evidence with respect to certain critical aspects of the audit including: revenue, forgiveness of debt, and income.[19/] For example, Freeman and the Firm failed to perform adequate procedures relating to FullNet's reported

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15/ AU § 311.06, *Planning and Supervision*.

16/ AU § 312, *Audit Risk and Materiality in Conducting an Audit*.

17/ AU § 319.02, *Consideration of Internal Control in a Financial Statement Audit*.

18/ AU § 316.58, *Consideration of Fraud in a Financial Statement Audit*.

19/ AU § 230; AU § 326.

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revenue of $1,687,945 for the year ended December 31, 2010. Freeman and the Firm's audit procedures were primarily limited to obtaining a series of schedules detailing revenue by product, by month and then performing a high level analytical review by comparing monthly revenues from 2009 to 2010. These procedures did not constitute substantive analytical procedures because Respondents failed to develop sufficiently precise expectations and failed to investigate or evaluate significant unexpected differences identified in the audit.[20/] Freeman and the Firm also failed to perform any tests of the underlying detail and failed to test the accuracy of any of the data reflected in the revenue schedules. Having not performed any tests of controls, Respondents had no basis to rely on the data in those schedules. In addition, Freeman and the Firm failed to reconcile the schedules to revenue reported in the financial statements.

15. In 2010, FullNet's financial statements reported other income of approximately $1.2 million. According to the public filings, this other income was the result of FullNet determining that certain outstanding liabilities were no longer collectible and should be written off. Freeman and Firm failed to perform sufficient procedures to corroborate management's representations regarding the treatment of the debt.

16. During the 2011 audit, Freeman and the Firm failed to adequately plan and perform the audit in accordance with PCAOB audit standards. Respondents inappropriately assessed the inherent and control risks for many accounts, including accounts receivables and sales, resulting in insufficient audit testing. Respondents also failed to properly test journal entries.

17. As in 2010, Freeman and the Firm repeatedly relied on analytical review procedures as substantive audit tests during the 2011 audit, when such procedures did not constitute substantive analytical procedures.[21/] Respondents again failed to test the accuracy of data reflected in the revenue schedules and, having not performed any tests of controls, had no basis to rely on the data in those schedules.

Audits of Revolutions' 2010-2011 Financial Statements

18. Revolutions is, and at all relevant times was, a Nevada corporation headquartered in Charleston, South Carolina that designs, develops and commercializes auto retractable vacuum safety syringes. Its common stock was

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[20/] AU §§ 329.09-.21, *Analytical Procedures*.

[21/] AU §§ 329.09-.21.

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registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. At all relevant times, Revolutions was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

19. The Firm issued an audit report dated March 30, 2011, expressing an unqualified opinion on Revolutions' financial statements for the year ended December 31, 2010, that accompanied Revolutions' Form 10-K filed with the Commission on March 31, 2011.[22/] On September 16, 2011, Revolutions' filed a Form 10-K/A with the Commission that amended and restated Revolutions' financial statements and related disclosures for the period ended December 31, 2010.[23/] The Firm issued a revised audit opinion, dated September 1, 2011, in connection with Revolutions' Form 10-K/A. For the subsequent year, the Firm issued an audit report dated March 30 2012, expressing an unqualified opinion, with an explanatory going concern paragraph, on Revolutions' 2011 financial statements in Revolutions' Form 10-K filed with the Commission on the same day.[24/] Freeman served as the lead audit partner on the Revolutions engagements and authorized the issuance of all relevant audit reports.

20. During the 2010 audit, Freeman and the Firm failed to adequately plan the audit. Other than using a standardized audit program and checklists, Respondents failed to take any steps to obtain a level of knowledge of the company's business to enable them to appropriately plan and perform the audit.[25/]

[22/] The audit report included an explanatory going concern paragraph, and included an incorrect issuance date of March 30, 2010. This date was subsequently corrected to March 30, 2011, as part of Revolutions' 2010 Form 10-K/A, filed September 16, 2011.

[23/] The restatement included, among other errors, the acknowledgment that Revolutions had failed to bifurcate a convertible debt agreement and fair value the associated embedded derivative as an embedded derivative liability in its 2010 financial statements.

[24/] On May 2, 2013, Revolutions filed a Form 10-K for the year ended December 31, 2012, with the Commission that restated its 2011 financial statements to correct, among other errors, the $311,000 gain from litigation and the corresponding amount reflected as due from litigation based on uncertain collectability of the gain. The Firm issued an unqualified audit opinion with an explanatory going concern paragraph on both Revolutions' 2012 and restated 2011 financial statements.

[25/] AU § 311.06.

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21. Respondents also failed to exercise due professional care and failed to obtain sufficient competent evidential matter to support its opinion on Revolution's 2010 financial statements. Revolutions reported fixed assets of $812,478 for the year ended December 31, 2010, which accounted for 65% of reported assets. Freeman and the Firm failed to test the 2010 additions to the fixed assets against any supporting documents and corroborate that it was appropriate to capitalize such costs. Respondents also failed to assess the reasonableness of the company's depreciation method and calculation. They further failed to test journal entries.

22. Freeman and the Firm also failed to obtain sufficient evidence to test other current assets, which accounted for 24% of reported assets. Freeman and the Firm understood this reported asset to be substantially comprised of prepaid consulting fees, but they failed to obtain evidence corroborating that such costs had a future benefit and were appropriately reported as an asset. Freeman and the Firm also failed to properly test the reported notes payable. For expenses reported during 2010, Freeman and the Firm performed only high level analytical review procedures that were not substantive in nature.

23. In conducting the 2011 audit, Respondents failed to exercise due care and professional skepticism and failed to obtain sufficient appropriate audit evidence in performing the substantive audit work.[26/] For example, Revolutions reported property and equipment of $1,185,664 as of December 31, 2011. Despite being the largest reported asset as of December 31, 2011, Freeman and the Firm again failed to test the new additions to property and equipment against supporting documentation and failed to assess whether it was appropriate to capitalize such costs. For prepaid expenses, which accounted for 16% of reported assets, Freeman and the Firm failed to test such costs against supporting documentation and assess whether such costs had a future benefit and qualified as an asset.

24. Apart from inquiries with management, Freeman and the Firm failed to obtain any audit evidence to support the existence and valuation of a reported receivable and gain related to settlement of litigation.[27/] Freeman and the Firm also relied solely on management inquiries and failed to obtain audit evidence to corroborate the value of embedded derivatives relating to convertible debt.[28/] For example,

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[26/] AU § 230; AS No. 15.

[27/] AS No. 15.

[28/] AU §326; AS No. 15

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Freeman and the Firm failed to evaluate the qualifications of a specialist used by the company to value the derivatives, and obtain an understanding of the methods and assumptions used by the specialist.[29/] Finally, for most other income and expenses recognized in 2011, Freeman and the Firm performed only high level analytical procedures that did not constitute substantive analytical procedures.[30/]

Audit of NightCulture's 2011 Financial Statements

25. NightCulture is, and at all relevant times was, a Nevada corporation headquartered in Houston, Texas. According to its public filings, NightCulture promotes, produces, and sells merchandise at live concerts. Its common stock is registered under Section 12(g) of the Exchange Act and traded on the OTC Bulletin Board. At all relevant times, NightCulture was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

26. The Firm issued an audit report dated March 29, 2012, expressing an unqualified opinion with an explanatory going concern paragraph, on NightCulture's financial statements for the year ended December 31, 2011, that accompanied NightCulture's Form 10-K filed with the Commission on March 30, 2012. Freeman served as the lead audit partner on the NightCulture engagement and authorized the issuance of the March 29, 2012 audit report.

27. During the 2011 audit, Freeman and the Firm failed to adequately plan the audit in accordance with PCAOB standards by failing to appropriately assess the inherent and control risks for significant audit areas, such as notes payable and long-term debt.[31/]

28. In 2011, prior to its name change, NightCulture participated in a reverse merger with NightCulture, Inc., a private entity. The acquisition was accounted for as a reverse merger. Consequently, the assets, liabilities and operations of the acquired company were reflected in the financial statements of NightCulture's 2011 Form 10-K as NightCulture's 2010 financial statements. Freeman and the Firm failed to perform any procedures to audit the acquired company's assets and liabilities as of December 31, 2010, and results of its operations for 2010. As such, Freeman and the Firm had no

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29/ AU § 336, *Using the Work of a Specialist*.

30/ AU § 329.09-.21.

31/ AS No. 9; AS No. 15.

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basis to opine on the 2010 financial statements of NightCulture in the March 29, 2012 audit report.

29. With respect to NightCulture's 2011 financial statements, Freeman and the Firm failed to test NightCulture's journal entries. Respondents also failed to obtain sufficient appropriate audit evidence in critical aspects of the audit.[32/] For example, NightCulture reportedly generated revenue primarily from the promotion and production of live music events, and recognized revenue after the performance occurred and settlement of the event took place. Rather than perform substantive audit procedures, Freeman and the Firm performed only high level analytical reviews of reported monthly revenue and expenses that did not constitute substantive analytical procedures.[33/] Respondents failed to develop sufficiently precise expectations and failed to investigate or evaluate significant unexpected differences identified in the audit. They also failed to test the accuracy of data in the analytics and, having not performed any tests of controls, had no basis to rely on the data.

30. Freeman and the Firm also failed to obtain sufficient appropriate audit evidence to support the $55,500 reported gain on the forgiveness of debt, which was material to NightCulture's 2011 financial statements.[34/] Further, NightCulture disclosed that it had entered into a financing arrangement in March 2011 that resulted in the issuance of convertible debentures. Freeman and the Firm relied solely on management representations and failed to obtain any sufficient appropriate audit evidence regarding the fair valuation of the embedded derivatives related to the convertible debentures.

31. Finally, NightCulture's 2011 Form 10-K disclosed $131,000 of notes receivable related to a loan from NightCulture to Stereo Live, Inc., whose Chief Executive Officer and 50 percent owner, Mike Long, was also the CEO of NightCulture. Freeman was aware of this connection and, as part of the 2011 audit, instructed Mike Long to send himself a confirmation of this receivable. Freeman failed to consider whether or not this loan from NightCulture to a corporation owned and controlled by the CEO of NightCulture might constitute an illegal act. As a result, Respondents violated Section 10A(a) of the Exchange Act by failing to include in the audit, procedures

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[32/] AS No. 15.

[33/] AU § 329.09-.21.

[34/] AS No. 15.

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designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts.[35/]

Audit Documentation Failure

32. In addition to the audit deficiencies identified above, Freeman and the Firm also failed to comply with AS No. 3 in connection with the Audits. The audit documentation prepared by Freeman for the Audits consisted primarily of incomplete audit program checklists, and did not contain sufficient information to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, conclusions reached, and the dates such work was completed and reviewed.[36/]

33. Freeman also failed to complete an engagement completion document that identified the significant findings or issues, such as matters that could result in a modification of the audit report and audit adjustments in connection with the Audits.[37/]

34. Further, Freeman failed to comply with AS No. 3 in connection with the 2010 audits of FullNet and Revolutions by adding and modifying audit documentation after the audit documentation completion date, without recording the date that information was added, or the reason for adding it.[38/] In both instances, Freeman added documents to the audit documentation months after the 45-day audit completion date had passed.

Respondents Failed to Comply with
Audit Partner Rotation Requirements

35. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[39/] "[A] registered public accounting firm or associated person's independence obligation with respect to an audit client that is an

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35/ See 15 U.S.C. § 78j-1(a)(1).

36/ AS No. 3, at ¶ 6.

37/ AS No. 3, at ¶¶ 12-13.

38/ AS No. 3, at ¶¶ 15-16.

39/ See PCAOB Rule 3520; see also AU §§ 220.

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issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws."[40/]

36. Section 10A(j) of the Exchange Act provides, "[i]t shall be unlawful for a registered public accounting firm to provide audit services to an issuer if the lead (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, has performed audit services for that issuer in each of the 5 previous fiscal years of that issuer."

37. Exchange Act Rule 10A-2 provides that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the partner rotation requirements of Commission Regulation S-X.

38. Rule 2-01 of Commission Regulation S-X provides that an accountant is not independent of an audit client when an audit partner performs the services of lead or concurring audit partner for the same issuer for more than five consecutive years and within the five consecutive year period following the performance of services for the maximum period permitted.[41/]

39. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from omitting to take an action knowing, or recklessly not knowing, that the omission would directly and substantially contribute to violations by that firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.[42/]

40. As described below, Respondents failed to comply with Exchange Act 10A-2 and PCAOB rules and standards, the Firm failed to comply with Section 10A(j) of

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[40/] PCAOB Rule 3520, Note 1.

[41/] See Rule 2-01 of Regulation S-X, 17 C.F.R. §§ 210.2-01. At all relevant times, the Firm had five or more audit clients that were issuers and did not qualify for the small firm exemption. Id. at § 210.2-01 (c)(6)(ii).

[42/] See PCAOB Rule 3502.

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the Exchange Act, and Freeman directly and substantially contributed to the Firm's violations of Section 10A(j) of the Exchange Act.

Audits of NightCulture's Financial Statements

41. The Firm was engaged as NightCulture's external auditor in November 2004. The Firm issued audit reports that were included in NightCulture's financial statements filed with the Commission, expressing unqualified opinions on NightCulture's year ended financial statements in five consecutive fiscal years between 2004 and 2008.[43/] Freeman served as the lead audit partner on the NightCulture engagements and authorized the issuance of all audit reports during this five year period.

42. After serving as lead audit partner for the aforementioned five year period, Freeman continued to serve as lead audit partner on the audits of NightCulture's financial statements for the fiscal years ended December 31, 2009 through December 31, 2011, in violation of Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520 and AU § 220.

Audits of Revolutions Financial Statements

43. The Firm issued audit reports on financial statements included in Revolutions' filings with the Commission, expressing unqualified opinions on Revolution's financial statements in consecutive fiscal years between 2003 and 2007.[44/] Freeman served as the lead audit partner on the Firm's engagement during the audit of Revolutions' 2003 financial statements through the audit of Revolutions' 2007 financial statements.

44. After serving as lead partner for the aforementioned five year period, Freeman continued to serve as the lead partner on the audits of Revolutions financial statements for the years ended December 31, 2008 through December 31, 2011, in violation of Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520 and AU § 220.

[43/] All of these audit reports included explanatory going concern paragraphs.

[44/] All of these audit reports included explanatory going concern paragraphs.

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Respondents Failed to Comply with
Engagement Quality Review Requirements

45. PCAOB Auditing Standard No. 7, *Engagement Quality Review*, provides that an engagement quality review and concurring approval of issuance are required for all audits and interim reviews for fiscal years beginning on or after December 15, 2009.[45/] Pursuant to AS No. 7, a firm may grant permission to a client to use the engagement report only after the engagement quality reviewer provides concurring approval of issuance.[46/]

46. AS No. 7 required that the Firm have an engagement quality review performed on the fiscal year 2010 and 2011 audits of FullNet, Revolutions, and NightCulture. In October 2010, Freeman contacted a former audit partner of the Firm about serving as an engagement quality reviewer. That partner initially agreed, but then allowed his certified public accountant license to lapse and declined to serve in the role of an engagement quality reviewer. Other efforts by Freeman and the Firm to identify an engagement quality reviewer were unsuccessful and no engagement quality review was performed for the Audits. As a result, for the 2010 and 2011 audits of FullNet, Revolutions, and NightCulture, the Firm violated AS No. 7.

47. Freeman knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS No. 7 when he improperly permitted the issuance of the audit opinions by the Firm without an engagement quality review and concurring approval of issuance.[47/]

Respondents Received Notice from PCAOB Inspections of Independence and
Engagement Quality Review Problems Prior to Issuing 2011 Audit Reports

48. In October 2011, the Firm was inspected by the PCAOB's Division of Registration and Inspections. As part of that process, the PCAOB inspection staff reviewed the Firm's audits of the 2010 financial statements of FullNet and Revolutions, and reviewed the Firm's independence with respect to NightCulture. The PCAOB inspection staff brought to the Firm's attention apparent failures by the Firm to both comply with independence requirements related to lead partner rotation for Revolutions

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45/ See AS No. 7 ¶ 1.

46/ See AS No. 7 ¶ 13.

47/ See PCAOB Rule 3502.

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and NightCulture and to obtain an engagement quality review and concurring approval of issuance for the 2010 Audits.

49. Despite acknowledging the PCAOB inspection staff's findings, Freeman continued to serve as the lead audit partner with final responsibility for the Firm's audits of the 2011 financial statements of both Revolutions and NightCulture, and Respondents failed to obtain an engagement quality review and concurring approval of issuance for the 2011 audits of FullNet, Revolutions, or NightCulture. Further, Respondents prepared and included memoranda in the audit documentation for the 2011 audits of NightCulture and Revolutions documenting the independence problems and, in the case of NightCulture, acknowledging that the audit was completed without the required engagement quality review. On March 29, 2012, Freeman authorized the issuance of the Firm's audit reports that were included in the Form 10-Ks that FullNet and NightCulture filed with the Commission. On March 30, 2012, Freeman authorized the issuance of the Firm's audit report that was included in the Form 10-K that Revolutions filed with the Commission. For each of these audit reports, Respondents asserted that the audit had been conducted in accordance with the auditing standards of the PCAOB.

Respondents Violated Section 10(b) of the Exchange Act and Commission Rule 10b-5

50. Section 10(b) of the Exchange Act and Commission Rule 10b-5 thereunder prohibit a person, in connection with the purchase or sale of a security, from making an untrue statement of a material fact or from omitting to state a material fact necessary to make statements made, in light of the circumstances under which they were made, not misleading.[48/] To violate Section 10(b) or Rule 10b-5, a defendant must act with scienter,[49/] which the Supreme Court has defined as "a mental state embracing intent to deceive, manipulate, or defraud."[50/] Scienter encompasses knowing or intentional conduct, or recklessness.[51/]

48/ See Section 10(b) of the Exchange Act; Exchange Act Rule 10b-5, *Employment of Manipulative and Deceptive Practices*, 17 C.F.R. § 240.10b-5(b).

49/ *Aaron v. SEC*, 446 U.S. 680, 695, 701-02 (1980).

50/ *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 n.12 (1976).

51/ See, e.g., *IIT v. Cornfeld*, 619 F.2d 909, 923 (2d Cir. 1980).

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51. An auditor violates Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by issuing an audit report stating that the audit has been performed in accordance with PCAOB standards when it knows, or is reckless in not knowing, that the statement is false.[52/] These statements are clearly material, as "[f]ew matters could be more important to investors than that of whether an issuer's financial statements, contained in its filings with the Commission, had, in fact, been subjected to an annual audit conducted in accordance with [PCAOB standards] in all material respects."[53/]

52. The Firm violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder when it issued audit reports falsely stating that the 2011 audits of FullNet, Revolutions, and NightCulture were conducted in accordance with PCAOB standards when Respondents knew, or were reckless in not knowing, that few substantive audit procedures were performed prior to the issuance of the Firm's audit reports; that the Firm was not independent of Revolutions and NightCulture, and that the Firm had not obtained an engagement quality review and concurring approval of issuance for the 2011 Audits.

53. Freeman knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder when he improperly authorized the issuance of the Firm's 2011 audit opinions falsely stating that the audits were conducted in accordance with PCAOB standards.[54/]

D. Respondents Violated PCAOB Rules and Standards Related to Quality Control

54. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[55/] PCAOB quality control standards require that a

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[52/] See *Lawrence H. Wolfe, CPA*, PCAOB Rel. No. 105-2012-005, at *5 (Sep. 7, 2012); *In re: The Blackwing Group, LLC and Sara L. Jenkins, CPA*, PCAOB Rel. No. 105-2009-007, at *9-10 (Dec. 22, 2009); *In re: Moore & Associates, Chartered, and Michael J. Moore, CPA*, PCAOB Rel. No. 105-2009-006, at *16 (Aug. 27, 2009); *In re: Richard P. Scalzo, CPA*, Exchange Act Rel. No. 48328, 2003 SEC LEXIS 1915, at *1 (August 13, 2003).

[53/] *Scalzo*, 2003 SEC LEXIS 1915, at *52-53.

[54/] PCAOB Rule 3502.

[55/] PCAOB Rule 3100; PCAOB Rule 3400T.

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registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[56/] PCAOB quality control standards state that policies and procedures "should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[57/] Additionally, PCAOB quality control standards provide that policies and procedures "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied," and that "its system of quality control is effective."[58/]

55. PCAOB rules prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation of Board standards by that firm.[59/]

56. When the Firm filed its Application for Registration with the PCAOB in 2003, it submitted a set of quality control policies covering, among other things, personnel management, engagement performance, and monitoring. Although the Firm underwent ownership changes subsequent to the initial Application for Registration, the Firm did not modify or update its quality control policies or procedures to reflect the new structure of the Firm, or to address the requirements of new PCAOB standards, such as AS No. 7.

57. Moreover, the Firm did not follow or monitor the policies in place during the Audits. No engagement quality review and concurring approval of issuance occurred for any of the Audits, despite the Firm's policy that "[o]n SEC reporting engagements, a second review of the report, financial statement and selected work papers by the Audit Manager or Shareholder having no other significant responsibilities on the engagement is required."

[56/] QC § 20.02, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[57/] QC § 20.17.

[58/] QC § 20.20; see also QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[59/] PCAOB Rule 3502.

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58. Further, the Firm's system of quality control also failed to provide reasonable assurance that engagement personnel complied with PCAOB audit documentation requirements, as set forth in AS No. 3. As noted above, as a result, the Firm's Audits violated AS No. 3 in multiple respects.

59. Overall, the Firm's monitoring procedures, taken as a whole, did not enable the Firm to obtain reasonable assurance that its system of quality control was effective.[60/] For example, the Firm did not take appropriate steps to monitor whether its associated persons were, in fact, complying with Firm policies engagement quality review or audit documentation.

60. As a consequence of these violations, the Firm failed to comply with PCAOB quality control standards in connection with the Audits. Freeman, as the Firm's sole audit partner, took, or omitted to take, actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of PCAOB quality control standards, in contravention of PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Hood & Associates CPAs, P.C. and Rick C. Freeman, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Rick C. Freeman, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

C. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration Hood & Associates CPAs, is revoked;

60/ See QC § 30.02-.03.

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D. After three (3) years from the date of the Order, Hood & Associates CPAs, P.C. may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Hood & Associates CPAs, P.C. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Hood & Associates CPAs, P.C. shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Hood & Associates CPAs, P.C. as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 21, 2013

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Harris F Rattray CPA, PL, and Harris F. Rattray, CPA,* Respondents.	PCAOB Release No. 105-2013-009 November 21, 2013

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Harris F Rattray CPA, PL (the "Firm"), and Harris F. Rattray, CPA ("Rattray"), revoking the registration of the Firm, and barring Rattray from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the Firm and Rattray (collectively, "Respondents") on the basis of its findings that Respondents violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder, Section 10A(a) of the Exchange Act, and PCAOB rules and auditing standards in connection with (a) audits of the financial statements of four issuer clients and (b) audits of the internal control over financial reporting ("ICFR") of one of those issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against the Firm and Rattray.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings,

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which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1/]

III.

On the basis of Respondents' Offers, the Board finds[2/] that:

A. Respondents

1. Harris F Rattray CPA, PL, is a public accounting firm located in Miramar, Florida.[3/] The Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules since 2006.

2. Harris F. Rattray, CPA, 59, of Miramar, Florida, is a certified public accountant licensed by the State of Florida (license no. AC36976). He is the sole owner and associated person of the Firm, had final responsibility for all of the audits discussed herein, and authorized the issuance of all audit reports discussed herein. Rattray is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

[1/] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2/] The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3/] The Firm originally registered and issued the audit reports discussed herein under the name of "Harris F. Rattray CPA." In its 2011 and 2012 Forms 2 filed with the Board, the Firm identified itself as "Rattray & Associates CPA, LLC."

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B. Summary

3. This matter concerns Respondents' numerous and repeated violations of the Exchange Act and PCAOB rules and auditing standards in connection with the issuance of audit reports for four issuers: Patient Portal Technologies, Inc. ("Patient Portal"); AvWorks Aviation Corp. ("AvWorks"); Caribbean Pacific Marketing, Inc. ("CPM"); and Urban Ag. Corp ("Urban Ag."). As detailed below, Respondents issued reports containing unqualified audit opinions concerning the financial statements of CPM and Urban Ag. and representing that the audits had been conducted in accordance with PCAOB standards, under circumstances in which Respondents knew, or were reckless in not knowing, that these representations were false. Respondents also issued reports containing unqualified audit opinions concerning Patient Portal's ICFR and representing that the audits had been conducted in accordance with PCAOB standards, under circumstances in which Respondents knew, or were reckless in not knowing, that these representations were false. Respondents' conduct with regard to these reports violated Exchange Act Section 10(b) and Rule 10b-5 thereunder.

4. Furthermore, during the audits of Patient Portal's financial statements for the years ended December 31, 2008 and 2009, the audits of AvWorks's financial statements for the years ended December 31, 2010 and 2011, and the audit of Urban Ag.'s financial statements for the year ended December 31, 2011, Respondents violated PCAOB auditing standards by failing, among other things, to plan and sufficiently perform audit work on critical aspects of the audits. Additionally, during their audit of AvWorks's financial statements for the year ended December 31, 2011, Respondents violated Exchange Act Section 10A(a) by failing to include procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts.

C. Background

5. At the time Respondents began to perform audits of the financial statements and ICFR of issuer clients in early 2008, Rattray had never been involved in an audit conducted in accordance with PCAOB auditing standards. He attended college, was certified as a Chartered Accountant, and was trained as an auditor in Kingston, Jamaica. From 1973 until 1983, Rattray worked at the Jamaican affiliate of a global accounting network, rising to the level of manager, and audited, under British auditing standards, the financial statements of companies that used British accounting standards. From 1985 to 1995, Rattray was chief financial officer of a privately held company in Kingston, Jamaica. In addition, from 1983 until 2003, he managed a business college in Kingston, Jamaica, that provided accounting training, also with reference to British accounting standards.

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6. Rattray took courses in bookkeeping and obtained a master's degree in accounting in the United States in 2005. Rattray became licensed as a certified public accountant in the State of Florida in June 2004. From 2004 to 2007, Rattray worked on the accounting staff of a Board of County Commissioners in Florida.

7. At the time he began performing public audits in 2008, Rattray had not performed audits for twenty-five years. Rattray had no work experience in the United States relating to U.S. GAAP or auditing under PCAOB auditing standards. Yet prior to issuing unqualified audit opinions for his audit clients as discussed in this Order, Rattray did not educate himself about current PCAOB auditing standards.

D. Respondents' Violations of the Exchange Act and PCAOB Rules and Auditing Standards

8. Section 10(b) of the Exchange Act and Rule 10b-5 thereunder prohibit a person, in connection with the purchase or sale of a security, from making an untrue statement of a material fact or from omitting to state a material fact necessary to make statements made, in light of the circumstances under which they were made, not misleading.[4/] To violate Section 10(b) or Rule 10b-5, a respondent must act with scienter,[5/] which the Supreme Court has defined as "a mental state embracing intent to deceive, manipulate, or defraud."[6/] Scienter encompasses knowing or intentional conduct, or recklessness.[7/] An auditor violates Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by issuing an audit report stating that the audit has been performed in accordance with PCAOB standards when he or she knows, or is reckless in not knowing, that the statement is false.[8/]

4/ See 15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5.

5/ See *Aaron v. SEC*, 446 U.S. 680, 695, 701-02 (1980).

6/ *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 n.12 (1976).

7/ See, e.g., *IIT v. Cornfeld*, 619 F.2d 909, 923 (2d Cir. 1980).

8/ See *P. Parikh & Associates, Ashok B. Rajagiri, CA, Sandeep P. Parikh, CA, and Sundeep P S G Nair,* CA, PCAOB Release No. 105-2013-002 (Apr. 24, 2013); *Lawrence H. Wolfe, CPA*, PCAOB Release No. 105-2012-005, at *5 (Sept. 7, 2012); *The Blackwing Group, LLC and Sara L. Jenkins, CPA*, PCAOB Release No. 105-2009-007, at *9-10 (Dec. 22, 2009); *Moore & Associates, Chartered and Michael J. Moore, CPA*, PCAOB Release No. 105-2009-006, at *16 (Aug. 27, 2009); *In re Richard P.*

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9. Section 10A(a) of the Exchange Act requires, among other things, that every audit of an issuer must include, among other things, "procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts."[9/]

10. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards.[10/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[11/] Among other things, those standards require that an auditor exercise due professional care.[12/] For audits of fiscal years beginning before December 15, 2010, those standards required that the auditor obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[13/] For audits of fiscal years beginning on or after December 15, 2010, those standards require that the auditor plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his opinion.[14/] Among the elements of due professional care is professional skepticism, "an attitude that includes a questioning mind and a critical assessment of audit evidence."[15/] An auditor acting with professional skepticism "should not be satisfied with less than persuasive evidence because of a belief that management is honest."[16/]

Scalzo, CPA, Exchange Act Release No. 48328, 2003 SEC LEXIS 1915 (Aug. 13, 2003).

9/ 15 U.S.C. § 78j-1(a)(1).

10/ See PCAOB Rules 3100, 3200T.

11/ See AU § 508.07, *Reports on Audited Financial Statements.*

12/ See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*

13/ See AU § 326, *Evidential Matter*.

14/ See Auditing Standard No. 15, *Audit Evidence* ("AS 15").

15/ AU § 230.07.

16/ AU § 230.09.

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11. For audits of financial statements for years beginning on or after December 15, 2009, PCAOB standards require that auditors obtain an engagement quality review for each audit and interim review engagement conducted pursuant to the standards of the Board.[17/]

12. As detailed below, Respondents failed to comply with the aforementioned laws, rules, and standards, among others, in connection with certain of their audits of Patient Portal, AvWorks, CPM, and Urban Ag.

Integrated Audits of Patient Portal's Financial Statements and ICFR

13. Patient Portal was, at all relevant times, a Delaware corporation with its principal executive offices in Baldwinsville, New York. According to its public filings, Patient Portal delivered technology services to healthcare institutions through its Patient Portal Connect, Inc. ("PPC"), and TB&A Hospital Television, Inc. ("TB&A"), operating subsidiaries. At all relevant times, Patient Portal's common stock was registered under Section 12(g) of the Exchange Act and was traded on the OTC Bulletin Board. Patient Portal was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). On October 12, 2010, Patient Portal submitted a Form 15 to the Securities and Exchange Commission ("Commission") to terminate its registration.

2008 Audit of Patient Portal

14. In an audit report dated April 10, 2009, Respondents expressed an unqualified opinion on Patient Portal's 2008 financial statements that was included in Patient Portal's Form 10-K filed with the Commission on April 14, 2009. In the report, Respondents stated that they had audited Patient Portal's financial statements in accordance with PCAOB standards and that Patient Portal's financial statements presented fairly, in all material respects, the company's financial position as of December 31, 2008 and its results of operations for the year ended December 31, 2008. The report also stated that Respondents had audited Patient Portal's ICFR in accordance with PCAOB standards, and expressed an unqualified opinion concerning the effectiveness of the company's ICFR as of December 31, 2008. Respondents' unqualified opinion concerning Patient Portal's ICFR was also provided in a separate report contained in the same Form 10-K, which stated that the ICFR audit had been conducted in accordance with PCAOB standards.

[17/] See Auditing Standard No. 7, *Engagement Quality Review* ("AS 7").

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15. At the time of Respondents' audit of Patient Portal for the year ended December 31, 2008, Rattray was not aware of PCAOB Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements* ("AS 5"). Respondents took no steps to learn what procedures were required to perform an ICFR audit in accordance with PCAOB standards, and Respondents performed no ICFR procedures in connection with the audit.

16. Respondents violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by their issuance of an audit report that falsely stated that the audit of Patient Portal's ICFR as of December 31, 2008 had been conducted in accordance with PCAOB standards, when Respondents knew, or were reckless in not knowing, that they had failed to perform any ICFR audit procedures in connection with the issuance of their ICFR opinion.

17. Respondents also violated PCAOB rules and auditing standards in conducting their audit of Patient Portal's financial statements for the year ended December 31, 2008. Among other things, Respondents failed to plan the audit by failing to: develop an overall strategy for the expected conduct and scope of the audit; determine the nature, extent, and timing of the work to be performed; and prepare a written audit program setting forth the audit procedures they believed were necessary to accomplish the objectives of the audit.[18/]

18. Respondents failed to exercise due care and obtain sufficient competent evidential matter concerning significant balances and transactions in Patient Portal's financial statements.[19/] For example, Patient Portal's consolidated financial statements reflected the operations of its two subsidiaries, PPC and TB&A. Respondents' audit work papers indicated that PPC represented 58% of the assets and 73% of the liabilities of the consolidated company and had incurred a loss equal to 160% of the consolidated company's net loss for the year. Respondents performed no audit procedures related to PPC's financial statements.

19. In addition, Respondents understood that TB&A's revenue represented approximately 75% of Patient Portal's consolidated revenue, and its cost of sales represented approximately 78% of the company's consolidated cost of sales. Respondents failed to perform any audit procedures to test the existence or valuation

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[18/] See AU § 311, *Planning and Supervision*. References to PCAOB auditing standards in connection with each audit are to the versions of those standards in effect for that audit.

[19/] See AU § 230; AU § 326.

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of TB&A's revenues. Respondents also failed to test the cost of sales related to those revenues.

2009 Audit of Patient Portal

20. On March 15, 2010, Respondents expressed an unqualified opinion on Patient Portal's 2009 financial statements in an audit report that was included in Patient Portal's Form 10-K filed with the Commission on March 29, 2010. The report stated that Respondents had audited Patient Portal's financial statements in accordance with PCAOB standards and that Patient Portal's financial statements presented fairly, in all material respects, the company's financial position as of December 31, 2009 and its results of operations for the year ended December 31, 2009. The report also stated that Respondents had audited Patient Portal's ICFR in accordance with PCAOB standards, and expressed an unqualified opinion concerning the effectiveness of the company's ICFR as of December 31, 2009. Respondents' unqualified opinion concerning Patient Portal's ICFR was also provided in a separate report contained in the same Form 10-K, which stated that the ICFR audit had been conducted in accordance with PCAOB standards.

21. At the time of Respondents' December 31, 2009 audit of Patient Portal, Rattray was still not aware of AS 5. Respondents again took no steps to learn what procedures were required to perform an ICFR audit in accordance with PCAOB standards, and again failed to perform any required ICFR procedures in connection with the audit.

22. Respondents violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by their issuance of an audit report that falsely stated that the audits of Patient Portal's ICFR as of December 31, 2009 had been conducted in accordance with PCAOB standards, when Respondents knew, or were reckless in not knowing, that they had performed no ICFR audit procedures in connection with the issuance of their audit report containing an ICFR opinion.

23. Respondents also violated PCAOB rules and auditing standards in performing their audit of Patient Portal's financial statements for the year ended December 31, 2009. Respondents again failed to plan the audit, including by failing to: develop an overall strategy for the expected conduct and scope of the audit; determine the nature, extent, and timing of the work to be performed; and prepare a written audit program setting forth the audit procedures they believed were necessary to accomplish the objectives of the audit.[20/]

[20/] See AU § 311.

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24. Respondents failed to exercise due care and obtain sufficient competent evidential matter concerning significant balances and transactions in Patient Portal's financial statements.[21/] For the year ended December 31, 2009, Patient Portal reported approximately $16 million in revenue and $9 million in cost of sales. Other than relying on management's representations regarding revenue and cost of sales, Respondents failed to perform any audit procedures to test the existence or valuation of Patient Portal's revenue or related cost of sales.[22/]

25. In its 2009 financial statements, Patient Portal reported net accounts receivable of approximately $1.7 million, representing over 11% of Patient Portal's assets as of December 31, 2009. Respondents failed to perform any audit procedures to test the existence or valuation of the accounts receivable balance, including the reasonableness of the company's estimate of the allowance for doubtful accounts.

Audits of AvWorks's Financial Statements

26. AvWorks was, at all relevant times, a Nevada corporation with its principal executive offices in Sunrise, Florida. AvWorks's public filings disclosed that it supplied replacement airplane parts and supply-chain services to airlines and maintenance organizations. AvWorks's common stock was registered under Section 12(g) of the Exchange Act and was traded on the OTC Bulletin Board. At all relevant times, AvWorks was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

27. In November 2011, AvWorks engaged the Firm as its auditor for its 2010 and 2011 financial statements. Respondents expressed an unqualified opinion on AvWorks's December 31, 2011 and 2010 financial statements in an audit report dated April 5, 2012, that was included in AvWorks's Form 10-K for the period ended December 31, 2011 filed with the Commission on April 9, 2012. The report stated that Respondents had audited AvWorks's financial statements in accordance with PCAOB standards and that those financial statements presented fairly, in all material respects, the company's financial position as of December 31, 2011 and 2010, and its results of operations for the years ended December 31, 2011 and 2010.

28. For both the December 31, 2010 and December 31, 2011 audits, Respondents violated PCAOB auditing standards in several respects. For the 2010

[21/] See AU § 230; AU § 326.

[22/] See AU § 333.02, *Management Representations*.

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audit, Respondents failed to plan the audit, including by failing to: develop an overall strategy for the expected conduct and scope of the audit; determine the nature, extent, and timing of the work to be performed; and prepare a written audit program setting forth the audit procedures they believed were necessary to accomplish the objectives of the audit.[23/] For the 2011 audit, Respondents again failed to plan the audit by failing to: develop an overall strategy that set the scope, timing, and direction of the audit plan;[24/] and develop and document an audit plan that included a description of the nature, timing, and extent of the risk assessment procedures and tests of controls and substantive procedures.[25/]

29. In addition, Respondents failed to obtain an engagement quality review as required by PCAOB standards for the 2010 and the 2011 audits.[26/]

30. Respondents failed to exercise due care and obtain sufficient competent evidential matter concerning significant balances and transactions relating to AvWorks's financial statements for the years ended December 31, 2010 and December 31, 2011.[27/] For the year ended December 31, 2010, AvWorks's financial statements reported a related party receivable, consisting of a loan to its chief executive officer ("CEO"), of $24,920, representing 58% of the assets on its balance sheet. As of December 31, 2011, AvWorks's financial statements reported that the related party loan to the CEO was $20,138, representing 21% of the company's assets. PCAOB auditing standards require auditors perform certain procedures concerning related party transactions.[28/] Despite the disclosure, Respondents failed in 2010 and 2011 to perform any procedures to obtain and evaluate sufficient competent evidential matter concerning the loan.[29/]

[23/] See AU § 311.

[24/] See Auditing Standard No. 9, *Audit Planning* ("AS 9") ¶ 8.

[25/] See id. ¶ 10.

[26/] See AS 7.

[27/] See AU § 230; AU § 326 (audit evidence standard for 2010); AS 15 (audit evidence standard for 2011).

[28/] See AU § 334, *Related Parties*.

[29/] See id.

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31. AvWorks acquired the loan in October 2011 as part of a business combination with a privately held company, in which the President of the privately held company became the President, CEO, Chief Financial Officer, and Director of AvWorks. During the December 31, 2011 audit, Rattray failed to consider whether the loan might constitute an illegal act. As a result, Respondents violated Section 10A(a) of the Exchange Act by failing to include in the audit procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts.[30/]

32. Further, for the 2010 audit, Respondents performed no procedures to test the existence or valuation of the $551,426 that AvWorks reported as revenue, and performed no procedures to test the related reported cost of sales of $383,997.

33. Respondents also failed to perform any, or performed inadequate, procedures to test certain other significant amounts in AvWorks's balance sheet as of December 31, 2011, including accounts payable and accrued expenses, accounts receivable, and inventory. For example, AvWorks reported accounts payable and accrued expenses of $39,581, representing approximately 34% of AvWorks's total liabilities at year-end 2011. Nevertheless, Respondents failed to perform any procedures to test the existence, valuation, or completeness of the reported accounts payable and accrued expenses balance.

34. AvWorks reported accounts receivable of $19,030, representing approximately 20% of AvWorks's reported assets as of December 31, 2011. Seventy percent of the accounts receivable balance was owed by one customer on an invoice dated August 26, 2011 that was still outstanding when Respondents conducted their audit of AvWorks in April 2012. Respondents obtained a management representation regarding the collectability of the accounts receivable balance and questioned the reasonableness of management's accounting for the entire receivable balance. Respondents failed, however, to perform any procedures to test the existence or valuation of the accounts receivable balance.

35. AvWorks's reported inventory of $45,100 represented over 46% of its reported total assets as of December 31, 2011. Rattray identified inventory as significant to the audit. During the audit, Respondents visited the inventory location, but failed to document any procedures concerning the visit, including test counts. Respondents failed to obtain sufficient appropriate audit evidence to test the existence

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30/ See 15 U.S.C. § 78j-1(a)(1).

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of the inventory and whether the values included in the financial statements for inventory were appropriate.[31/]

Audit of CPM's Financial Statements

36. CPM was, at all relevant times, a Florida corporation with its principal executive offices in Boca Raton, Florida. CPM's public filings disclosed that it was a development-stage company founded on January 20, 2012 to market sun and skin care products. CPM filed a registration statement on Form S-1 with the Commission on March 9, 2012. The registration statement included an audit report containing an unqualified audit opinion issued by Respondents dated March 8, 2012. From the filing of its Form S-1 on March 9, 2012 until December 3, 2012, CPM was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).[32/]

37. CPM retained Respondents as its independent auditor sometime in early 2012. Respondents' March 8, 2012 report stated that Respondents had audited CPM's financial statements in accordance with PCAOB standards and that those financial statements presented fairly, in all material respects, the company's financial position as of February 24, 2012 and its results of operations for the period January 20 through February 24, 2012.

38. After CPM's Form S-1 filing on March 9, 2012, CPM management requested that Respondents issue an audit opinion for the period from the inception date of January 20, 2012 through and as of June 30, 2012 to be included in a Form S-1/A to be filed with the Commission. Respondents expressed an unqualified opinion on CPM's June 30, 2012 financial statements in an audit report dated August 6, 2012 that was included in CPM's Form S-1/As filed with the Commission on August 7 and August 24, 2012. The August 6 report stated that Respondents had audited CPM's financial statements in accordance with PCAOB standards and that those financial statements presented fairly, in all material respects, the company's financial position as of June 30, 2012 and its results of operations for the period January 20 through June 30, 2012.

[31/] See AS 15 ¶ 4.

[32/] CPM's registration statement became effective with the Commission on August 29, 2012. On October 29, 2012, the Commission instituted administrative proceedings in which its Division of Enforcement alleged that CPM's registration statement was materially misleading because it failed to disclose the fact that a barred attorney named William Reilly was involved in CPM's offering. The Commission suspended the effectiveness of CPM's registration statement on December 3, 2012.

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39. Prior to issuing their August 6, 2012 audit opinion on CPM's June 30, 2012 financial statements, Respondents failed to perform any audit procedures on the company's financial statements. In issuing the opinion, Respondents relied on (1) the work they had performed prior to issuing the March 8, 2012 audit opinion on CPM's February 24, 2012 financial statements; and (2) a management representation that CPM's expenses had increased by a minimal amount since February 24, 2012.

40. Respondents' audit concerning CPM's February 24, 2012 financial statements had not, however, complied with PCAOB standards. Respondents knew or were reckless in not knowing that they had failed to exercise due care and obtain sufficient competent evidential matter concerning significant balances and transactions in those financial statements.[33/] For example, CPM had reported cash of $5,134 as its only asset and accounts payable of $10,000 as its only liability as of February 24, 2012. Respondents failed to perform any procedures to test the existence or valuation of the cash or the existence, valuation, or completeness of the accounts payable balance.

41. Respondents obtained a management representation prior to issuing their August 6, 2012 opinion that CPM had incurred only a minimal amount of expenses between February 24, 2012 and June 30, 2012. Respondents failed to perform any procedures to test this representation.[34/] As a result, at the time the August 6, 2012 opinion was issued, Respondents were not aware that between February 24, 2012 and June 30, 2012, CPM's expenses had increased by over 29%, from a reported $34,866 to a reported $45,180. Additionally, Respondents again failed to perform any procedures to test the existence or valuation of CPM's only reported asset of cash, and failed to perform any procedures to test the existence, valuation, or completeness of the only reported liability, accounts payable of $15,200.

42. Respondents violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by their issuance of an audit report, dated August 6, 2012, that falsely stated that an audit of CPM's financial statements for the period ended June 30, 2012 had been conducted in accordance with PCAOB standards, when Respondents knew, or were reckless in not knowing, that they had not conducted an audit of CPM's June 30, 2012 financial statements prior to the issuance of their August 6, 2012 audit report.

33/ See AU § 230; AS 15.

34/ See AU § 333.02.

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Audits of Urban Ag.'s Financial Statements

43. Urban Ag. was, at all relevant times, a Delaware corporation with its principal executive offices in North Andover, Massachusetts. Urban Ag.'s public filings disclose that it provides outsourced services to companies in the construction and engineering industries. Urban Ag.'s common stock is registered under Section 12(g) of the Exchange Act and is traded in the OTCQB market. At all relevant times, Urban Ag. was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

44. In November 2012, Urban Ag. engaged the Firm as its auditor for its 2011 financial statements. Respondents expressed an unqualified opinion on Urban Ag.'s 2011 financial statements in an audit report dated November 16, 2012 that was included in Urban Ag.'s Form 10-K filed with the Commission on November 23, 2012. The report stated that Respondents had audited Urban Ag.'s financial statements for the year ended December 31, 2011 in accordance with PCAOB standards and that those financial statements presented fairly, in all material respects, the company's financial position as of December 31, 2011 and its results of operations for the year ended December 31, 2011. The report stated that the company's financial statements for all prior years, including the year ended December 31, 2010, had been audited by other auditors.

45. Respondents violated PCAOB rules and auditing standards in connection with their audit of Urban Ag.'s financial statements for the year ended December 31, 2011. For example, Respondents failed to plan the audit. Respondents failed to develop an overall strategy for the audit that set the scope, timing, and direction of the audit plan,[35/] or to develop and document an audit plan that included a description of the nature, timing, and extent of the risk assessment procedures and tests of controls and substantive procedures.[36/]

46. Respondents failed to exercise due care and obtain sufficient competent evidential matter concerning significant balances and transactions in Urban Ag.'s December 31, 2011 financial statements.[37/] For example, Urban Ag. disclosed in its Form 10-K for the year ended December 31, 2011 that during that year it had engaged in a business combination. During their audit, Respondents performed no audit

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35/ See AS 9 ¶ 8.

36/ See id. ¶ 10.

37/ See AU § 230; AS 15.

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procedures to assess whether the company had properly accounted for the business combination or whether its historical financial statements properly reflected the transaction.

47. For the year ended December 31, 2011, Urban Ag. reported net accounts receivable of approximately $1.8 million, or 82% of Urban Ag.'s total assets. Respondents failed to perform sufficient procedures regarding accounts receivable. To test receivables, Respondents selected certain items from a list of invoices for a nine day period in late December and agreed those items to the actual invoices. Other than this step, Respondents failed to perform any procedures to test the existence and valuation of accounts receivable, such as examining subsequent cash receipts, shipping documents, or other client documentation to provide audit evidence. Additionally, Respondents failed to perform any procedures to test the company's allowance for doubtful accounts.

48. Accounts payable represented approximately 39% of Urban Ag.'s liabilities as of December 31, 2011. Respondents failed, however, to conduct any procedures to test the existence, valuation, or completeness of the accounts payable balance.

49. Respondents also failed to obtain an engagement quality review for the 2011 audit.[38/]

50. On January 22, 2013, Urban Ag.'s management requested that Respondents perform an audit for the year ended December 31, 2010. On January 25, 2013, the company filed a Form 10-K/A that included a revised audit report, dated November 16, 2012, stating that Respondents had audited the company's financial statements for the years ended December 31, 2011 and 2010, and that the financial statements for the years ended December 31, 2009 and earlier had been audited by other auditors. The unqualified opinion stated that the audits of Urban Ag.'s financial statements for the years ended December 31, 2011 and 2010 had been conducted in accordance with PCAOB standards, and that the financial statements presented fairly, in all material respects, the company's financial position as of December 31, 2011 and 2010 and its results of operations for the years ended December 31, 2011 and 2010.

51. For the year ended December 31, 2010, Urban Ag. reported total assets of approximately $1.9 million, revenues of $6.3 million and net income of $2,504. Respondents failed to perform any audit procedures concerning Urban Ag.'s December 31, 2010 financial statements before issuing and authorizing the use of their revised unqualified audit opinion concerning those financial statements.

[38/] See AS 7.

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52. Respondents violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by their issuance of an audit report, dated November 16, 2012 and issued on or about January 25, 2013, that falsely stated that they had conducted an audit of Urban Ag.'s financial statements for the year ended December 31, 2010 in accordance with PCAOB standards, when Respondents knew, or were reckless in not knowing, that they had performed no audit procedures.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Harris F Rattray CPA, PL, is hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Harris F Rattray CPA, PL, is revoked;

C. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Harris F. Rattray, CPA, is hereby censured; and

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Harris F. Rattray, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 21, 2013

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of David T. Svoboda, CPA,* *Respondent.*	PCAOB Release No. 105-2013-011 November 21, 2013

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring David T. Svoboda, CPA ("Svoboda" or "Respondent"), and barring him from being an associated person of a registered accounting firm.[1/] The Board is imposing these sanctions on the basis of its findings that Svoboda: (a) violated PCAOB rules and auditing standards in connection with the audits of three issuer clients and the improper creation, addition, and backdating of audit documentation prior to a Board inspection; (b) directly and substantially contributed to a registered public accounting firm's violation of PCAOB quality control standards; and (c) violated Section 10A(g) of the Securities Exchange Act of 1934 ("Exchange Act") and PCAOB rules and standards in connection with the audits of two issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other

[1/] Svoboda may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

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proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2/]

III.

On the basis of Respondent's Offer and information obtained by the Board in this matter, the Board finds[3/] that:

A. Respondent

1. David T. Svoboda, age 53, of Bohemia, New York, is, and was at all relevant times, a certified public accountant licensed in the State of New York (License No. 083271). At all relevant times, Svoboda was a non-equity partner at Acquavella, Chiarelli, Shuster, Berkower & Co., LLP ("ACSB" or the "Firm"),[4/] and was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). At all relevant times, Svoboda was one of only two ACSB partners performing audits of public companies and was the leader of the Firm's public company audit practice. He was the auditor with final responsibility for the audits of the financial statements for the issuers identified in paragraph 2 below. Svoboda's employment with the Firm ended on or about September 30, 2011.

[2/] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3/] The sanctions that the Board is imposing on Respondent in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4/] See Acquavella, Chiarelli, Shuster, Berkower & Co., LLP, PCAOB Release No. 105-2013-010 (Nov. 21, 2013).

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B. Summary

2. This matter concerns Svoboda's failure to comply with PCAOB rules and auditing standards in connection with the audits of the 2009 financial statements of three issuer clients (collectively, "the Audits").[5/] In each of the Audits, Svoboda was the auditor with final responsibility and authorized issuance of the Firm's audit report. As detailed below, Svoboda failed to: (1) adequately supervise engagement personnel; (2) adequately plan and perform audit procedures related to the Audits; and (3) exercise due care and professional skepticism.

3. In addition, this matter concerns Svoboda's failure to comply with PCAOB Rule 4006, *Duty to Cooperate with Inspectors,* and Auditing Standard No. 3, *Audit Documentation* ("AS3"). In advance of the Board's inspection of the Firm in 2010, Svoboda, or those working at his direction, improperly created or altered audit documentation and added that documentation to the working papers in violation of Rule 4006. Further, in violation of AS3, the created or altered documentation did not indicate the date the documents were created or altered and added to the working papers, the name of the person who did so, or the reason for doing so.

4. During the relevant period, Svoboda was the partner in charge of the Firm's public company practice and was designated by the Firm as having responsibility for the quality of that practice. Despite those responsibilities, during the Audits, Svoboda took or omitted to take actions knowing, or recklessly not knowing, that his acts and/or omissions would directly and substantially contribute to ACSB's violation of PCAOB quality control standards, in contravention of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

5. Lastly, this matter concerns Svoboda's failure to comply with Section 10A(g) of the Exchange Act and PCAOB rules and standards that require a registered public accounting firm and its associated persons to be independent of the firm's audit client throughout the audit and professional engagement period. Specifically, with respect to two of the Audits, Svoboda prepared the consolidation and financial statements for the issuers.

[5/] Specifically, the Audits consist of ACSB's audits of the 2009 financial statements of: (a) Universal Travel Group ("Universal Travel"); (b) Home System Group ("Home System"); and (c) Sinocom Pharmaceutical, Inc. ("Sinocom").

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D. Respondent Violated PCAOB Rules and Auditing Standards

6. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[7/] Among other things, PCAOB standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[8/]

7. PCAOB auditing standards require that the auditor with final responsibility for the audit adequately plan the audit and supervise any assistants.[9/] "Supervision involves directing the efforts of assistants who are involved in accomplishing the objectives of the audit and determining whether those objectives were accomplished."[10/]

8. As detailed below, Svoboda failed to comply with these auditing standards in connection with the Audits.

Audit of 2009 Financial Statements of Universal Travel Group

9. Universal Travel Group was, at all relevant times, a Nevada corporation with its principal office in Shenzhen, the People's Republic of China ("PRC"). Universal Travel's public filings disclosed that it was a travel services provider engaged in providing air ticketing, hotel booking and packaged tourism services throughout the PRC via the internet, customer representatives and kiosks. During the relevant period,

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[6/] See PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards* and 3200T, *Interim Auditing Standards*.

[7/] AU § 508.07, *Reports on Audited Financial Statements.* All references to PCAOB auditing standards are to the versions of those standards in effect at the time of the audits.

[8/] AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; and AU § 326, *Evidential Matter*.

[9/] AU § 311, *Planning and Supervision*.

[10/] AU § 311.11.

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Universal Travel's common stock was registered with the Securities and Exchange Commission ("Commission") under the Exchange Act and was traded at various times on the OTC Bulletin Board, New York Stock Exchange ("NYSE") Amex, and NYSE.[11/] At all relevant times, Universal Travel was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

10. ACSB became the auditor for Universal Travel on June 30, 2009. The Firm audited Universal Travel's financial statements for the year ended December 31, 2009 and issued an unqualified opinion dated February 22, 2010, which was included in Universal Travel's Form 10-K filed with the Commission on March 5, 2010.[12/] The audit report stated that, in ACSB's opinion, Universal Travel's financial statements presented fairly, in all material respects, the issuer's financial position in conformity with accounting principles generally accepted in the United States ("U.S. GAAP"), and that ACSB's audit was conducted in accordance with PCAOB standards.

[11/] From January 1, 2009 through May 28, 2009 Universal Travel's common stock was registered under Section 12(g) of the Exchange Act and was traded on the OTC Bulletin Board. On April 14, 2009, the issuer filed a registration statement to register its common stock under Section 12(b) of the Exchange Act in connection with its listing on the NYSE Amex Market. On May 28, 2009, Universal Travel's common stock began trading on the NYSE Amex and also continued to trade on the OTC Bulletin Board. On October 27, 2009 Universal Travel's common stock began trading on the New York Stock Exchange. On April 26, 2012 the issuer filed a Form 25, Notification of Removal from Listing and/or Registration under Section 12(b) of the Exchange Act, voluntarily withdrawing its common stock from listing and registration on the NYSE. On September 27, 2013, the Commission issued an order revoking the registration of Universal Travel's securities due to the issuer's failure to file periodic reports with the Commission since September 30, 2011.

[12/] Although the Firm's audit opinion on the 2009 financial statements was unqualified, the Firm expressed an adverse opinion on Universal Travel's internal control over financial reporting, noting the identification of two material weaknesses including: "Lack of technical accounting expertise among financial staff regarding US GAAP and the requirements of the PCAOB, and regarding preparation of financial statements." The Firm's combined report stated that because of the effect of those material weaknesses "Universal Travel Group did not maintain effective internal control over financial reporting as of December 31, 2009," but that "[o]ur opinion on the effectiveness of internal control over financial reporting does not affect our opinion on the consolidated financial statements." Universal Travel Group Form 10-K (Mar. 5, 2010) at Item 8.

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11. The engagement team for ACSB's audit of Universal Travel's 2009 financial statements consisted of Svoboda, as the auditor with final responsibility, two assistants from the Firm, and assistants from a firm based in the PRC ("the China Firm").

12. Svoboda failed to comply with the applicable professional standards in connection with the 2009 Universal Travel audit. First, Svoboda failed to adequately plan the audit by failing to consider, or ensure his assistants considered, the nature, extent, and timing of work to be performed.[13/] The 2009 planning memorandum included in the Universal Travel working papers contained risk assessments and planned audit procedures that were not relevant to the issuer. The risk assessments and planned audit procedures included in the planning memorandum were copied from another company's audit and Svoboda and the engagement team failed to exercise due care to ensure that they were appropriate for the 2009 Universal Travel audit.[14/]

13. Audit field work occurred primarily at the issuer's headquarters in the PRC. Svoboda failed to adequately supervise the work of his assistants, including assistants from the China Firm. He failed to adequately direct the efforts of the assistants involved in accomplishing the objectives of the audit, including informing them of the objectives of the procedures that they were to perform.[15/]

14. The China Firm assistants performed a significant portion of the audit work. Svoboda failed to adequately review and supervise that work. As a result, he failed to determine whether the audit work was adequately performed and failed to evaluate whether the results of the audit work were consistent with the conclusions to be presented in the audit report.[16/]

15. During the Universal Travel audit, Svoboda failed to exercise due professional care and failed to obtain sufficient competent evidential matter to support ACSB's opinion on Universal Travel's 2009 financial statements.[17/] Specifically, Svoboda failed to obtain, or ensure the engagement team obtained, sufficient audit

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[13/] AU § 311.05.

[14/] AU § 230.

[15/] See AU §§ 311.11 - .12; AU § 230.06.

[16/] AU § 311.13.

[17/] See AU § 326; AU § 230.

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evidence to test the existence and valuation of Universal Travel's reported accounts receivable. In its 2009 Form 10-K, Universal Travel reported net accounts receivable totaling $17.3 million, approximately 20% of its reported assets. During the 2009 audit, the China Firm assistants working for Svoboda sent out positive confirmations for receivables totaling $10.9 million or approximately 63% of the net accounts receivable balance. However, the engagement team did not receive responses for accounts totaling one-third of the amounts selected for confirmation and Svoboda failed to perform, or ensure the engagement team performed, alternative procedures with respect to those nonresponses.[18/]

16. In its 2009 Form 10-K, Universal Travel reported that it generated revenue from four lines of business, namely, air-ticketing, hotel reservations, packaged-tours, and air cargo agency services. Universal Travel's financial statements disclosed that the issuer recognized packaged-tour revenue at the time that the tour was completed and that total revenues from its packaged-tour operations represented approximately 69% of Universal Travel's reported revenue in 2009. Svoboda and the engagement team failed to perform sufficient procedures to determine whether Universal Travel recognized its revenue in accordance with its disclosed policy.[19/]

17. Universal Travel's 2009 financial statements reported goodwill totaling $9.9 million or 11.5% of its total reported assets at December 31, 2009. Svoboda failed to appropriately test, or ensure that the engagement team appropriately tested, Universal Travel's goodwill for impairment. The working papers contained an analysis prepared by the issuer that contained management's goodwill impairment analysis. Svoboda failed to perform, or ensure that the engagement team performed, sufficient procedures to test the assumptions and estimates used in management's impairment analysis.[20/] Further, Svoboda and the engagement team failed to perform any audit procedures to corroborate management's representations concerning its impairment analysis.[21/]

18. Svoboda failed to obtain, or ensure that the engagement team obtained, sufficient competent evidential matter relating to material adjustments recorded in the issuer's consolidation at year-end, including an entry for $5 million in cash, representing

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[18/] See AU § 330.31, *The Confirmation Process*.

[19/] AU § 326.

[20/] AU §§ 342.07, .11, *Auditing Accounting Estimates.*

[21/] AU § 333.02, *Management Representations*.

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13.6% of total cash or 5.8% of Universal Travel's total reported assets at December 31, 2009. Svoboda and the engagement team failed to confirm or perform other audit procedures to verify the existence of this amount.[22/]

Audit of 2009 Financial Statements of Home System Group

19. Home System Group was, at all relevant times, a Nevada corporation with its principal office in Zhongshan City, PRC. Home System's public filings disclose that it was primarily engaged in the production of a variety of household appliances, including stainless steel gas grills and ovens, ceiling and table fans and decorative lamps. Its common stock was registered with the Commission under Section 12(g) of the Exchange Act and was traded on the OTC Bulletin Board and the Pink Sheets. At all times relevant to this Order, Home System was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

20. ACSB became the auditor for Home System on June 30, 2009. ACSB audited Home System's financial statements for the year ended December 31, 2009 and issued an unqualified opinion dated March 18, 2010, which was included in Home System's Form 10-K filed with the Commission on March 29, 2010. The audit report stated that, in ACSB's opinion, Home System's financial statements presented fairly, in all material respects, the issuer's financial position in conformity with U.S. GAAP and that ACSB's audit was conducted in accordance with PCAOB standards.

21. The engagement team for ACSB's audit of Home System's 2009 financial statements consisted of Svoboda, as the auditor with final responsibility, an assistant from the Firm, and assistants from the China Firm.

22. Svoboda failed to comply with the applicable professional standards in connection with the 2009 Home System audit. First, Svoboda failed to adequately plan the audit by failing to consider, or ensure his assistants considered, the nature, extent, and timing of work to be performed.[23/] The 2009 planning memorandum included in the Home System working papers contained risk assessments and planned audit procedures that were not relevant to the issuer. The risk assessments and planned audit procedures included in the planning memorandum were copied from another

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[22/] AU § 326; AU § 330.06.

[23/] AU § 311.05.

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company's audit and the engagement team failed to exercise due care to ensure that they were appropriate for the 2009 Home System audit.[24/]

23. Audit field work occurred primarily at the issuer's headquarters in the PRC. Svoboda failed to adequately supervise the work of his assistants, including assistants from the China Firm. He failed to adequately direct the efforts of the assistants involved in accomplishing the objectives of the audit, including informing them of the objectives of the procedures that they were to perform.[25/]

24. The China Firm assistants performed a significant portion of the audit work. Svoboda failed to adequately review and supervise that work. As a result, he failed to determine whether the audit work was adequately performed, and failed to evaluate whether the results of the audit work were consistent with the conclusions to be presented in the audit report.[26/]

25. During the Home System audit, Svoboda failed to exercise due professional care and failed to obtain sufficient competent evidential matter to support ACSB's opinion on Home System's 2009 financial statements.[27/] The issuer's 2009 financial statements reported goodwill totaling $25 million or 28% of Home System's total reported assets at December 31, 2009, the issuer's largest asset. In the footnotes to the 2009 Home System financial statements, management stated that goodwill was not impaired. The Home System working papers contained a cash flow projection prepared by management that appeared to be an impairment analysis of the issuer's goodwill as of December 31, 2009. Svoboda failed to perform, or ensure the engagement team performed, sufficient audit procedures to assess the reasonableness of the cash flow projection, including the relevance, sufficiency, and reliability of the data supporting the projection and the assumptions management made in formulating the projection.[28/] As a result, Svoboda failed to obtain, or ensure the engagement team obtained, sufficient competent evidential matter concerning the valuation of goodwill.

[24/] AU § 230.

[25/] See AU §§ 311.11 - .12; AU § 230.06.

[26/] AU § 311.13.

[27/] See AU § 326; AU § 230.

[28/] AU § 333; AU § 342.11.

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26. Additionally, with respect to the issuer's sale of a property, Home System reported a "gain on the transfer of the building" of $2.4 million in its 2009 financial statements, representing approximately 19% of its pre-tax income for the year. Svoboda failed to perform, or ensure the engagement team performed, sufficient audit procedures to test the valuation of the gain reported in the issuer's financial statements.[29/]

Audit of 2009 Financial Statements of Sinocom Pharmaceutical, Inc.

27. Sinocom Pharmaceutical, Inc. was, at all relevant times, a Nevada corporation with its principal office in Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong"). Sinocom's public filings disclose that it was a Chinese pharmaceutical company engaged in the wholesale distribution of pharmaceuticals and medical supplies and the cultivation and sale of natural herbs. During the relevant period, its common stock was registered with the Commission under Section 12(g) of the Exchange Act and was traded on the OTC Bulletin Board and the Pink Sheets.[30/] At all times relevant to this Order, Sinocom was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

28. ACSB became the auditor for Sinocom on July 1, 2009. The Firm audited Sinocom's financial statements for the year ended December 31, 2009, and issued an unqualified opinion dated March 25, 2010, which was included in Sinocom's Form 10-K filed with the Commission on March 31, 2010. The audit report stated that, in ACSB's opinion, Sinocom's financial statements presented fairly, in all material respects, the issuer's financial position in conformity with U.S. GAAP and that ACSB's audit was conducted in accordance with PCAOB standards.

29. The engagement team for ACSB's audit of Sinocom's 2009 financial statements consisted of Svoboda, as the auditor with final responsibility, an assistant from the Firm, and assistants from the China Firm.

30. Svoboda failed to comply with the applicable professional standards in connection with the 2009 Sinocom audit. First, Svoboda failed to adequately plan the audit by failing to consider, or ensure his assistants considered, the nature, extent, and timing of work to be performed.[31/] The 2009 planning memorandum included in the

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[29/] See AU § 326.

[30/] On October 14, 2011, Sinocom filed a Form 15 terminating the issuer's registration under Section 12(g) of the Exchange Act.

[31/] AU § 311.05; AU § 230.

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Sinocom working papers contained risk assessments and planned audit procedures that were not relevant to the issuer. The risk assessments and planned audit procedures included in the planning memorandum were copied from another company's audit and the engagement team failed to exercise due care to ensure that they were appropriate for the 2009 Sinocom audit.[32/]

31. Audit field work occurred primarily at the issuer's headquarters in Hong Kong. Svoboda failed to adequately supervise the work of his assistants, including assistants from the China Firm. He failed to adequately direct the efforts of the assistants involved in accomplishing the objectives of the audit, including informing them of the objectives of the procedures that they were to perform.[33/]

32. The China Firm assistants performed a significant portion of the audit work. Svoboda failed to adequately review and supervise that work. As a result, he failed to determine whether the audit work was adequately performed and failed to evaluate whether the results of the audit work were consistent with the conclusions to be presented in the audit report.[34/]

33. During the Sinocom audit, Svoboda failed to exercise due professional care and failed to obtain sufficient competent evidential matter to support its opinion on Sinocom's 2009 financial statements.[35/] Specifically, Svoboda failed to obtain, or ensure the engagement team obtained, sufficient competent evidential matter to test the existence and valuation of Sinocom's reported accounts receivable. Sinocom's 2009 financial statements reported accounts receivable in the amount of $22.5 million, representing 36.8% of total reported assets as of December 31, 2009. Svoboda and the engagement team tested accounts receivable by performing positive confirmation procedures but selected only 27 out of approximately one thousand accounts to confirm, relating to only $7.3 million or 32% of the outstanding balance at year-end. Svoboda and the engagement team did not receive responses relating to accounts totaling $1.8 million, or 24% of the amounts selected for confirmation and the engagement team failed to perform alternative procedures relating to these accounts. In light of the non-responses, Svoboda should have performed, or ensured the engagement team performed, alternative procedures to obtain the necessary

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[32/] AU § 230.

[33/] See AU §§ 311.11 - .12; AU § 230.06.

[34/] AU § 311.13.

[35/] AU § 326; AU § 230.

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evidence.[36/] In addition, the accounts selected for confirmation were chosen based upon a dollar threshold and therefore did not include a representative sample of the total accounts receivable population as of year-end.[37/] Svoboda failed to perform, or ensure the engagement team performed, sufficient procedures to test the remaining 68% of the accounts receivable balance that the engagement team did not select for confirmation during the 2009 audit.[38/]

34. Sinocom's 2009 financial statements reported cash in the amount of $34.4 million, representing 56.2% of total reported assets as of December 31, 2009. Svoboda failed to obtain, or ensure the engagement team obtained, sufficient competent evidential matter relating to approximately a third of the reported cash balance or 18.9% of total reported assets as of December 31, 2009. Svoboda and the engagement team failed to confirm or perform other audit procedures to verify the existence of this amount.[39/]

35. Svoboda failed to obtain, or ensure the engagement team obtained, sufficient competent evidential matter relating to Sinocom's accounts payable. Sinocom's 2009 financial statements reported total liabilities of $18.5 million which included accounts payable of $14.8 million, or 80% of total reported liabilities as of December 31, 2009. Svoboda failed to perform, or ensure the engagement team performed, adequate procedures to test the valuation of the year-end accounts payable balance. The China Firm assistants selected 31 accounts for positive confirmation but only received responses for six accounts. Confirmations for which the engagement team did not receive a response totaled $8.6 million, representing 83.9% of the amounts for which confirmations were requested. Svoboda failed to perform, or ensure that the engagement team performed, any alternative procedures with respect to those nonresponses[40/] and failed to perform any other procedures to test the valuation of accounts payable at year-end.[41/]

[36/] AU § 326; AU § 330.31.

[37/] See AU §§ 350.21, .24, *Audit Sampling*.

[38/] AU § 326.

[39/] AU § 326; AU § 330.06.

[40/] AU § 330.31.

[41/] AU § 326.

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36. Svoboda also failed to obtain, or ensure that the engagement team obtained, sufficient competent evidential matter relating to the completeness of the year-end accounts payable balance.[42/] The Firm's working papers contained an audit program for accounts payable that indicated that the Firm planned to perform a search for unrecorded liabilities. However, Svoboda failed to perform, or ensure the engagement team performed, this planned procedure or any other procedures to test the completeness of the accounts payable balance.

E. Respondent Violated PCAOB Rule 4006 and AS3

37. PCAOB rules require that an associated person of a registered public accounting firm "shall cooperate with the Board in the performance of any Board inspection."[43/] This cooperation obligation "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes."[44/] PCAOB auditing standards require that an auditor make certain written disclosures if the auditor adds documentation to the audit working papers after the "documentation completion date," which is the date (not more than 45 days after the audit report release date) when a "complete and final set of audit documentation should be assembled for retention."[45/] Specifically, information added to the working papers after the documentation completion date must disclose the date the information was added, the name of the person preparing the additional information, and the reason for adding the information to the working papers after the documentation completion date.[46/]

38. ACSB released its audit opinions on the Universal Travel, Home System, and Sinocom 2009 financial statements on February 22, 2010, March 18, 2010, and March 25, 2010, respectively. The documentation completion dates for these audits,

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[42/] Id.

[43/] PCAOB Rule 4006.

[44/] Peter C. O'Toole, CPA, PCAOB Release No. 105-2011-005 (Aug. 1, 2011) ¶ 5. See also Gately & Associates, LLC, SEC Release No. 34-62656 at 22-23 (Aug. 5, 2010) (sustaining Board finding that respondents failed to cooperate with Board inspection).

[45/] AS3 ¶¶ 15-16.

[46/] AS3 ¶ 16.

therefore, were dates no later than April 8, 2010, May 2, 2010, and May 9, 2010, respectively: 45 days after the report release dates.[47/]

39. On March 25, 2010, Svoboda learned that the Board would inspect ACSB the week of June 28, 2010. On May 27, 2010, in anticipation of the upcoming visit by the PCAOB inspection team, Svoboda held a meeting with certain ACSB staff. At that meeting Svoboda directed ACSB staff to add missing documents to the working papers for the Universal Travel, Home Systems and Sinocom audits and to backdate certain documents to make it appear the documents were prepared and added to the working papers prior to the documentation completion date. Thereafter, Svoboda and staff working under his supervision created or altered documents and added them to the work papers. After subsequently learning that the Board's inspectors planned to inspect the Universal Travel and Home System audits, Svoboda and those working at his direction, provided the Board's inspectors with the misleading documents and information relating to those two audits. At no point in time did Svoboda inform or instruct others to inform the Board's inspectors that these modifications to the working papers were made shortly before, and in anticipation of, the Board's inspection. This conduct violated PCAOB Rule 4006.

40. Svoboda and the staff working under his direction failed to indicate the dates that the modifications and additions were made to the working papers, the name of the person making the modifications and additions, and the reasons for making these modifications and additions to the Universal Travel, Home System and Sinocom working papers after the documentation completion date. This conduct failed to comply with AS3.

F. Respondent Violated PCAOB Rule 3502

41. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[48/] PCAOB quality control standards require that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[49/] Policies and procedures should be established to provide the firm with reasonable assurance that work "is assigned to personnel having

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[47/] AS3 ¶ 15.

[48/] PCAOB Rules 3100 and 3400T, *Interim Quality Control Standards*.

[49/] QC § 20.02, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

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the degree of technical training and proficiency required in the circumstances."[50/] PCAOB quality control standards also state that policies and procedures "should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[51/]

42. PCAOB rules also prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation of Board standards by that firm.[52/] As detailed below, ACSB failed to comply with PCAOB quality control standards in connection with the Audits, and Svoboda took, or omitted to take, actions that he knew, or was reckless in not knowing, would directly and substantially contribute to ACSB's violations.

43. During the relevant period, Svoboda was the partner in charge of the Firm's public company practice and was designated by the Firm as having responsibility for the quality of that practice. In his capacity as the partner in charge of quality control for the public company practice, Svoboda failed to implement quality control policies and procedures to ensure that engagement personnel had the degree of technical training and proficiency required in the circumstances.[53/] Svoboda failed to control which individuals from the China Firm were assigned to the Audits. Svoboda failed to adequately assess the China Firm assistants' competency in U.S. GAAP and knowledge of PCAOB rules and standards. Svoboda also failed to provide any training to the China Firm assistants in PCAOB standards prior to the Audits.

44. Svoboda also failed to implement policies and procedures to ensure that engagement personnel performed audit procedures necessary to comply with PCAOB standards.[54/] As detailed above, for each of the Audits, Svoboda failed to adequately supervise and review the work of his assistants. As a result, in multiple instances, ACSB staff members failed to complete necessary audit work before the Firm released its audit reports for the Audits.

50/ QC § 20.13; see also AU § 230.06.

51/ QC § 20.17.

52/ PCAOB Rule 3502.

53/ QC § 20.13; see also AU § 230.06.

54/ QC §§ 20.03, .17.

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G. Respondent Violated PCAOB Rules and Standards, and Section 10A of the Exchange Act

45. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[55/] "[A] registered public accounting firm or associated person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws."[56/]

46. Section 10A(g)(1) of the Exchange Act prohibits an accounting firm and any associated person from performing certain non-audit services including "bookkeeping or other services related to the accounting records or financial statements of the audit client."

47. Rule 2-01 (c)(4)(i) of Commission Regulation S-X provides that an accountant is not independent if, at any point during the audit and professional engagement period, the accountant prepares the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission.

48. With respect to the 2009 Universal Travel and Sinocom audits, Svoboda, the auditor with final responsibility, prepared the consolidation and financial statements that formed the basis of these issuer's financial statements that were included in issuers' Forms 10-K filed with the Commission. As a result, Svoboda failed to comply with Section 10A(g) of the Exchange Act, PCAOB Rule 3520 and AU § 220.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

55/ See PCAOB Rule 3520, *Auditor Independence*; see also AU § 220, *Independence*.

56/ See PCAOB Rule 3520, Note 1.

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A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5) David T. Svoboda, CPA, is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), David T. Svoboda, CPA, is barred from being an associated person of a registered accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

C. After three (3) years from the date of this Order, David T. Svoboda, CPA, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

November 21, 2013

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Acquavella, Chiarelli, Shuster, Berkower & Co., LLP* *Respondent.*	PCAOB Release No. 105-2013-010 November 21, 2013

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Acquavella, Chiarelli, Shuster, Berkower & Co., LLP ("ACSB," the "Firm" or "Respondent"), revoking ACSB's registration, and imposing a civil penalty in the amount of $10,000 upon ACSB.[1/] The Board is imposing these sanctions on the basis of its findings that ACSB (a) violated PCAOB rules, quality control standards and auditing standards in connection with the audits of three issuer clients; and (b) violated Section 10A(g) of the Securities Exchange Act of 1934 ("Exchange Act") and PCAOB rules and standards in connection with the audits of two issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction

[1/] ACSB may reapply for registration after two (2) years from the date of this Order.

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over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2/]

III.

On the basis of Respondent's Offer and information obtained by the Board in this matter, the Board finds[3/] that:

A. Respondent

1. Acquavella, Chiarelli, Shuster, Berkower & Co., LLP was, at all relevant times, a public accounting firm with offices in Iselin, New Jersey, and New York, New York. The Firm was licensed by the New Jersey Office of Attorney General (License No. 20CB00456100) and by the State of New York (License No. 061381). The Firm became registered with the Board pursuant to Section 102 of the Act and PCAOB rules on June 2, 2009. At all relevant times, ACSB was the external auditor for each of the issuers identified below.

B. Other Relevant Individual

2. David T. Svoboda ("Svoboda"), age 53, of Bohemia, New York, is a certified public accountant licensed in the State of New York (License No. 083271). At all relevant times, Svoboda was a non-equity partner and an associated person of ACSB. Svoboda authorized the issuance of ACSB's audit reports for each of the audits identified below.[4/] At all relevant times, Svoboda was one of only two ACSB partners

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[2/] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3/] The sanctions that the Board is imposing on Respondent in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4/] See David T. Svoboda, CPA, PCAOB Release No. 105-2013-011 (Nov. 21, 2013).

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performing audits of public companies and was the leader of the Firm's public company audit practice. Svoboda's employment with the Firm ended on or about September 30, 2011.

C. Summary

3. This matter concerns ACSB's failure to comply with PCAOB rules, quality control standards and auditing standards in connection with the audits of three issuers. In addition, ACSB violated Section 10A(g) of the Exchange Act and PCAOB rules and standards that require a registered public accounting firm be independent of the firm's audit client throughout the audit and professional engagement period.

4. At all times relevant to this Order, ACSB failed to develop quality control policies and procedures sufficient to provide it with reasonable assurance that the work performed by engagement personnel met applicable professional standards. ACSB also failed to develop quality control policies and procedures sufficient to ensure that the audit personnel possessed the degree of technical training and proficiency required to fulfill their engagement responsibilities.

5. ACSB's violations of quality control standards contributed to numerous violations of PCAOB auditing standards in connection with the audits of three issuers' financial statements (collectively, the "Audits").[5/] As detailed below, ACSB failed to: (1) adequately supervise engagement personnel; (2) adequately plan and perform audit procedures related to the Audits; and (3) exercise due care and professional skepticism.

D. Respondent Violated PCAOB Rules and Quality Control Standards

6. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[6/] PCAOB quality control standards require that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[7/]

[5/] Specifically, the Audits consist of the Firm's audits of the 2009 financial statements of: (a) Universal Travel Group ("Universal Travel"); (b) Home System Group ("Home System"); and (c) Sinocom Pharmaceutical, Inc. ("Sinocom").

[6/] PCAOB Rules 3100*, Compliance with Auditing and Related Professional Practice Standards,* and 3400T, *Interim Quality Control Standards*.

[7/] QC § 20.02, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

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7. Policies and procedures should be established to provide the firm with reasonable assurance that work "is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[8/] PCAOB quality control standards also state that policies and procedures "should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[9/] PCAOB quality control standards also provide that policies and procedures "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied."[10/] As detailed below, ACSB failed to comply with PCAOB rules and quality control standards in connection with the Audits.

Personnel Management

8. Throughout the relevant time period, ACSB failed to put policies and procedures in place to provide the Firm with reasonable assurance that work was assigned to personnel having the degree of technical training and proficiency required in the circumstances.[11/] Universal Travel and Home System had primary operations in the People's Republic of China ("PRC"). Sinocom had its primary operations in Hong Kong Special Administrative Region of the PRC ("Hong Kong"). ACSB entered into an agreement to work with a PRC-based accounting firm (the "China Firm") whereby the China Firm would perform a significant portion of the audit procedures for the Audits.

9. ACSB assigned Svoboda to serve as the auditor with final responsibility for the Audits. Svoboda, who does not speak, understand or read Chinese, relied on lower level accounting assistants ("assistants") with Chinese language skills, including those from ACSB and the China Firm, to identify audit issues, communicate with management and third-parties, and translate and analyze documents provided by the

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[8/] QC § 20.13; see also AU § 230.06, *Due Professional Care in the Performance of Work*. All references to PCAOB auditing standards are to the versions of those standards in effect at the time of the Audits.

[9/] QC § 20.17.

[10/] QC § 20.20; see also QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[11/] QC § 20.13.

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issuers. ACSB failed to control which individuals from the China Firm were assigned to the Audits. ACSB failed to adequately assess the China Firm assistants' competency in accounting principles generally accepted in the United States ("U.S. GAAP") and knowledge of PCAOB rules and standards. ACSB also failed to provide any training to the China Firm assistants in PCAOB standards prior to the Audits.

Engagement Performance

10. Throughout the relevant time period, ACSB failed to put policies and procedures in place to ensure that engagement personnel performed audit procedures necessary to comply with PCAOB standards.[12/] As a result, in certain instances described below, ACSB staff members failed to complete necessary audit work before the Firm released its audit reports for the Audits. For each of the Audits, ACSB staff members with limited public audit experience and China Firm personnel conducted virtually all of the Firm's audit procedures. Much of that work was never reviewed by Svoboda or any senior person at ACSB.[13/]

Monitoring

11. In its quality control policies, ACSB stated that: "Annually, the Quality Control Partner/Manager selects an individual or a team… to review the Firm's quality control system." However, ACSB failed to do so and, thus, did not perform such an internal inspection with regard to its issuer clients in calendar years 2009 and 2010. Accordingly, ACSB's monitoring procedures did not enable the Firm to obtain reasonable assurance that its system of quality control was effective.[14/]

E. Respondent Violated PCAOB Rules and Auditing Standards in Connection with the Audits

12. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[15/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor

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12/ See QC §§ 20.03, .17.

13/ See QC §§ 20.11, .13.

14/ QC § 30.03.

15/ See PCAOB Rules 3100 and 3200T, *Interim Auditing Standards*.

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has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[16/] Among other things, PCAOB standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[17/]

13. PCAOB auditing standards also require that an audit is adequately planned and that assistants are properly supervised.[18/] "Supervision involves directing the efforts of assistants who are involved in accomplishing the objectives of the audit and determining whether those objectives were accomplished."[19/]

14. As detailed below, ACSB failed to comply with these auditing standards in connection with the Audits.

Audit of 2009 Financial Statements of Universal Travel Group

15. Universal Travel Group was, at all relevant times, a Nevada corporation with its principal office in Shenzhen, PRC. Universal Travel's public filings disclosed that it was a travel services provider engaged in providing air ticketing, hotel booking and packaged tourism services throughout the PRC via the internet, customer representatives and kiosks. During the relevant period, Universal Travel's common stock was registered with the Securities and Exchange Commission ("Commission") under the Exchange Act and was traded at various times on the OTC Bulletin Board, New York Stock Exchange ("NYSE") Amex, and NYSE.[20/] At all relevant times,

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[16/] AU § 508.07, *Reports on Audited Financial Statements*.

[17/] AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230; AU § 326, *Evidential Matter*.

[18/] AU § 311, *Planning and Supervision*.

[19/] AU § 311.11.

[20/] From January 1, 2009 through May 28, 2009 Universal Travel's common stock was registered under Section 12(g) of the Exchange Act and was traded on the OTC Bulletin Board. On April 14, 2009, the issuer filed a registration statement to register its common stock under Section 12(b) of the Exchange Act in connection with its listing on the NYSE Amex Market. On May 28, 2009, Universal Travel's common stock began trading on the NYSE Amex and also continued to trade on the OTC Bulletin Board. On October 27, 2009, Universal Travel's common stock began trading on the

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Universal Travel was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

16. ACSB became the auditor for Universal Travel on June 30, 2009. The Firm audited Universal Travel's financial statements for the year ended December 31, 2009, and issued an unqualified opinion dated February 22, 2010, which was included in Universal Travel's Form 10-K filed with the Commission on March 5, 2010.[21/] The audit report stated that, in ACSB's opinion, Universal Travel's financial statements presented fairly, in all material respects, the issuer's financial position in conformity with U.S. GAAP and that ACSB's audit was conducted in accordance with PCAOB standards.

17. The engagement team for ACSB's audit of Universal Travel's 2009 financial statements consisted of Svoboda, as the auditor with final responsibility, two assistants from the Firm, and assistants from the China Firm.

18. ACSB failed to comply with the applicable professional standards in connection with the 2009 Universal Travel audit. First, the Firm failed to adequately plan the audit by failing to consider the nature, extent, and timing of work to be performed.[22/] The 2009 planning memorandum included in the Universal Travel

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New York Stock Exchange. On April 26, 2012, the issuer filed a Form 25, *Notification of Removal from Listing and/or Registration* under Section 12(b) of the Exchange Act, voluntarily withdrawing its common stock from listing and registration on the NYSE. On September 27, 2013, the Commission issued an order revoking the registration of Universal Travel's securities due to the issuer's failure to file periodic reports with the Commission since September 30, 2011.

[21/] Although the Firm's audit opinion on the 2009 financial statements was unqualified, the Firm expressed an adverse opinion on Universal Travel's internal control over financial reporting, noting the identification of two material weaknesses including: "Lack of technical accounting expertise among financial staff regarding US GAAP and the requirements of the PCAOB, and regarding preparation of financial statements." The Firm's combined report stated that because of the effect of those material weaknesses "Universal Travel Group did not maintain effective internal control over financial reporting as of December 31, 2009," but that "[o]ur opinion on the effectiveness of internal control over financial reporting does not affect our opinion on the consolidated financial statements." Universal Travel Group Form 10-K (Mar. 5, 2010) at Item 8.

[22/] AU § 311.05.

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working papers contained risk assessments and planned audit procedures that were not relevant to the issuer. The risk assessments and planned audit procedures included in the planning memorandum were copied from another company's audit and the engagement team failed to exercise due care to ensure that they were appropriate for the 2009 Universal Travel audit.[23/]

19. Audit field work occurred primarily at the issuer's headquarters in the PRC. ACSB failed to adequately supervise the work of its assistants, including assistants from the China Firm. ACSB failed to adequately direct the efforts of the assistants involved in accomplishing the objectives of the audit, including informing them of the objectives of the procedures that they were to perform.[24/]

20. The China Firm assistants performed a significant portion of the audit work. ACSB failed to adequately review and supervise that work. As a result, ACSB failed to determine whether the audit work was adequately performed and failed to evaluate whether the results of the audit work were consistent with the conclusions to be presented in the audit report.[25/]

21. During the Universal Travel audit, ACSB failed to exercise due professional care and failed to obtain sufficient competent evidential matter to support its opinion on Universal Travel's 2009 financial statements.[26/] Specifically, ACSB failed to obtain sufficient audit evidence to test the existence and valuation of Universal Travel's reported accounts receivable. In its 2009 Form 10-K, Universal Travel reported net accounts receivable totaling $17.3 million, approximately 20% of its reported assets. During the 2009 audit, the China Firm assistants sent out positive confirmations for receivables totaling $10.9 million or approximately 63% of the net accounts receivable balance. However, the engagement team did not receive responses for accounts totaling one-third of the amounts selected for confirmation and ACSB failed to perform alternative procedures with respect to those nonresponses.[27/]

[23/] AU § 230.

[24/] See AU §§ 311.11 - .12; AU § 230.06.

[25/] AU § 311.13.

[26/] See AU § 326; AU § 230.

[27/] See AU § 330.31, *The Confirmation Process*.

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22. In its 2009 Form 10-K, Universal Travel reported that it generated revenue from four lines of business, namely, air-ticketing, hotel reservations, packaged-tours, and air cargo agency services. Universal Travel's financial statements disclosed that the issuer recognized packaged-tour revenue at the time that the tour was completed and that total revenues from its packaged-tour operations represented approximately 69% of Universal Travel's reported revenue in 2009. ACSB failed to perform sufficient procedures to determine whether Universal Travel recognized its revenue in accordance with its disclosed policy.[28/]

23. Universal Travel's 2009 financial statements reported goodwill totaling $9.9 million or 11.5% of its total reported assets at December 31, 2009. ACSB failed to appropriately test Universal Travel's goodwill for impairment. The working papers contained an analysis prepared by the issuer that contained management's goodwill impairment analysis. ACSB failed to perform sufficient procedures to test the assumptions and estimates used in management's impairment analysis.[29/] Further, ACSB failed to perform any audit procedures to corroborate management's representations concerning its impairment analysis.[30/]

24. ACSB failed to obtain sufficient competent evidential matter relating to material adjustments recorded in the issuer's consolidation at year-end, including an entry for $5 million in cash, representing 13.6% of total cash or 5.8% of Universal Travel's total reported assets at December 31, 2009. ACSB failed to confirm or perform other audit procedures to verify the existence of this amount.[31/]

Audit of 2009 Financial Statements of Home System Group

25. Home System Group was, at all relevant times, a Nevada corporation with its principal office in Zhongshan City, PRC. Home System's public filings disclose that it was primarily engaged in the production of a variety of household appliances, including stainless steel gas grills and ovens, ceiling and table fans and decorative lamps. Its common stock was registered with the Commission under Section 12(g) of the

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28/ AU § 326.

29/ AU §§ 342.07, .11, *Auditing Accounting Estimates*.

30/ AU § 333.02, *Management Representations*.

31/ AU § 326; AU § 330.06.

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Exchange Act and was traded on the OTC Bulletin Board and the Pink Sheets. At all times relevant to this Order, Home System was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

26. ACSB became the auditor for Home System on June 30, 2009. The Firm audited Home System's financial statements for the year ended December 31, 2009 and issued an unqualified opinion dated March 18, 2010, which was included in Home System's Form 10-K filed with the Commission on March 29, 2010. The audit report stated that, in ACSB's opinion, Home System's financial statements presented fairly, in all material respects, the issuer's financial position in conformity with U.S. GAAP and that ACSB's audit was conducted in accordance with PCAOB standards.

27. The engagement team for ACSB's audit of Home System's 2009 financial statements consisted of Svoboda, as the auditor with final responsibility, an assistant from the Firm, and assistants from the China Firm.

28. ACSB failed to comply with the applicable professional standards in connection with the 2009 Home System audit. First, the Firm failed to adequately plan the audit by failing to consider the nature, extent, and timing of work to be performed.[32/] The 2009 planning memorandum included in the Home System working papers contained risk assessments and planned audit procedures that were not relevant to the issuer. The risk assessments and planned audit procedures included in the planning memorandum were copied from another company's audit and the engagement team failed to exercise due care to ensure that they were appropriate for the 2009 Home System audit.[33/]

29. Audit field work occurred primarily at the issuer's headquarters in the PRC. ACSB failed to adequately supervise the work of its assistants, including assistants from the China Firm. ACSB failed to adequately direct the efforts of the assistants involved in accomplishing the objectives of the audit, including informing them of the objectives of the procedures that they were to perform.[34/]

30. The China Firm assistants performed a significant portion of the audit work. ACSB failed to adequately review and supervise that work. As a result, ACSB failed to determine whether the audit work was adequately performed and failed to

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[32/] AU § 311.05.

[33/] AU § 230.

[34/] See AU §§ 311.11 - .12; AU § 230.06.

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evaluate whether the results of the audit work were consistent with the conclusions to be presented in the audit report.[35/]

31. During the Home System audit, ACSB failed to exercise due professional care and failed to obtain sufficient competent evidential matter to support its opinion on Home System's 2009 financial statements.[36/] The issuer's 2009 financial statements reported goodwill totaling $25 million or 28% of Home System's total reported assets at December 31, 2009, the issuer's largest asset. In the footnotes to the 2009 Home System financial statements management stated that goodwill was not impaired. The Home System working papers contained a cash flow projection prepared by management that appeared to be an impairment analysis of the issuer's goodwill as of December 31, 2009. ACSB failed to perform sufficient audit procedures to assess the reasonableness of the cash flow projection, including the relevance, sufficiency, and reliability of the data supporting the projection and the assumptions management made in formulating the projection.[37/] As a result, ACSB failed to obtain sufficient competent evidential matter concerning the valuation of goodwill.

32. Additionally, with respect to the issuer's sale of a property, Home System reported a "gain on the transfer of the building" of $2.4 million in its 2009 financial statements, representing approximately 19% of its pre-tax income for the year. ACSB failed to perform sufficient audit procedures to test the valuation of the gain reported in the issuer's financial statements.[38/]

Audit of 2009 Financial Statements of Sinocom Pharmaceutical, Inc.

33. Sinocom Pharmaceutical, Inc. was, at all relevant times, a Nevada corporation with its principal office in Hong Kong. Sinocom's public filings disclose that it was a Chinese pharmaceutical company engaged in the wholesale distribution of pharmaceuticals and medical supplies and the cultivation and sale of natural herbs. During the relevant period, its common stock was registered with the Commission under Section 12(g) of the Exchange Act and was traded on the OTC Bulletin Board and the

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35/ AU § 311.13.

36/ See AU § 326; AU § 230.

37/ AU § 333; AU § 342.11.

38/ AU § 326.

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Pink Sheets.[39/] At all times relevant to this Order, Sinocom was an "issuer" as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

34. ACSB became the auditor for Sinocom on July 1, 2009. The Firm audited Sinocom's financial statements for the year ended December 31, 2009, and issued an unqualified opinion dated March 25, 2010, which was included in Sinocom's Form 10-K filed with the Commission on March 31, 2010. The audit report stated that, in ACSB's opinion, Sinocom's financial statements presented fairly, in all material respects, the issuer's financial position in conformity with U.S. GAAP and that ACSB's audit was conducted in accordance with PCAOB standards.

35. The engagement team for ACSB's audit of Sinocom's 2009 financial statements consisted of Svoboda, as the auditor with final responsibility, an assistant from the Firm, and assistants from the China Firm.

36. ACSB failed to comply with the applicable professional standards in connection with the 2009 Sinocom audit. First, the Firm failed to adequately plan the audit by failing to consider the nature, extent, and timing of work to be performed.[40/] The 2009 planning memorandum included in the Sinocom working papers contained risk assessments and planned audit procedures that were not relevant to the issuer. The risk assessments and planned audit procedures included in the planning memorandum were copied from another company's audit and the engagement team failed to exercise due care to ensure that they were appropriate for the 2009 Sinocom audit.[41/]

37. Audit field work occurred primarily at the issuer's headquarters in Hong Kong. ACSB failed to adequately supervise the work of its assistants, including assistants from the China Firm. ACSB failed to adequately direct the efforts of the assistants involved in accomplishing the objectives of the audit, including informing them of the objectives of the procedures that they were to perform.[42/]

[39/] On October 14, 2011, Sinocom filed a Form 15 terminating the issuer's registration under Section 12(g) of the Exchange Act.

[40/] AU § 311.05.

[41/] AU § 230.

[42/] See AU §§ 311.11 - .12; AU § 230.06.

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Public Company Accounting Oversight Board

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38. The China Firm assistants performed a significant portion of the audit work. ACSB failed to adequately review and supervise that work. As a result, ACSB failed to determine whether the audit work was adequately performed and failed to evaluate whether the results of the audit work were consistent with the conclusions to be presented in the audit report.[43/]

39. During the Sinocom audit, ACSB failed to exercise due professional care and failed to obtain sufficient competent evidential matter to support its opinion on Sinocom's 2009 financial statements.[44/] Specifically, ACSB failed to obtain sufficient competent evidential matter to test the existence and valuation of Sinocom's reported accounts receivable. Sinocom's 2009 financial statements reported accounts receivable in the amount of $22.5 million, representing 36.8% of total reported assets as of December 31, 2009. The engagement team tested accounts receivable by performing positive confirmation procedures, but selected only 27 out of approximately one thousand accounts to confirm, relating to only $7.3 million or 32% of the outstanding balance at year-end. ACSB did not receive responses relating to accounts totaling $1.8 million, or 24% of the amounts selected for confirmation and it failed to perform alternative procedures relating to these accounts. In light of the non-responses, ACSB should have performed alternative procedures to obtain the necessary evidence.[45/] In addition, the accounts selected for confirmation were chosen based upon a dollar threshold and therefore did not include a representative sample of the total accounts receivable population as of year-end.[46/] ACSB failed to perform sufficient procedures to test the remaining 68% of the accounts receivable balance that it did not select for confirmation during the 2009 audit.[47/]

40. Sinocom's 2009 financial statements reported cash in the amount of $34.4 million, representing 56.2% of total reported assets as of December 31, 2009. ACSB failed to obtain sufficient competent evidential matter relating to approximately a third of the reported cash balance or 18.9% of total reported assets as of December 31, 2009.

[43/] AU § 311.13.

[44/] See AU § 326; AU § 230.

[45/] AU § 326; AU § 330.31.

[46/] See AU §§ 350.21, .24, *Audit Sampling*.

[47/] AU § 326.

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ACSB failed to confirm or perform other audit procedures to verify the existence of this amount.[48/]

41. ACSB failed to obtain sufficient competent evidential matter relating to Sinocom's accounts payable. Sinocom's 2009 financial statements reported total liabilities of $18.5 million which included accounts payable of $14.8 million, or 80% of total reported liabilities as of December 31, 2009. ACSB failed to perform adequate procedures to test the valuation of the year-end accounts payable balance. The China Firm assistants selected 31 accounts for positive confirmation, but only received responses for six accounts. Confirmations for which it did not receive a response totaled $8.6 million, representing 83.9% of the amounts for which confirmations were requested. ACSB failed to perform any alternative procedures with respect to those nonresponses[49/] and failed to perform any other procedures to test the valuation of accounts payable at year-end.[50/]

42. ACSB also failed to obtain sufficient competent evidential matter relating to the completeness of the year-end accounts payable balance.[51/] The Firm's working papers contained an audit program for accounts payable that indicated that the Firm planned to perform a search for unrecorded liabilities. However, the engagement team failed to perform this planned procedure or any other procedures to test the completeness of the accounts payable balance.

F. Respondent Violated PCAOB Rules and Standards and Section 10A of the Exchange Act

43. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[52/] "[A] registered public accounting firm or associated person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in

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48/ AU § 326; AU § 330.06.

49/ AU § 330.31; AU § 326.

50/ AU § 326.

51/ Id.

52/ See PCAOB Rule 3520, *Auditor Independence*; see also AU § 220, *Independence*.

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the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws."[53/]

44. Section 10A(g)(1) of the Exchange Act prohibits an accounting firm and any associated person from performing certain non-audit services including "bookkeeping or other services related to the accounting records or financial statements of the audit client."

45. Rule 2-01 (c)(4)(i) of Commission Regulation S-X provides that an accountant is not independent if, at any point during the audit and professional engagement period, the accountant prepares the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission.

46. With respect to the 2009 Universal Travel and Sinocom audits, Svoboda, the auditor with final responsibility, prepared the consolidation and financial statements that formed the basis of these issuers' financial statements that were included in the issuers' Forms 10-K filed with the Commission. As a result, ACSB failed to comply with Section 10A(g) of the Exchange Act, PCAOB Rule 3520, and AU § 220.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5) Acquavella, Chiarelli, Shuster, Berkower & Co., LLP is hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Acquavella, Chiarelli, Shuster, Berkower & Co., LLP is revoked;

53/ See PCAOB Rule 3520, Note 1.

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C. After two (2) years from the date of this Order, Acquavella, Chiarelli, Shuster, Berkower & Co., LLP may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Acquavella, Chiarelli, Shuster, Berkower & Co., LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Acquavella, Chiarelli, Shuster, Berkower & Co., LLP shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Acquavella, Chiarelli, Shuster, Berkower & Co., LLP as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

November 21, 2013

PCAOB
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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Iter Audit S.R.L.,* *Respondent.*	PCAOB Release No. 105-2013-013 December 17, 2013

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Iter Audit S.R.L. (the "Firm" or "Iter Audit") and imposing a civil money penalty in the amount of $1,000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report and timely pay an annual fee in 2010, 2011, 2012, and 2013.

I.

On September 25, 2013, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 (as amended) ("Act") and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Iter Audit did not file an answer indicating the Firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

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Public Company Accounting Oversight Board

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III.

On the basis of Respondent's Offer, the Board finds[1/] that:

A. Respondent

1. Iter Audit S.R.L. is a limited liability corporation located in Rome, Italy. The Firm registered with the Board on April 12, 2005, pursuant to Section 102 of the Act and Board rules. Iter Audit is licensed by the Commissione Nazionale per le Società e la Borsa of Italy to engage in the practice of public accounting (License No. 23 (Albo Speciale Società di Revisione)). The Firm has not, since registering with the Board, issued any audit reports or broker-dealer certifications, or played a substantial role in the preparation or furnishing of any audit report. The Firm is no longer operational, and is currently in liquidation.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Iter Audit failed to timely file an annual report for 2010, 2011, 2012, and 2013.

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Iter Audit failed to timely pay its annual fee in 2010, 2011, 2012, and 2013.

C. Subsequent Events

4. The Board instituted these proceedings on September 25, 2013. Iter Audit's time to file an answer pursuant to PCAOB Rule 5421(b) was extended to November 6, 2013, by Hearing Officer Order dated October 16, 2013.

5. On October 24, 2013, Iter Audit filed its annual reports for 2010, 2011, 2012, and 2013.

[1/] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

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6. On October 24, 2013, Iter Audit filed a Form 1-WD to request leave to withdraw its registration from the Board.

7. On November 5, 2013, Iter Audit paid its annual fees for 2010, 2011, 2012, and 2013.

8. The proceeding was stayed by Hearing Officer Order dated November 6, 2013, to allow for Board consideration of Respondent's Offer of Settlement.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Iter Audit is censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000 is imposed upon Iter Audit. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Iter Audit shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies Iter Audit as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

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V.

Upon performance by Iter Audit of Part IV above, pursuant to PCAOB Rule 2107, the Board shall consider Iter Audit's Form 1-WD and whether to grant it leave to withdraw. In doing so, the Board shall not take into consideration its findings contained in Part III herein.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 17, 2013

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AMENDED ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, AND ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Labrozzi & Co., P.A., and Douglas A. Labrozzi, CPA,* *Respondents.*	PCAOB Release No. 105-2014-001 February 13, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Labrozzi & Co., P.A. (the "Firm"), and Douglas A. Labrozzi, CPA ("Labrozzi"), revoking the registration of the Firm, and barring Labrozzi from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the Firm and Labrozzi (collectively, "Respondents") on the basis of its findings concerning Respondents' non-cooperation with a Board investigation and violations of PCAOB rules and auditing standards, in which they failed to comply with Accounting Board Demands for documents and testimony, and also improperly added, altered and backdated audit documentation during a Board investigation in violation of their duties to cooperate and Auditing Standard No. 3, *Audit Documentation* ("AS 3").

I.

On September 17, 2013, the Board issued an Order Instituting Disciplinary Proceedings ("Original OIP") pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(3) against Respondents. Pursuant to Section 105(c)(2) of the Act and PCAOB Rule 5203, these proceedings were not public. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations (the "Division") consented to making the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, Respondents did not consent to making the hearing public.

Pursuant to Section 105(c) and PCAOB Rules 5200(a)(1) and (a)(3), the Board now deems it appropriate to issue this Amended Order Instituting Disciplinary Proceedings ("Amended Order") against Respondents that includes allegations that

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Respondents improperly added, altered, and backdated audit documentation submitted to the Division in response to March 27, 2013 Accounting Board Demands as further evidence of Respondents' noncooperation and that Respondents thereby violated AS 3, because Respondents did not document that the information had been created and added to the audit work papers after the documentation completion dates or the reason for so doing.

II.

In anticipation of the issuance of this Amended Order and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Amended Order Instituting Disciplinary Proceedings, and Order Making Findings and Imposing Sanctions ("Order") as set forth below.[1/]

III.

On the basis of Respondents' Offers, the Board finds[2/] that:

A. Respondents

1. Labrozzi & Co., P.A. is a professional association organized under the laws of the state of Florida, with an office in Miami, Florida. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. The Firm is licensed

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[1/] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2/] Except with respect to sanctions imposed under Section 105(b)(3) of the Act, the sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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by the Florida Board of Accountancy (License No. AD65931). The status of the license is currently "Delinquent." As of its 2012 Annual Report on Form 2, the Firm had one principal (Douglas A. Labrozzi, CPA) and no audit staff.

2. Douglas A. Labrozzi, CPA is the president of the Firm and a certified public accountant licensed in the state of Florida (License No. AC40693). The status of his license is currently "Delinquent, Active." Labrozzi is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' repeated failure to cooperate with a Board investigation and comply with PCAOB rules and standards. Respondents failed to produce certain categories of documents and information demanded in Accounting Board Demands until after the Board instituted disciplinary proceedings against them on September 17, 2013. Further, Labrozzi refused to appear for sworn testimony as demanded by the Division until after the institution of disciplinary proceedings against him.[3/] In addition, Respondents added, altered, and backdated audit documentation for three audits prior to providing that documentation to the Division in connection with its investigation without informing the Division, and without documenting, that the information had been created and added to the audit work papers after the documentation completion dates or the reason for so doing, as required by AS 3.

C. Respondents Failed to Cooperate with a Board Investigation

4. The Act authorizes the Board to impose disciplinary sanctions for a registered firm's or associated person's noncooperation with a Board investigation.[4/] Board rules include procedures for implementing that authority.[5/] Noncooperation with a Board investigation includes failing to comply with an accounting board demand.[6/] As described below, Respondents failed to comply with Accounting Board Demands issued

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[3/] The Original OIP alleged that Respondents failed to cooperate with a Board investigation based on Respondents' failure to produce certain categories of documents and information to the Division and Labrozzi's refusal to appear for investigative testimony.

[4/] *See* Section 105(b)(3) of the Act.

[5/] *See* PCAOB Rules 5110 and 5200(a)(3).

[6/] *See* PCAOB Rule 5110(a)(1).

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on March 27, 2013 pursuant to PCAOB Rule 5101(a)(2) by failing to produce certain documents and information. Further, Douglas Labrozzi failed to comply with a March 27, 2013 Accounting Board Demand requiring him to appear for sworn testimony.

5. Noncooperation with a Board investigation also includes knowingly making any false material declaration or making or using any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration.[7/] As described below, Respondents failed to cooperate with a Board investigation by submitting audit documentation to the Division that they knew to contain false declarations.

Respondents Failed to Produce Certain Demanded Documents and Information

6. On March 20, 2013, the Board issued an Order of Formal Investigation ("OFI"), *In the Matter of Labrozzi & Co., P.A.* The March 20, 2013 OFI related to potential audit failures involving the Firm's audits of the June 30, 2011 financial statements of Issuer A and the December 31, 2010 financial statements of Issuer B. Labrozzi was the sole auditor involved in those audits.

7. Prior to the Board's issuance of the OFI, and as part of an informal inquiry the Division was conducting pursuant to PCAOB Rule 5100, the Division issued a request for documents and information to the Firm on November 8, 2012 ("November 8 Request"). In response, the Firm provided the Division with certain documents in late November and December 2012.

8. Following the issuance of the OFI, the Division issued an Accounting Board Demand ("ABD") on March 27, 2013 directed to Labrozzi for documents, information and testimony. At the same time, the Division issued a separate ABD for documents and information directed to the Custodian of Records of the Firm. The ABDs required Labrozzi and the Firm to produce responsive documents and information by April 15, 2013. In addition, the Division staff enclosed copies of an informational PCAOB Form ENF-1, detailing the consequences of a refusal to produce documents in connection with an investigation.

9. The demanded documents were relevant to the Board's investigation. Specifically, the March 27, 2013 ABDs required Respondents to produce, among other things, documents relating to the Firm's audits and reviews of Issuer A and Issuer B. The demands spanned three fiscal years as related to Issuer A and two fiscal years with respect to Issuer B. The demanded documents included audit and review work papers and other documents relating to those audits and reviews.

[7/] *See* PCAOB Rule 5110(a)(2).

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10. As indicated in the cover letters to Respondents, to the extent that Respondents had previously produced an identical copy of one or more of the documents specified in the ABDs, they did not need to provide an additional copy. Instead, the letter directed Respondents to describe such documents, including the date of production, and the paragraphs of the ABDs to which such documents related. The ABDs contained essentially identical demands for documents and information as the November 8 Request, except that the ABDs included Demands 14 and 15, which sought, respectively, a written description of the search conducted for responsive documents and a sworn, written certification that all responsive, non-privileged documents have been produced.

11. While documents produced by the Firm in response to the November 8 Request were responsive to certain demands, as of the date of the Original OIP entire categories of documents demanded by the ABDs had not been produced, as set forth below in paragraph 22.

12. After the ABDs' April 15 deadline for producing documents and information had passed and no response had been received, the Division advised Respondents' attorneys that Respondents had missed the deadline to respond and that the PCAOB considered the non-production of all responsive, non-privileged documents and other information by the due date to constitute a failure to cooperate under Board Rule 5110. The Division, however, granted Respondents certain limited extensions, each time reminding Respondents that a failure to fully respond might result in disciplinary action being taken.

13. On June 5, 2013, counsel provided to the Division certain documents by email; however, that production did not respond to various categories of demanded documents and information outstanding at that time and, thus, did not satisfy Respondents' obligations. For example, at that time Respondents still had not produced certain audit and review work papers for Issuer A and Issuer B, and correspondence files for certain years for both issuers.

14. Thereafter, the Division again advised counsel that neither Labrozzi nor the Firm had provided sufficient responses to the ABDs and that such non-compliance was viewed by PCAOB staff as a failure to cooperate under Board Rule 5110.

Labrozzi Failed to Appear for Testimony Pursuant to the ABD

15. As stated, pursuant to the OFI, the Division issued an ABD to Labrozzi on March 27, 2013. In addition to demanding documents, the ABD required Labrozzi to appear for sworn testimony. The ABD set his testimony to begin on May 14, 2013 in

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New York. That date was postponed to June 11, 2013 in order to accommodate settlement discussions.

16. Then, on June 5, 2013, Respondents' counsel requested that testimony be rescheduled because of his vacation plans. The Division accordingly agreed to a final, two week extension of the testimony date to June 25, 2013, and stated that no further extensions would be granted.

17. On June 19, 2013, the Division asked counsel to confirm that Labrozzi would arrive for his testimony in New York beginning on Tuesday, June 25, 2013. In response, by email dated June 21, 2013, counsel wrote, "Mr. Librozzi [sic] will appear for deposition on Tuesday."

18. On Monday, June 24, 2013, the day before Labrozzi's scheduled testimony − after the Division had made travel plans for certain staff to travel to New York, booked a court reporter, and organized and arranged for the use of testimony exhibits − Respondents' counsel informed the Division by phone that Labrozzi would not be arriving for his testimony. As of the date of the Original OIP, neither Labrozzi nor his attorney had offered an alternative date for Labrozzi's testimony.

* * * * *

19. On June 27, 2013, the Division sent counsel for Respondents a letter (the "Charging Letter") outlining the Division's intent to recommend that the Board commence a disciplinary proceeding to determine whether Respondents failed to cooperate with a PCAOB investigation, by failing to comply with the March 27, 2013 ABDs.

20. The Charging Letter detailed the events surrounding Labrozzi's failure to appear for sworn testimony and explained that such non-compliance with an ABD was viewed as a failure to cooperate with the Board.

21. In addition, the Charging Letter set out the categories of documents and information that had been demanded of Respondents and not produced, including, certain audit and review work papers for Issuer A and Issuer B, and correspondence files for certain years for both issuers.

22. On July 19, 2013, Respondents submitted a brief statement of position to the Charging Letter (the "SOP"). The SOP included the production of certain additional work papers and correspondence. However, entire categories of documents were not produced and remained outstanding as of the date of the Original OIP: (1) the fiscal year-end 2010 audit work papers for Issuer A; (2) the 2011 quarterly review work

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papers for Issuer A; and (3) the correspondence files for the fiscal year-end 2012 audit and 2012 quarterly reviews of Issuer A.[8/] As of the issuance of the Original OIP, Respondents had also failed to provide a description of the search conducted for responsive documents and a sworn certification that all responsive documents have been produced.[9/]

23. The SOP made no mention of Labrozzi's willingness to appear for testimony. Therefore, on July 22, 2013, the Division wrote counsel for Respondents, pointing out the SOP's silence as to Labrozzi's willingness to appear for testimony and requesting that counsel advise the Division by July 25, 2013 whether or not Labrozzi would agree to appear for sworn testimony. As of the date of the Original OIP, the Division had not received a response.

24. Thus, Respondents failed to cooperate with a Board investigation by failing to comply with ABDs requiring the production of certain documents and information to the Division.

25. Further, Labrozzi failed to cooperate with a Board investigation by failing to comply with an ABD demanding his sworn testimony.

Respondents Altered Work Papers Before Producing Them to the Division

26. After receiving the Division's informal request for documents dated November 8, 2012, Respondents significantly added to, altered, and backdated the audit documentation for (1) the audit of the June 30, 2010 Issuer A financial statements ("Issuer A 2010 Audit"), (2) the audit of the June 30, 2011 Issuer A financial statements ("Issuer A 2011 Audit"), and (3) the audit of the December 31, 2010 Issuer B financial statements ("Issuer B 2010 Audit"). Respondents subsequently produced these altered audit work papers in response to the March 27, 2013 ABDs without informing the

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[8/] It was not until disciplinary proceedings against Respondents were underway that Respondents produced the fiscal year-end 2010 audit work papers for Issuer A, and the correspondence files for the fiscal year-end 2012 audit and 2012 quarterly reviews of Issuer A. And it was not until December 2013, after the institution of disciplinary proceedings, that Respondents clarified that the Firm did not perform 2011 quarterly reviews for Issuer A and, thus, Respondents did not possess 2011 quarterly review work papers for Issuer A.

[9/] It was not until December 11, 2013, after the institution of disciplinary proceedings, that Respondents provided this information.

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Division that the documentation did not reflect contemporaneous audit work.[10/] The Division only learned of this in the course of questioning Labrozzi during his rescheduled investigative testimony on December 12 and December 13, 2013. Labrozzi acknowledged during testimony that he had prepared and added the audit documentation in an attempt to make the work papers appear more complete and robust.

27. In particular, for all three audits, Labrozzi completed and added to the work papers numerous checklists and other form documents issued by PPC (Thomson Reuters) ("PPC work papers") which purported to describe procedures performed as part of the audits. For example, Labrozzi wholesale added to the audit documentation for all three audits PPC forms entitled "Financial Statement Materiality Worksheet for Planning Purposes"; "Audit Program for General Planning Procedures"; "Fraud Risk Factors"; "Audit Documentation Checklist"; and "Disclosure Requirements for Financial Statements of Smaller Reporting Companies," among other forms. The 33 separate PPC work papers that were added to the audit documentation for the three audits account for a total of (1) 161 pages out of 199 total pages of the work paper file for the Issuer A 2010 Audit; (2) 165 pages out of 222 total pages of the work paper file for the Issuer A 2011 Audit; and (3) 191 pages out of 455 total pages of the work paper file for the Issuer B 2010 Audit.

28. In addition, with regard to other work papers (non-PPC work papers) included in the Issuer A 2010 Audit file and the Issuer A 2011 Audit file produced to the Division, Labrozzi, after receiving the November 8 Request, added substantive comment boxes with text purporting to explain the significance of the work paper for the audit, as revealed by the metadata corresponding to these comments. For example, in the work papers for the Issuer A 2011 Audit, Labrozzi added comment boxes to a "Stock Agreement – Public Company" containing the following text: "Objective: To determine if transaction exists" and "Conclusion: Transaction deemed reasonable. See Memo at WP 4404 for auditors explanation of media credits." Metadata reveals these comment boxes were added on November 20, 2012.

29. In no instance where Labrozzi added documentation or information to the work papers for the three audits after he received the November 8 Request did he

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[10/] Respondents produced the altered Issuer A 2010 Audit documentation to the Division for the first time on December 8, 2013 in response to the ABDs. Respondents first produced the Issuer A 2011 Audit documentation to the Division on December 14, 2012, and then re-produced the same altered audit documentation on December 8, 2013 in response to the ABDs. Respondents first produced the Issuer B 2010 Audit documentation to the Division on November 29, 2012, and then re-produced the same altered audit documentation on June 5, 2013 in response to the ABDs.

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document that he was adding the information at a later date or the reason for such an addition. To the contrary, in many instances, Labrozzi added his initials and backdated the PPC work papers to misleadingly suggest that they had been completed at the time of the audit. For example, Labrozzi dated the "Audit Documentation Checklist" PPC work paper included in the Issuer A 2011 Audit file as having been completed on August 14, 2011, even though he completed it after receiving the November 8 Request.

30. Thus, Respondents produced to the Division the work papers for the Issuer A 2010 Audit, the Issuer A 2011 Audit and Issuer B 2010 Audit without informing the Division of the numerous late alterations and addition of backdated documents to those work papers. As a result, Respondents failed to cooperate with a Board investigation by submitting audit documentation to the Division that they knew to contain false declarations.

D. Respondents Violated PCAOB Rules and Auditing Standards

31. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards and related professional practice standards.[11/] AS 3 requires that an auditor prepare audit documentation in sufficient detail to document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions, and to demonstrate clearly that the work was in fact performed.[12/] Prior to the report release date,[13/] the auditor must have completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report. A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date ("documentation completion date").[14/] Circumstances may require additions to audit documentation after the report release date. While information and documentation may be added after that date, any added information or documentation must indicate the date the information was added,

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[11/] *See* PCAOB Rule 3100.

[12/] *See* AS 3 ¶¶ 4 and 6.

[13/] *See* AS 3 ¶ 14 (defining "report release date" as "the date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements").

[14/] *See* AS 3 ¶ 15.

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the name of the person who prepared the additional documentation, and the reason for adding it.[15/]

32. Both the November 8 Request and ABDs expressly sought the Firm's "complete and final sets of audit and review documentation assembled for retention" for the relevant audits in accordance with AS 3.

33. Respondents improperly created and added audit documentation to the audit files following the documentation completion dates for the Issuer A 2010 Audit, the Issuer A 2011 Audit, and the Issuer B 2010 Audit. In particular, for all three audits, following the relevant documentation completion dates, Labrozzi completed and added to the work papers numerous PPC work papers which purported to describe procedures performed as part of the audits. In addition, with regard to other work papers (non-PPC work papers) included in the Issuer A 2010 Audit file and the Issuer A 2011 Audit file produced to the Division, Labrozzi, following the relevant documentation completion dates, added substantive comment boxes with text purporting to explain the significance of the work paper for the audit. Respondents performed such additions and alterations without documenting that the audit documentation had been created and added after the documentation completion dates or the reason for so doing.

34. Accordingly, Respondents repeatedly violated AS 3.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Sections 105(b)(3)(A)(iii) and 105(c)(4)(E) of the Act and PCAOB Rules 5300(a)(5) and 5300(b)(1), Labrozzi & Co., P.A. and Douglas A. Labrozzi, CPA are hereby censured;

B. Pursuant to Section 105(b)(3)(A)(ii) and 105(c)(4)(A) of the Act and PCAOB Rules 5300(a)(1) and 5300(b)(1), the registration of Labrozzi & Co., P.A. is revoked; and

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15/ *See* AS 3 ¶ 16.

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C. Pursuant to Section 105(b)(3)(A)(i) and 105(c)(4)(B) of the Act and PCAOB Rules 5300(a)(2) and 5300(b)(1), Douglas A. Labrozzi, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 13, 2014

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Patrick Rodgers, CPA, PA and Patrick E. Rodgers, CPA* *Respondents.*	PCAOB Release No. 105-2014-002 March 6, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring the registered public accounting firm Patrick Rodgers, CPA, PA (the "Firm") and revoking the Firm's registration;[1/] and censuring Patrick E. Rodgers, CPA ("Rodgers") and barring him from being an associated person of a registered public accounting firm.[2/] The Board is imposing these sanctions on the basis of its findings concerning the Firm and Rodgers' (collectively, "Respondents") repeated violations of PCAOB rules and auditing standards in connection with the Firm's audits of the financial statements of one issuer client for the years ended December 31, 2008, December 31, 2009, December 31, 2010, and December 31, 2011.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Rodgers and the Firm.

[1/] The Firm may reapply for registration after two (2) years from the date of this Order.

[2/] Rodgers may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3/]

III.

On the basis of Respondents' Offers, the Board finds[4/] that:

A. Respondents

1. Patrick Rodgers, CPA, PA is, and at all relevant times was, a public accounting firm located in Altamonte Springs, Florida and licensed in the State of Florida (License No. AD64983). At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. At all relevant times, the Firm was the external auditor for the issuer identified below.

2. Patrick E. Rodgers, 73, of Altamonte Springs, Florida, is a certified public accountant licensed in the State of Florida (License No. AC38732) and in the State of New Jersey (License No. 20CC00537600). At all relevant times, he was the sole owner

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[3/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4/] The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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of the Firm and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' repeated failure to comply with PCAOB rules and auditing standards in connection with the audits of Baltia Air Lines, Inc.'s ("Baltia") financial statements for the years ended December 31, 2008, December 31, 2009, December 31, 2010, and December 31, 2011 ("Baltia Audits"). As detailed below, Respondents failed to obtain sufficient competent evidential matter, failed to exercise due professional care, and failed to exercise professional skepticism in connection with the Baltia Audits.

C. Respondents Violated PCAOB Rules and Auditing Standards

4. In connection with the preparation and issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards and related professional practice standards.[5/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6/] Among other things, those standards require that an auditor exercise due professional care.[7/]

5. For audits of fiscal years beginning before December 15, 2010, those standards require that the auditor obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[8/] For audits of fiscal years beginning on or after December 15, 2010, those standards require that the auditor

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[5/] PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards*, 3200T, *Interim Auditing Standards*.

[6/] See AU § 508.07, *Reports on Audited Financial Statements.*

[7/] AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work.*

[8/] See AU § 326, *Evidential Matter.*

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plan and perform the audit to obtain appropriate audit evidence that is sufficient to support the opinion expressed in the auditor's report.[9/]

6. Among the elements of due professional care is professional skepticism, "an attitude that includes a questioning mind and a critical assessment of audit evidence."[10/] An auditor acting with professional skepticism "should not be satisfied with less than persuasive evidence because of a belief that management is honest."[11/] In addition, "professional skepticism requires an ongoing questioning of whether the information and evidence obtained suggests that a material misstatement due to fraud has occurred."[12/]

7. For audits of fiscal years beginning before December 15, 2010, PCAOB standards require that an auditor respond to risks of material misstatement due to fraud through the application of professional skepticism in gathering and evaluating audit evidence.[13/] An auditor's assessment of such risk should "be ongoing throughout the audit,"[14/] and an auditor should consider whether the "nature of auditing procedures performed may need to be changed to obtain evidence that is more reliable or to obtain additional corroborative information."[15/] For audits of fiscal years beginning on or after December 15, 2010, PCAOB standards state that the auditor's responses to the assessed risks of material misstatement, particularly fraud risks, should involve the application of professional skepticism in gathering and evaluating audit evidence.[16/] Examples of the application of professional skepticism in response to assessed fraud risks are "modifying the planned audit procedures to obtain more reliable evidence

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9/ See Auditing Standard No. 15, *Audit Evidence* ("AS 15").

10/ AU § 230.07.

11/ AU § 230.09.

12/ See AU § 316.13, *Consideration of Fraud in a Financial Statement Audit.*

13/ Id. at § 316.46.

14/ Id. at § 316.68.

15/ Id. at § 316.52.

16/ See Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13") ¶ 7.

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regarding relevant assertions" and "obtaining sufficient appropriate evidence to corroborate management's explanations or representations concerning important matters."[17/]

8. PCAOB standards require an auditor to obtain satisfaction concerning the purpose, nature, and extent of related party transactions through the performance of certain procedures that extend beyond the inquiry of management.[18/] In addition, these standards require the auditor to evaluate the information available concerning the related party transaction in order to satisfy the auditor that it has been adequately disclosed in the financial statements.[19/]

Audit of Baltia's 2008 Financial Statements

9. At all relevant times, Baltia Air Lines, Inc. ("Baltia") was a New York corporation with its principal office in Queens, New York. At all relevant times, Baltia's common stock was registered with the Commission under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and was quoted on the OTC Bulletin Board. At all relevant times, Baltia was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). As disclosed in its public filings, Baltia was a start-up United States airline "currently conducting the FAA [Federal Aviation Administration] Air Carrier Certification process…."[20/] Baltia's public filings disclosed that it intended to commence non-stop air service from New York to St. Petersburg, Russia upon completion of certification.

10. The Firm audited Baltia's financial statements for the year ended December 31, 2008, and issued an unqualified opinion dated April 13, 2009. The 2008 audit report was included in a Form 10-K filed by Baltia with the Commission on April 15, 2009. Rodgers had final responsibility for the 2008 Baltia audit.

11. Baltia reported in its Form 10-K for the year ended December 31, 2008 that since inception, Baltia had raised approximately $7.4 million in cash proceeds from

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17/ Id.

18/ See AU § 334.09, *Related Parties*.

19/ Id. at § 334.11.

20/ Baltia Air Lines, Inc., Form 10-K for the year ended December 31, 2008 (Apr. 15, 2009).

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the issuance of common stock.[21/] For the same year ended December 31, 2008, Baltia reported total assets of approximately $765,000 with the majority consisting of a cash balance of approximately $724,000.[22/] Baltia disclosed that the CEO had received compensation of $133,400 and 28 million stock options, but did not disclose any compensation paid to other Baltia executives.[23/] Baltia's Form 10-K indicated that there were no related party transactions.[24/]

12. During the 2008 Baltia audit, Respondents became aware of information indicating that certain payments and stock issuances were being made to, or on behalf of, officers of Baltia. After becoming aware of these transactions during the audit, Respondents failed to perform sufficient procedures. Other than obtaining management representations, Respondents failed to take any steps to evaluate the nature of these transactions.

13. Despite being aware of these transactions and the lack of disclosure in the financial statements related to these transactions, Respondents failed to exercise due care and professional skepticism and failed to perform sufficient procedures. Although a portion of the compensation paid to the CEO in 2008 was disclosed, Respondents failed to evaluate additional payments and stock issuances made to or on behalf of the CEO and payments and stock issuances to other officers of Baltia. [25/]

14. Respondents also failed to perform any audit procedures to determine whether the transactions reflected related party transactions. Specifically, Respondents failed to perform any procedures to evaluate this issue and to determine whether any related party transactions should have been disclosed.

[21/] Id.

[22/] Id.

[23/] Id.

[24/] Id.

[25/] Baltia subsequently filed a Form 10-K/A for fiscal year 2008 with the Commission, disclosing related party transactions and additional executive compensation for the year ended December 31, 2008. See Baltia, Form 10-K/A for the year ended December 31, 2008, (Feb. 22, 2013).

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Audit of Baltia's 2009 Financial Statements

15. A Form 8-K was filed on April 6, 2011 stating that the originally filed Form 10-K for Baltia's financial statements for the year ended December 31, 2009 should not be relied on due to an auditor independence violation by the predecessor auditor. Rodgers was subsequently engaged to "re-audit" the 2009 financial statements. The Firm audited Baltia's financial statements for the year ended December 31, 2009, and issued an unqualified opinion dated April 28, 2011. The 2009 audit report was included in a Form 10-K/A filed by Baltia with the Commission on May 2, 2011. Rodgers had final responsibility for the 2009 Baltia audit.

16. Baltia reported in its Form 10-K/A for the year ended December 31, 2009 that since inception, Baltia had raised approximately $11.1 million in cash proceeds from the issuance of common stock.[26/] For the same year ended December 31, 2009, Baltia reported total assets of approximately $2.1 million consisting of a cash balance of approximately $1.4 million and a net equipment balance of approximately $0.7 million.[27/] The equipment balance consisted primarily of a used Boeing 747.[28/] In 2009, Baltia disclosed that the CEO had received compensation of $123,395, but did not disclose any compensation paid to other Baltia executives.[29/] Baltia's Form 10-K/A indicated that there were no related party transactions.[30/]

17. As in the 2008 audit, Respondents continued to be aware of information indicating that certain payments and stock issuances were being made to, or on behalf of, officers of Baltia. After becoming aware of these transactions during the audit, Respondents failed to perform sufficient procedures. Other than obtaining management representations, Respondents failed to take any steps to evaluate the nature of these transactions.

[26/] Baltia Air Lines, Inc., Form 10-K/A for the year ended December 31, 2009 (May 2, 2011).

[27/] Id.

[28/] Id.

[29/] Id.

[30/] Id.

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18. Despite being aware of these transactions and the lack of disclosure in the financial statements related to these transactions, Respondents failed to exercise due care and professional skepticism and failed to perform sufficient procedures. Although compensation paid to the CEO in 2009 was disclosed, Respondents failed to evaluate additional payments and stock issuances made on behalf of the CEO and payments and stock issuances to other officers of Baltia. Respondents also failed to perform any audit procedures to determine whether the transactions reflected related party transactions.[31/]

Audit of Baltia's 2010 Financial Statements

19. The Firm audited Baltia's financial statements for the year ended December 31, 2010 and issued an unqualified opinion dated May 9, 2011. The 2010 audit report was included in a Form 10-K/A filed by Baltia with the Commission on May 11, 2011.[32/] Rodgers had final responsibility for the 2010 Baltia audit.

20. Baltia reported in its Form 10-K/A for the year ended December 31, 2010 that since inception, Baltia had raised approximately $15.5 million in cash proceeds from the issuance of common stock.[33/] For the same year ended December 31, 2010, Baltia reported total assets of approximately $3.3 million consisting largely of a net equipment balance of approximately $2.9 million.[34/] The equipment balance consisted primarily of two used Boeing 747's.[35/] In 2010, Baltia disclosed that no cash compensation had been paid to any executive officers and disclosed that the CEO was

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[31/] Baltia subsequently filed a Form 10-K/A for fiscal year 2009 with the Commission, disclosing related party transactions and additional executive compensation for the year ended December 31, 2009. See Baltia, Form 10-K/A for the year ended December 31, 2009, (Mar. 1, 2013).

[32/] The original Form 10-K was filed on April 18, 2011 and contained unaudited financial statements and no auditor opinion.

[33/] Baltia Air Lines, Inc., Form 10-K/A for the year ended December 31, 2010 (May 11, 2011).

[34/] Id.

[35/] Id.

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granted 100 million options.[36/] Baltia's Form 10-K/A reported one related party transaction with respect to a loan arrangement with a company owned by a Baltia director.[37/]

21. As in the 2008 and 2009 audits, Respondents continued to be aware of information indicating that certain payments and stock issuances were being made to, or on behalf of, officers of Baltia. After becoming aware of these transactions during the audit, Respondents failed to perform sufficient procedures. Other than obtaining management representations, Respondents failed to take any steps to evaluate the nature of these transactions.

22. Despite being aware of these transactions and the lack of disclosure in the financial statements related to these transactions, Respondents failed to exercise due care and professional skepticism and failed to perform sufficient procedures. Although stock options granted to the CEO in 2010 were disclosed, Respondents failed to evaluate additional payments and stock issuances made on behalf of the CEO and payments and stock issuances to other officers of Baltia. Respondents also failed to perform any audit procedures to determine whether the transactions reflected related party transactions.[38/]

Audit of Baltia's 2011 Financial Statements

23. The Firm audited Baltia's financial statements for the year ended December 31, 2011 and issued an unqualified opinion dated April 16, 2012. The 2011 audit report was included in a Form 10-K filed by Baltia with the Commission on April 16, 2012. Rodgers had final responsibility for the 2011 Baltia audit.

24. Baltia reported in its Form 10-K for the year ended December 31, 2011 that since inception Baltia had raised approximately $23.3 million in cash proceeds from

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36/ Id.

37/ Id.

38/ Baltia subsequently filed a Form 10-K/A for fiscal year 2010 with the Commission, disclosing additional related party transactions and additional executive compensation for the year ended December 31, 2010. See Baltia, Form 10-K/A for the year ended December 31, 2010, (Mar. 13, 2013).

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the issuance of common stock.[39/] For the same year ended December 31, 2011, Baltia reported total assets of approximately $3.8 million consisting largely of a net equipment balance of approximately $3.4 million.[40/] The equipment balance consisted primarily of two used Boeing 747's.[41/] In 2011, Baltia disclosed that no cash compensation had been paid to any executive officers with the exception of $51,000 paid to the Executive Vice President. Baltia also disclosed that approximately 160 million shares of common stock were issued to executive officers in 2011.[42/] Baltia's Form 10-K again indicated one related party transaction in connection with a loan arrangement with a company owned by a Baltia director.[43/]

25. As in the 2008, 2009, and 2010 audits, Respondents continued to be aware of information indicating that certain payments and stock issuances were being made to, or on behalf of, officers of Baltia. After becoming aware of these transactions during the audit, Respondents failed to perform sufficient procedures. Other than obtaining management representations, Respondents failed to take any steps to evaluate the nature of these transactions.

26. Despite being aware of these transactions and the lack of disclosure in the financial statements related to these transactions, Respondents failed to exercise due care and professional skepticism and failed to perform sufficient procedures. Respondents also failed to perform any audit procedures to determine whether the transactions reflected related party transactions.[44/]

[39/] Baltia Air Lines, Inc., Form 10-K for the year ended December 31, 2011 (April 16, 2012).

[40/] Id.

[41/] Id.

[42/] Id.

[43/] Id.

[44/] Baltia subsequently filed a Form 10-K/A for fiscal year 2011 with the Commission, disclosing additional related party transactions and additional executive compensation for the year ended December 31, 2011. See Baltia, Form 10-K/A for the year ended December 31, 2011, (Mar. 21, 2013).

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Patrick Rodgers, CPA, PA and Patrick E. Rodgers, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Patrick E. Rodgers, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

C. After two (2) years from the date of this Order, Patrick E. Rodgers, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Patrick Rodgers, CPA, PA is revoked;

E. After two years (2) years from the date of this Order, Patrick Rodgers, CPA, PA may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 6, 2014

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Berman W. Martinez y Asociados and Berman W. Martinez* Respondents.	PCAOB Release No. 105-2014-003 May 6, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Berman W. Martinez y Asociados (the "Firm") and Berman W. Martinez ("Martinez"), revoking the registration of the Firm, and barring Martinez from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the Firm and Martinez (collectively, "Respondents") on the basis of its findings that: (1) Respondents violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder, and PCAOB rules and auditing standards in auditing the fiscal year ("FY") 2009, 2010, and 2011 financial statements of one issuer client, and the FY 2011 restated financial statements of the same issuer client (the "Audits"); (2) the Firm violated PCAOB quality control standards and Martinez directly and substantially contributed to the Firm's violation of those standards; (3) the Firm failed to file with the Board an annual report for 2013, in violation of Section 102(d) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 2200, *Annual Report*, and (4) the Firm violated PCAOB Rule 2202, *Annual Fee*, which provides that "[e]ach registered public accounting firm must pay an annual fee to the Board."

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act, and PCAOB Rule 5200(a)(1) against the Firm and Martinez.

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II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1/]

III.

On the basis of Respondents' Offers, the Board finds[2/] that:

A. Respondents

1. Berman W. Martinez y Asociados is a limited liability partnership organized under the laws of the Republic of Nicaragua. The Firm operates in Managua, Nicaragua. In December 2009, the Firm registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At the time of the Board's first inspection of the Firm, in April 2013, the Firm had two partners, seven staff, and one issuer client, Accredited Business Consolidators Corp. ("ACDU" or the "Issuer").[3/]

2. Berman W. Martinez, age 54, of Managua, Nicaragua, is a public accountant licensed by the Nicaraguan Ministry of Education (license number 326-2006). Martinez had final responsibility for all of the audits discussed herein, and

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[1/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2/] The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3/] ACDU is the Issuer's ticker symbol.

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authorized the issuance of all audit reports discussed herein. Martinez is, and at all relevant times was, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' numerous and repeated violations of the Exchange Act and PCAOB rules, quality control standards, and auditing standards in connection with the audits of its sole issuer client ACDU's financial statements for the three fiscal years ended December 31, 2009 through December 31, 2011 (including the restated financial statements for FY 2011). Specifically, as detailed below, Respondents issued reports for each year containing unqualified audit opinions concerning the Issuer's financial statements and representing that the Audits had been conducted in accordance with PCAOB rules and standards. The Respondents did so under circumstances in which they knew, or were reckless in not knowing, that these representations were false. Respondents' conduct with regard to these reports violated Exchange Act Section 10(b) and Rule 10b-5 thereunder.

4. Respondents also failed repeatedly, among other things, to plan and perform audit work in accordance with PCAOB standards. Respondents also failed to exercise due professional care and obtain sufficient appropriate audit evidence to provide a reasonable basis for an opinion regarding the financial statements.

5. Furthermore, as detailed below, the Firm failed to establish and implement quality control policies and procedures sufficient to provide it with reasonable assurance that the work performed by engagement personnel met all applicable professional standards, as required by PCAOB standards. At all relevant times, Martinez was responsible for the development, implementation and monitoring of the Firm's quality control policies and procedures. Despite those responsibilities, Martinez took or omitted to take action knowing, or recklessly not knowing, that his acts and/or omissions would directly and substantially contribute to the Firm's violation of PCAOB quality control standards, in contravention of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

6. Finally, the Firm violated Section 102(d) of the Act and PCAOB Rule 2200 by failing to file its annual report for 2013, and violated PCAOB Rule 2202 by failing to pay its annual fee to the Board in 2013.

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C. Background

7. The Firm issued two audit reports dated April 11, 2011 expressing unqualified opinions relating to the Issuer's financial statements for FY 2009 and 2010, which the Issuer included in two separate Forms 10-K that were filed with the Securities and Exchange Commission ("Commission" or "SEC") on April 15, 2011.[4/] The Firm issued an audit report dated February 9, 2012 expressing an unqualified opinion relating to the Issuer's FY 2011 financial statements, which the Issuer included in its Form 10-K filed with the Commission on March 8, 2012. Finally, the Firm issued an audit report dated January 21, 2013 relating to the Issuer's restated FY 2011 financial statements, which the Issuer included in its Form 10-K/A filed with the Commission on January 28, 2013.[5/]

8. In the Firm's three audit reports relating to the Firm's audits of ACDU's FY 2009 through 2011 financial statements, the Firm opined that the Issuer's financial statements were fairly presented "in accordance with International Generally Accepted Accounting Principles."[6/] In each report, the Firm also stated that it had conducted the audits in accordance "with the rules of the Public Company Accounting Oversight Board (PCAOB) in the United States."[7/]

9. In the Firm's audit report dated January 21, 2013, relating to the Firm's audit of ACDU's restated FY 2011 financial statements, the Firm opined that the Issuer's

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[4/] The Issuer's fiscal year ends on December 31.

[5/] The Form 10-K/A filing also included comparative financial statements for FY 2010 not included in the original FY 2011 Form 10-K filing. The comparative financial statements for FY 2010, however, were not restated.

[6/] The footnotes to the Issuer's financial statements for FY 2009, FY 2010, and FY 2011 stated that the financial statements had been prepared in accordance with accounting principles generally accepted in the United States ("U.S. GAAP").

[7/] PCAOB Auditing Standard No. 1 ¶ 3, *References in Auditors' Reports to the Standards of the Public Company Accounting Oversight Board*, provides in pertinent part the following: "[I]n connection with any engagement performed in accordance with the auditing and related professional practice standards of the PCAOB, whenever the auditor is required by the interim standards to make reference in a report to generally accepted auditing standards, U.S. generally accepted auditing standards, auditing standards generally accepted in the United States of America, or standards established by the AICPA, the auditor must instead refer to 'the standards of the Public Company Accounting Oversight Board (United States)'."

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financial statements were fairly presented "in accordance with accounting procedures generally accepted in the United States."[8/] This report also stated: "We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (PCAOB) in the United States."

10. The heading of each report listed the Firm's name. Martinez personally signed each audit report as follows: "Berman W. Martinez Martinez – Authorized Public Accountant."

11. As detailed below, at the time of the Firm's ACDU audits, Martinez had no prior experience with performing audits under PCAOB standards or education regarding U.S. GAAP.

D. Respondents Violated PCAOB Rules and Auditing Standards In Connection with the Audits

12. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards.[9/] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[10/] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient appropriate audit evidence to provide a reasonable basis for an opinion regarding the financial statements.[11/] As detailed below, Respondents failed to comply with these standards in performing the Audits.

The FY 2009 Audit

13. ACDU is, and at all relevant times was, a Pennsylvania corporation headquartered in Nicaragua. ACDU's public filings disclose that it operates as a

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[8/] AU § 410.01, *Adherence to Generally Accepted Accounting Principles,* provides that an audit report "shall state whether the financial statements are presented in accordance with generally accepted accounting principles."

[9/] See PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards*, and 3200T, *Interim Auditing Standards*.

[10/] See AU § 508.07, *Reports on Audited Financial Statements.*

[11/] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 326, *Evidential Matter*; and Auditing Standard No. 15 ("AS 15"), *Audit Evidence*.

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"holding company," making loans to and investing in various small start-up enterprises with planned or ongoing business operations in Nicaragua, other Central American countries, the United States, and Europe. The Issuer's common stock is registered with the Commission under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. At all relevant times, ACDU was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

14. Respondents violated PCAOB rules and auditing standards in conducting their audit of ACDU's FY 2009 financial statements. Among other things, Martinez and the Firm failed to plan the audit by failing to: develop an overall strategy for the expected conduct and scope of the audit; determine the nature, extent, and timing of the work to be performed; or prepare a written audit program setting forth the audit procedures they believed were necessary to accomplish the objectives of the audit.[12/]

15. In performing the FY 2009 audit, Martinez and the Firm also failed to exercise due care and obtain sufficient competent evidential matter concerning significant balances and transactions in ACDU's financial statements.[13/] ACDU reported investments of $94,971, representing approximately 61% of its reported assets as of December 31, 2009. Respondents failed to perform any procedures to test the existence or valuation of the investments balance.

16. ACDU reported accounts receivable of $39,960 and cash of $19,922 representing approximately 26% and 13%, respectively, of its total reported assets as of December 31, 2009. Respondents failed to perform any audit procedures to test the existence or valuation of ACDU's accounts receivable and cash balances during the FY 2009 audit.

17. ACDU reported a related-party loan from its majority shareholder in the amount of $165,426 as of December 31, 2009, representing approximately 91% of ACDU's total reported liabilities at year-end 2009. Nevertheless, Respondents failed to perform any procedures to test the existence or valuation of the reported loan balance.

18. Finally, for the FY 2009 audit, Respondents performed no procedures to test the existence or valuation of the $30,757 that ACDU reported as expenses.

[12/] See AU § 311, *Planning and Supervision*. References to PCAOB auditing standards in connection with each audit are to the versions of those standards in effect for that audit.

[13/] See AU § 230; AU § 326.

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The FY 2010 Audit

19. Respondents violated PCAOB rules and auditing standards in conducting their audit of ACDU's FY 2010 financial statements. Respondents again failed to plan the audit, including by failing to: develop an overall strategy for the expected conduct and scope of the audit; determine the nature, extent and timing of the work to be performed; and prepare a written audit program setting forth the audit procedures they believed were necessary to accomplish the objectives of the audit.[14/]

20. In performing the FY 2010 audit, Martinez and the Firm also failed to exercise due care and obtain sufficient competent evidential matter concerning significant balances and transactions in ACDU's financial statements.[15/] ACDU reported investments of $90,030, representing approximately 61% of its reported assets as of December 31, 2010. Respondents failed to perform any procedures to test the existence or valuation of the investments balance.

21. ACDU reported accounts receivable of $47,638 representing approximately 32% of its total reported assets as of December 31, 2010. Respondents failed to perform any procedures to test the existence or valuation of ACDU's accounts receivable at year-end.

22. ACDU reported a related-party loan and accrued interest from its majority shareholder of $201,297 as of December 31, 2010, representing 100% of ACDU's total reported liabilities at year-end 2010. Nevertheless, Respondents failed to perform any procedures to test the existence or valuation of the reported loan and accrued interest balances.

23. Further, for FY 2010 ACDU reported a sale of stock assets of $102,837 as revenue and a related cost of the stock assets sold of $123,348. Respondents failed to perform any procedures to test the existence, valuation, presentation and disclosure of these transactions.

24. Finally, Respondents also failed to perform any audit procedures to test the existence or valuation of the $31,810 that ACDU reported as expenses for FY 2010.

[14/] See AU § 311.

[15/] See AU § 230; AU § 326.

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The FY 2011 Audit

25. During Respondents' audit of ACDU's FY 2011 financial statements, Respondents once again failed to comply with applicable professional standards. Respondents again failed to plan the audit. Respondents failed to develop an overall strategy for the audit that set the scope, timing and direction of the audit,[16/] or to develop and document an audit plan that included a description of the nature, timing, and extent of the risk assessment procedures and tests of controls and substantive procedures.[17/]

26. In performing the FY 2011 audit, Martinez and the Firm also failed to exercise due care and obtain sufficient appropriate audit evidence concerning significant balances and transactions in ACDU's financial statements.[18/] ACDU reported investments of $90,255, representing approximately 64% of its reported assets as of December 31, 2011. Respondents failed to perform any procedures to test the existence or valuation of the investments balance as of year-end and failed to identify and address appropriately a U.S. GAAP departure related to the valuation of those investments,[19/] including failing to identify and address appropriately whether the investments were impaired at year-end, as required by U.S. GAAP.[20/]

27. ACDU reported accounts receivable of $49,336 representing approximately 35% of its total reported assets as of December 31, 2011. Respondents

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[16/] See PCAOB Auditing Standard No. 9 ¶ 8, *Audit Planning*.

[17/] See id. ¶ 10.

[18/] See AU § 230; AS 15.

[19/] An auditor's opinion that an issuer's financial statements are presented in conformity with U.S. GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in the Issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Commission has considered or made any determination concerning the Issuer's compliance with GAAP.

[20/] See ASC 320-10-35, *Investments – Debt and Equity Securities*, and ASC-325-20-35, *Investments – Other*.

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failed to perform any procedures to test the existence or valuation of ACDU's accounts receivable at year-end.

28. ACDU reported a related party loan and accrued interest from its majority shareholder of $246,714 as of December 31, 2011, representing all of ACDU's total reported liabilities at year-end 2011. Nevertheless, Respondents failed to perform any procedures to test the existence or valuation of the reported loan and accrued interest balances.

29. Finally, for the FY 2011 audit, Respondents performed no procedures to test the existence or valuation of the $27,060 that ACDU reported as expenses in its FY 2011 financial statements.

The FY 2011 Restatement

30. On January 28, 2013, ACDU filed a Form 10-K/A with the Commission that amended and restated ACDU's financial statements and related disclosures for the period ended December 31, 2011.[21/] The Firm issued an unqualified audit report dated January 21, 2013 relating to ACDU's FY 2010 and restated FY 2011 financial statements which was included in the Issuer's FY 2011 Form 10-K/A. ACDU's restated FY 2011 financial statements reported impairment charges totaling $20,599 relating to its investments, decreasing the reported investments balance from $90,255 to $64,095, or 29%, and increasing reported net loss for the year from $26,742 to $47,341, or 77%. Respondents failed to perform any audit procedures concerning ACDU's FY 2011 restated financial statements before issuing and authorizing the use of their revised unqualified audit opinion concerning those financial statements.

Respondents Failed to Comply with
Engagement Quality Review Requirements

31. PCAOB Auditing Standard No. 7 ("AS 7"), *Engagement Quality Review*, provides that an engagement quality review and concurring approval of issuance are required for all audits and interim reviews for fiscal years beginning on or after December 15, 2009.[22/] Pursuant to AS 7, a firm may grant permission to a client to use

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[21/] The restatement included, among other errors, the acknowledgment that ACDU had failed to account for the impairment of certain investments as of December 31, 2011 as required by U.S. GAAP.

[22/] AS 7 ¶ 1.

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the engagement report only after the engagement quality reviewer provides concurring approval of issuance.[23/]

32. AS 7 required that the Firm have an engagement quality review performed with respect to its audits of ACDU's FY 2010 and 2011 financial statements and FY 2011 restated financial statements. The Respondents failed to ensure that an engagement quality review was performed, and as a result, Respondents violated AS 7.

E. Respondents Violated Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder in Connection with the Audits

33. Section 10(b) of the Exchange Act and Rule 10b-5 thereunder prohibit a person, in connection with the purchase or sale of a security, from making an untrue statement of a material fact or from omitting to state a material fact necessary to make statements made, in light of the circumstances under which they were made, not misleading.[24/] To violate Section 10(b) or Rule 10b-5, a respondent must act with scienter,[25/] which the Supreme Court has defined as "a mental state embracing intent to deceive, manipulate, or defraud."[26/] Scienter encompasses knowing or intentional conduct, or recklessness.[27/] An auditor violates Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by issuing an audit report stating that the audit has been performed in accordance with PCAOB standards when he or she knows, or is reckless in not knowing, that the statement is false.[28/]

[23/] AS 7 ¶ 13.

[24/] See 15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5.

[25/] See *Aaron v. SEC*, 446 U.S. 680, 695, 701-02 (1980).

[26/] *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 n.12 (1976).

[27/] See, e.g., *IIT v. Cornfeld*, 619 F.2d 909, 923 (2d Cir. 1980).

[28/] See *In the Matter of Eugene M. Egeberg III, CPA*, Exchange Act Release No. 71348, at *7-9 (January 17, 2014); *In the Matter of Hood & Associates CPAs, P.C., and Rick C. Freeman, CPA, PCAOB Release No. 105-2013-012, at* *16-17 *(November 21, 2013); In the Matter of Harris F Rattray CPA, PL, and Harris F. Rattray, CPA,* PCAOB Release No. 105-2013-009, at *4-5 (November 21, 2013); P*. Parikh & Associates, Ashok B. Rajagiri, CA, Sandeep P. Parikh, CA, and Sundeep P S G Nair,* CA, PCAOB Release No. 105-2013-002, at *7 (Apr. 24, 2013); *Lawrence H. Wolfe, CPA*, PCAOB Release No. 105-2012-005, at *5 (Sept. 7, 2012); *The Blackwing Group, LLC and Sara L. Jenkins, CPA*, PCAOB Release No. 105-2009-007, at *9-10 (Dec. 22,

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34. Respondents performed the Audits despite having no understanding of U.S. GAAP. Additionally, neither Martinez nor Firm staff had training or prior experience in auditing the financial statements of a public company in accordance with PCAOB auditing standards. Respondents knew, or were reckless in not knowing, that few if any substantive audit procedures were performed prior to the issuance of the Firm's audit opinions. As detailed in Part III.D. of this Order, above, Respondents did not plan or perform audit procedures in accordance with PCAOB standards so as to provide support for their unqualified opinions that the Issuer's financial statements were fairly presented in accordance with U.S. GAAP. Therefore, the Respondents violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by issuing audit reports in connection with ACDU's FY 2009 through 2011 financial statements and FY 2011 restated financial statements falsely stating that they had conducted the Audits in accordance with PCAOB "rules" or PCAOB "standards."

F. The Firm Violated PCAOB Rules and Quality Control Standards and Martinez Knowingly or Recklessly Contributed to Those Violations

35. PCAOB rules require that a registered public accounting firm comply with certain quality control standards.[29/] Under PCAOB quality control standards, a firm should establish policies and procedures that "provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[30/] Those procedures should encompass "all phases of the design and execution of the engagement," including "planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement."[31/] A firm's policies and procedures should provide reasonable assurance that the firm "[u]ndertakes only those engagements that the firm can reasonably expect to be completed with professional competence."[32/] Policies and procedures, as well, should be established to provide the firm with reasonable assurance that work "is assigned to personnel having the degree of

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2009); *Moore & Associates, Chartered and Michael J. Moore, CPA*, PCAOB Release No. 105-2009-006, at *16 (Aug. 27, 2009); and *In re Richard P. Scalzo, CPA*, Exchange Act Release No. 48328, 2003 WL 21938985, at *14 (Aug. 13, 2003).

[29/] See PCAOB Rules 3100 and 3400T, *Interim Quality Control Standards*.

[30/] QC § 20.17, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*; see also QC § 20.03.

[31/] QC § 20.18.

[32/] QC § 20.15a.

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technical training and proficiency required in the circumstances."[33/] One element of quality control is monitoring, and the firm should implement monitoring procedures to provide a firm with reasonable assurance that "its system of quality control is effective."[34/] The Firm failed to comply with these PCAOB quality control standards in connection with the Audits.

36. At all relevant times, the Firm failed to put policies and procedures in place to ensure that engagement personnel performed audit procedures necessary to comply with all PCAOB standards.[35/] As a result, the Firm's personnel failed to complete necessary audit work before the Firm released its audit opinions for the Audits.

37. At the time the Firm completed each of the ACDU audits, Martinez, who acted as the auditor with final responsibility or engagement partner, had no training in PCAOB standards or U.S. GAAP. In addition, the Firm did not require its personnel to participate in continuing professional education or professional development activities to ensure that its personnel understood PCAOB standards, U.S. GAAP, and applicable SEC reporting requirements.

38. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation of Board standards by that firm. Respondent Martinez, the principal partner of the Firm, was responsible for designing, implementing, and monitoring the Firm's system of quality control.[36/] Accordingly, Martinez had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. All of the Firm's conduct described above was either conduct of Martinez or omissions to act for which Martinez was responsible. With respect to all such acts and omissions, Martinez knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's quality control violations described above. Martinez thereby violated PCAOB Rule 3502.

[33/] QC § 20.13; QC §§ 40.03 and 40.06, *The Personnel Management Element of a Firm's System of Quality Control – Competencies Required by a Practitioner-in-Charge of an Attest Engagement*; see also AU § 230.06.

[34/] QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice.*

[35/] See QC § 20.17.

[36/] See QC §§ 20.01, .17, .20, and .22.

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G. The Firm Violated PCAOB Rule 2200

39. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200 provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report*, sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, the Firm failed to file an annual report for 2013.

H. The Firm Violated PCAOB Rule 2202

40. Pursuant to Section 102(f) of the Act, PCAOB Rule 2202 provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31…." In violation of Rule 2202, the Firm failed to pay its annual fee for 2013.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Berman W. Martinez y Asociados and Berman W. Martinez are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Berman W. Martinez y Asociados is revoked; and

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Berman W. Martinez is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 6, 2014

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Henry Mendoza, CPA,* *Respondent.*	PCAOB Release No. 105-2014-004 May 6, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Henry Mendoza, CPA ("Mendoza") and barring him from being an associated person of a registered public accounting firm.[1/] The Board is imposing these sanctions on the basis of its findings concerning Mendoza's noncooperation with a Board inspection and a Board investigation, in violation of PCAOB rules and auditing standards, by directing the improper alteration of, addition to, and backdating of audit documentation. These actions violated his duties to cooperate with Board inspections and investigations, and Auditing Standard No. 3, *Audit Documentation* ("AS3").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rules 5200(a)(1) and (a)(3) against Mendoza.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Mendoza has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other

[1/] Mendoza may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

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proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Mendoza and the subject matter of these proceedings, which is admitted, Mendoza consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2/]

III.

On the basis of Mendoza's Offer, the Board finds[3/] that:

A. Respondent

1. Henry Mendoza, age 55, of San Clemente, California, is a certified public accountant licensed under the laws of the states of California (license no. 49798) and Illinois (license no. 86835). At all relevant times, Mendoza was the managing partner of the registered public accounting firm of Mendoza, Berger & Company, LLP ("MBC" or the "Firm"), and was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). In 2012, MBC ceased its operations and filed for a liquidation bankruptcy.[4/] Mendoza is currently a partner of the registered public accounting firm of Link Murrel & Company, LLP.

[2/] The findings herein are made pursuant to Mendoza's Offer and are not binding on any other person or entity in this or any other proceeding.

[3/] The sanctions that the Board is imposing on Mendoza in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Mendoza's conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4/] See *In re Mendoza Berger & Company, LLP*, No. 8:12-bk-17188 (Bankr. C.D. Cal.). On November 2, 2012, MBC filed a Form 1-WD, *Request for Withdrawal From Registration*, with the Board. The Firm's withdrawal from registration with the Board became effective on April 29, 2014.

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B. Summary

2. This matter concerns Mendoza's: (a) failure to cooperate with a Board inspection; (b) noncooperation with a formal investigation of the Board; and (c) failure to comply with PCAOB auditing standards related to audit documentation.

3. Mendoza repeatedly violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors,* when Mendoza, and others acting at his direction, improperly altered, added to, and backdated work papers in advance of a Board inspection, and provided these misleading work papers to the Board's inspectors.

4. Mendoza failed to cooperate with a Board investigation, within the meaning of PCAOB Rule 5110, *Noncooperation with an Investigation*, when Mendoza, and others acting at his direction, provided false and misleading work papers to the staff of the Board's Division of Enforcement and Investigations ("Division"). These work papers contained false material declarations, and Mendoza knowingly directed MBC to produce these documents to the Division in the course of a Board investigation.

5. Finally, Mendoza repeatedly violated AS3. The misleading work papers that were produced to the Board's inspectors and to the Division did not indicate the dates that information was added to the work papers, the names of the persons who prepared the additional documentation, and the reasons for adding the additional documentation to the work papers months after the relevant documentation completion dates.

C. Mendoza Violated PCAOB Rules and Auditing Standards

6. PCAOB rules require that an associated person of a registered public accounting firm "shall cooperate with the Board in the performance of any Board inspection."[5/] This cooperation obligation includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes.[6/] PCAOB rules also require that associated persons of registered public

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[5/] PCAOB Rule 4006, *Duty to Cooperate with Inspectors*.

[6/] See, e.g., *Dale Arnold Hotz, CPA*, PCAOB Rel. No. 105-2012-008 (Nov. 13, 2012) ¶ 7. See also *Gately & Associates, LLC*, SEC Rel. No. 34-62656 at 22-23 (Aug. 5, 2010) (sustaining Board finding that respondents failed to cooperate with inspection).

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accounting firms comply with the Board's auditing standards.[7/] Among other things, PCAOB auditing standards require that an auditor make certain written disclosures if the auditor adds information to the work papers after the documentation completion date.[8/] As described below, Mendoza violated PCAOB rules and auditing standards in connection with the Board's inspection of MBC's audits of the 2008 financial statements of Issuers A and B, as defined below in paragraphs 8 and 9, respectively.

7. Additionally, the Act authorizes the Board to impose disciplinary sanctions for noncooperation with a Board investigation.[9/] PCAOB rules include procedures for implementing that authority.[10/] Noncooperation with a Board investigation includes knowingly making any false material declaration or making or using any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration.[11/] As described below, Mendoza failed to cooperate with a Board investigation by submitting work papers to the Division that Mendoza knew to contain false material declarations.

Background Regarding the Audits

8. Issuer A is an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). MBC audited the December 31, 2008 and 2009 financial statements of Issuer A (the "Issuer A audits"). Mendoza was the engagement partner for the Issuer A audits. MBC's audit reports for the Issuer A audits expressed unqualified opinions, and stated that the audits were conducted in accordance with PCAOB standards. Each audit report stated that Issuer A's financial statements presented fairly, in all material respects, the company's financial position, results of operations, and cash flows in conformity with U.S. Generally Accepted Accounting

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[7/] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[8/] See AS3 ¶ 16.

[9/] See Act § 105(b)(3).

[10/] See PCAOB Rules 5110 and 5200(a)(3).

[11/] See Rule 5110(a)(2). See also *Labrozzi & Co., P.A. and Douglas A. Labrozzi, CPA*, PCAOB Rel. No. 105-2014-001 (Feb. 13, 2014) ¶ 5; *The Blackwing Group, LLC and Sara L. Jenkins, CPA*, PCAOB Rel. No. 105-2009-007 (Dec. 22, 2009) ¶ 24.

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Principles ("GAAP"). The audit reports were included in Issuer A's annual reports filed with the U.S. Securities and Exchange Commission ("Commission").

9. Issuer B is an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). MBC audited the December 31, 2008 financial statements of Issuer B (the "Issuer B audit"). MBC's audit report for the Issuer B audit expressed an unqualified opinion, and stated that the audit was conducted in accordance with PCAOB standards. The audit report stated that Issuer B's financial statements presented fairly, in all material respects, the company's financial position, results of operations, and cash flows in conformity with GAAP. The audit report was included in Issuer B's annual report filed with the Commission.

10. The report release dates for the 2008 audit of Issuer A, and the 2008 audit of Issuer B, were prior to April 1, 2009.[12/] Therefore, the documentation completion dates for the 2008 audits of Issuers A and B were prior to May 16, 2009.[13/] While information may be added to the work papers after the documentation completion date, the new documentation must disclose the date the information was added, the person preparing the additional documentation, and the reason for adding the information to the work papers after the documentation completion date.[14/]

11. The report release date for the 2009 audit of Issuer A was prior to April 1, 2010. The documentation completion date for that audit was prior to May 16, 2010.

The Board's Inspection

12. On May 22, 2009, the Board notified Mendoza that MBC was going to be inspected. Inspection fieldwork was scheduled to begin on September 21, 2009.

13. On September 11, 2009, the Board notified Mendoza that the 2008 audits of the financial statements of Issuers A and B had been selected for inspection.

[12/] See AS3 ¶ 14 (defining report release date as "date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements").

[13/] See id. ¶ 15 (defining documentation completion date as "a date not more than 45 days after the report release date").

[14/] Id. ¶ 16.

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14. After receiving notice of the inspection, Mendoza announced in a Firm-wide meeting that the work papers for the Firm's issuer audits needed to be "cleaned up" prior to the arrival of the Board's inspectors. Mendoza met with the engagement team for the 2008 audit of Issuer A, and directed the staff to make several changes to the audit documentation. Among other things, Mendoza directed the staff to fill out several audit programs that had not been completed at the time of the audit. Mendoza sat beside one engagement team member while that person made several changes to the work papers at Mendoza's direction. Mendoza also directed a staff member to backdate changes to the work papers to the time of the audit.

15. Mendoza also directed the engagement team for the 2008 audit of Issuer B to ensure that the audit documentation for that audit was complete. During the week leading up to the arrival of the Board's inspectors at MBC, members of the 2008 Issuer B engagement team modified the work papers for that audit. Among other things, the engagement team altered and added information to MBC's written analyses in several of the work papers. The engagement team backdated these changes to the work papers to the time of the audit. Before the Board's inspectors arrived at MBC, Mendoza confirmed with one of the staff that the alterations to the documentation for the 2008 audit of Issuer B were complete.

16. These changes and additions to the work papers for the 2008 audits of Issuers A and B were made after the relevant documentation completion dates. The work papers did not indicate the dates of the changes and additions, the identity of the persons making the changes and additions, or the reasons for making the changes and additions.

17. Field work for the Board's inspection began on September 21, 2009. During field work, Mendoza made available to the Board's inspectors the misleading work papers for the 2008 audits of Issuers A and B. At no time did Mendoza advise the inspectors that the work papers had been altered after the relevant documentation completion dates, and in anticipation of the Board's inspection. In fact, Mendoza expressly instructed MBC staff to conceal from the Board's inspectors that changes had been made to the audit documentation.

18. As a result of the conduct described above, Mendoza violated PCAOB Rule 4006 and AS3.

The Board's Investigation

19. On November 18, 2010, as part of an informal inquiry, the Division requested that MBC produce the work papers for the 2008 audits of Issuers A and B, and the 2009 audit of Issuer A (the "Document Request").

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20. After receipt of the Document Request, Mendoza met with two members of the engagement team for the 2009 audit of Issuer A. At Mendoza's direction, a member of the engagement team modified and added to the work papers for the 2009 audit of Issuer A. Among other things, this engagement team member completed several audit programs that were not completed during the audit. The engagement team member backdated these changes and additions to the work papers, pursuant to Mendoza's instructions.

21. The changes and additions to the work papers for the 2009 audit of Issuer A were made after the documentation completion date. The work papers did not indicate the dates of the changes and additions, the identity of the person making the changes and additions, or the reasons for making these changes and additions.

22. At Mendoza's direction, on or about December 26, 2010 MBC produced to the Division the work papers for the 2008 audits of Issuers A and B, and the 2009 Audit of Issuer A. Mendoza knew that the production included the misleading work papers for the 2008 audits of Issuers A and B. As stated above, Mendoza was aware that MBC staff had altered those documents in advance of a Board inspection. Mendoza also knew that the production to the Division included the misleading work papers for the 2009 audit of Issuer A, which Mendoza directed to be altered after receiving the Document Request. At no time did Mendoza advise the Division of the misleading nature of the work papers produced in response to the Document Request.

23. On February 9, 2011, as part of a formal investigation of the Board, the Division issued an Accounting Board Demand (the "Demand") to MBC for, among other things, the same work papers that were previously sought pursuant to the Document Request. In response to the Demand, and at Mendoza's direction, MBC produced to the Division the same misleading work papers that MBC had produced to the Division in response to the Document Request. At no time did Mendoza advise the Division of the misleading nature of the work papers produced in response to the Demand.

24. As a result of the conduct described above, Mendoza failed to cooperate with a Board investigation, within the meaning of PCAOB Rule 5110, and failed to comply with AS3.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Mendoza's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Henry Mendoza, CPA is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Henry Mendoza, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); and

C. After five (5) years from the date of this Order, Henry Mendoza, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 6, 2014

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Jeffrey & Company and Robert G. Jeffrey, CPA,* *Respondents.*	PCAOB Release No. 105-2014-005 May 6, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring the registered public accounting firm Jeffrey & Company[1/] ("J&C" or the "Firm"), and revoking the Firm's registration;[2/] and censuring Robert G. Jeffrey, CPA ("Jeffrey") and barring him from being an associated person of a registered public accounting firm.[3/] The Board is imposing these sanctions on the basis of its findings that the Firm and Jeffrey (collectively, "Respondents") repeatedly violated Section 10A(j) of the Securities Exchange Act of 1934 ("Exchange Act"), Exchange Act Rule 10A-2, and PCAOB rules and auditing standards in connection with the Firm's audits for three issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

[1/] Jeffrey & Company originally registered with the Board and issued audit reports under the name "Robert G. Jeffrey, CPA."

[2/] The Firm may reapply for registration after three (3) years from the date of this Order.

[3/] Jeffrey may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[4/]

III.

On the basis of Respondents' Offers, the Board finds[5/] that:

A. Respondents

1. Jeffrey & Company is, and at all relevant times was, a sole proprietorship organized under the laws of the state of New Jersey, and headquartered in Wayne, New Jersey. J&C is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. J&C is licensed to practice public accountancy by the New Jersey State Board of Accountancy (license no. 20CB00477200). At all relevant times, the Firm was the external auditor for each of the issuers identified below.

2. Robert G. Jeffrey, 80, of Wayne, New Jersey, is a certified public accountant licensed under the laws of the states of New Jersey (license no. 20CC01588100) and New York (license no. 021496). He is the sole owner and managing partner of J&C. Jeffrey is an associated person of a registered public

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[4/] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[5/] The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' repeated violations of Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, and PCAOB rules and auditing standards that require a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[6/] As detailed below, Respondents were not independent with respect to two issuer clients because Jeffrey served as the lead audit partner for more than five consecutive years during the audits of the 2008-2009 financial statements of Asia Electrical Power International Group, Inc. ("AEP") and the 2010-2011 financial statements of Amanasu Techno Holdings Corp. ("Amanasu Techno"). In addition, Respondents were not independent with regard to another issuer client because Jeffrey served as the lead audit partner during the audits of the 2010 financial statements of Amanasu Environment Corp. ("Amanasu Environment") within the five consecutive year period following the performance of services as the lead audit partner for the maximum permitted period, and then Jeffrey continued to serve as the lead audit partner on Amanasu Environment's 2011 financial statements.

C. Respondents Violated PCAOB Rules and Auditing Standards, Independence Standards and the Exchange Act

4. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[7/] "[A] registered public accounting firm or associated person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the U.S. Securities and Exchange Commission ("Commission") under the federal securities laws."[8/]

[6/] See Section 10A(j) of the Exchange Act; Exchange Act Rule 10A-2, *Auditor Independence*; PCAOB Rule 3520, *Auditor Independence*; and AU §§ 220.01-02, *Independence*.

[7/] See PCAOB Rule 3520; see also AU §§ 220.01-02.

[8/] See PCAOB Rule 3520, Note 1.

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5. Section 10A(j) of the Exchange Act provides, "[i]t shall be unlawful for a registered public accounting firm to provide audit services to an issuer if the lead (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, has performed audit services for that issuer in each of the 5 previous fiscal years of that issuer."[9/]

6. Exchange Act Rule 10A-2 provides that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the partner rotation requirements of the Commission Regulation S-X.[10/]

7. Rule 2-01 of Commission Regulation S-X provides that an accountant is not independent of an audit client when an audit partner performs the services of lead or concurring audit partner for the same issuer for more than five consecutive years or within the five consecutive year period following the performance of services for the maximum period permitted.[11/]

8. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[12/]

9. As described below, Respondents failed to comply with Exchange Act Rule 10A-2 and PCAOB rules and standards, the Firm failed to comply with Section 10A(j) of the Exchange Act, and Jeffrey directly and substantially contributed to the Firm's violations of Section 10A(j) of the Exchange Act.

[9/] See Section 10A(j) of the Exchange Act.

[10/] See Exchange Act Rule 10A-2.

[11/] See Rule 2-01 of Commission Regulation S-X, 17 C.F.R. §§ 210.2-01(c)(6)(i)(A)(1) and (c)(6)(i)(B)(1). At all relevant times, the Firm had five or more issuer clients, and did not qualify for the small firm exemption. Id. at § 210.2-01(c)(6)(ii).

[12/] See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

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ORDER

Audits of AEP's Financial Statements

10. At all relevant times, AEP was a Nevada corporation headquartered in the People's Republic of China. AEP's public filings disclose that it was engaged in the business of designing, manufacturing and marketing electrical switchgears, circuit breakers and branch cabinets. Its common stock was registered under Section 12(g) of the Exchange Act and quoted on the OTC Bulletin Board. At all relevant times, AEP was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). On October 20, 2010, following a 1-for-500 reverse stock split, AEP terminated the registration of its securities. The Firm was engaged as AEP's external auditor in 2004.

11. The Firm audited AEP's 2002 through 2007 financial statements over a period of five consecutive fiscal years,[13/] and issued audit reports, which were included in Forms SB-2, SB-2/A, 10KSB and 10-K filed with the Commission, expressing unqualified opinions on those financial statements. Jeffrey served as the lead audit partner on each of the AEP audit engagements and authorized the issuance of all audit reports during this five year period.

12. After serving as lead audit partner for the aforementioned five year period, Jeffrey continued to serve as the lead audit partner on the audit of AEP's 2008 financial statements in violation of Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520 and AU § 220. Jeffrey also authorized the issuance of an audit report that was included in a Form 10-K filed with the Commission, expressing an unqualified opinion on the 2008 financial statements, even though the Firm and Jeffrey were not independent of the client.

13. The Firm continued to be the external auditor for AEP during the audit of its 2009 financial statements. While the Firm designated another auditor from outside the Firm (the "contract partner") as the "lead audit partner" for AEP, Jeffrey continued to perform the services of lead audit partner. Although he knew he was precluded from serving as the lead audit partner on the 2009 audit, Jeffrey: (1) participated in the planning of the audit, (2) travelled to China to supervise assistants performing the fieldwork, (3) performed in-depth reviews of the audit work papers, and (4) provided detailed review notes on that work to the assistants.

14. As a result of Jeffrey's services as described above, the Firm and Jeffrey were not independent during the audit of AEP's 2009 financial statements, in violation of

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[13/] The initial audit report, issued in 2004, covered AEP's 2002 and 2003 financial statements.

ORDER

Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520 and AU § 220. Although Jeffrey knew he was not permitted to serve as the lead audit partner on that audit, Jeffrey also authorized the issuance of an audit report that was included in a Form 10-K filed with the Commission, expressing an unqualified opinion on the 2009 financial statements, even though the Firm and Jeffrey were not independent of the client.

Audits of Amanasu Techno's Financial Statements

15. At all relevant times, Amanasu Techno was a Nevada corporation headquartered in New York, New York. Amanasu Techno's public filings disclose that it was a development stage company engaged in obtaining licenses to various environmental and other technologies and conducting preliminary marketing efforts. Its common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. At all relevant times, Amanasu Techno was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). The Firm was engaged as Amanasu Techno's external auditor in 2002.

16. The Firm audited Amanasu Techno's 2005 through 2009 financial statements over a period of five consecutive years, and issued audit reports, which were included in Forms 10KSB and 10-K filed with the Commission, expressing unqualified opinions on those financial statements. Jeffrey served as the lead audit partner for each of the Amanasu Techno engagements and authorized the issuance of all audit reports during this five year period.

17. After serving as the lead audit partner for the aforementioned five year period, Jeffrey continued to serve as the lead audit partner on the audits of Amanasu Techno's 2010 and 2011 financial statements in violation of Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520 and AU § 220. Jeffrey was aware, prior to performing the audits of the 2010 and 2011 financial statements, that he had already served as the lead audit partner for Amanasu Techno for the maximum five consecutive year period by the conclusion of the 2009 audit. Nevertheless, Jeffrey authorized the issuance of audit reports on the 2010 and 2011 financial statements that were included in Forms 10-K and 10-K/A that Amanasu Techno filed with the Commission, expressing unqualified opinions on those financial statements, even though the Firm and Jeffrey were not independent of the client.

Audits of Amanasu Environment's Financial Statements

18. At all relevant times, Amanasu Environment was a Nevada corporation headquartered in New York, New York. Amanasu Environment's public filings disclose that it was a development stage company engaged in the development of environmental

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technology. Its common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. At all relevant times, Amanasu Environment was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). The Firm was engaged as Amanasu Environment's external auditor in 2001.

19. The Firm audited Amanasu Environment's 2001 through 2005 financial statements over a period of five consecutive years, and issued audit reports, which were filed in Forms 10KSB with the Commission, expressing unqualified opinions on those financial statements. Jeffrey served as the lead audit partner for each of the Amanasu Environment engagements and authorized the issuance of all audit reports during this five year period.

20. After Jeffrey served as the lead audit partner for the aforementioned five year period, the Firm designated the contract partner to be the lead audit partner on the audits of Amanasu Environment's 2006 through 2009 financial statements. The Firm issued audit reports on the 2006 through 2009 financial statements, which were included in Forms 10KSB, 10-K and 10-K/A filed with the Commission, expressing unqualified opinions on those financial statements. In violation of Exchange Act Rule 10A-2, PCAOB Rule 3520 and AU § 220, Jeffrey resumed the role of lead audit partner on the audits of Amanasu Environment's 2010 financial statements within the five consecutive year period following the performance of services as lead audit partner for the maximum permitted period, and then continued to serve as the lead audit partner on the audit of the 2011 financial statements. Jeffrey was aware, prior to performing the audits of the 2010 and 2011 financial statements, that he had not rotated off of the Amanasu Environment audits for the required five consecutive year period prior to resuming the lead audit partner role on those audits. Nevertheless, Jeffrey authorized the issuance of audit reports on the 2010 and 2011 financial statements that were included in Forms 10-K and 10-K/A that Amanasu Environment filed with the Commission, expressing unqualified opinions on those financial statements, even though the Firm and Jeffrey were not independent of the client.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Jeffrey & Company and Robert G. Jeffrey, CPA are hereby censured;

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B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Robert G. Jeffrey, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

C. After three (3) years from the date of this Order, Robert G. Jeffrey, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Jeffrey & Company is revoked; and

E. After three (3) years from the date of this Order, Jeffrey & Company may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 6, 2014

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Paul W. Marchant, CPA,* *Respondent.*	PCAOB Release No. 105-2014-006 May 6, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Paul W. Marchant, CPA ("Respondent") and barring him from being an associated person of a registered public accounting firm.[1/] The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB rules and auditing standards in connection with the improper addition, alteration, and backdating of audit documentation in connection with a Board investigation.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) and (a)(3) against Respondent.

[1/] Marchant may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2/]

III.

On the basis of Respondent's Offer, the Board finds[3/] that:

A. Respondent

1. Paul W. Marchant, 68, of Wayne, New Jersey, is a certified public accountant licensed under the laws of the state of New Jersey (license no. 20CC00588000). At all relevant times, Respondent served as an engagement team member on audits and reviews of issuer financial statements performed by the registered public accounting firm, Jeffrey & Company ("J&C" or the "Firm"), including each audit and review discussed in this Order. For several of those audits and reviews, Respondent served as the sole staff member on the engagement team, reporting directly to the engagement partner. Respondent was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and

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[2/] The findings herein are made pursuant to the Respondent's Offer and is not binding on any other persons or entities in this or any other proceeding.

[3/] The sanctions that the Board is imposing on Respondent in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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PCAOB Rule 1001(p)(i). During his tenure at the Firm, Respondent was supervised by a partner at the Firm (the "Firm Partner").

B. Summary

2. The Act authorizes the Board to impose disciplinary sanctions for a registered firm's or associated person's noncooperation with a Board investigation.[4/] Board rules include procedures for implementing that authority.[5/] As described below, Respondent altered and created audit documentation related to certain of the Firm's audits prior to providing that documentation to the staff of the Division of Enforcement and Investigations ("Division") during the course of a Board investigation. Respondent also falsely testified in the Board investigation that specific work papers in the audit documentation produced to the Division were created at the time of the relevant audit and prior to the issuance of the relevant audit report, when he knew they were not. In addition, Respondent violated Auditing Standard No. 3, *Audit Documentation* ("AS3"), by adding documents to the audit documentation after the documentation completion date, without indicating the date the information was added to the work papers, the name of the person who prepared the additional documentation, and the reason for adding it.

C. Respondent Failed to Cooperate with a PCAOB Investigation and Violated PCAOB Rules and Auditing Standards

3. Noncooperation with a Board investigation includes knowingly making any false material declaration or making or using any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration.[6/]

4. PCAOB rules require that registered public accounting firms and their associated persons comply with the Board's auditing and related professional practice standards.[7/] PCAOB standards require that auditors prepare audit documentation in

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[4/] See Section 105(b)(3) of the Act.

[5/] See PCAOB Rule 5110, *Noncooperation with an Investigation*; PCAOB Rule 5200(a)(3), *Commencement of Disciplinary Proceedings*.

[6/] PCAOB Rule 5110(a)(2).

[7/] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

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connection with each engagement conducted under PCAOB standards.[8/] Among other things, audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to "determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review."[9/]

5. PCAOB auditing standards also require that certain written disclosures be included if the auditor adds to the audit documentation after the documentation completion date.[10/] The report release date for an audit is defined as "the date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements."[11/] The documentation completion date is defined as a date not more than 45 days after the report release date.[12/] Audit documentation must not be deleted or discarded after the documentation completion date; however, information may be added.[13/] Any information added must indicate the date the information was added, the name of the person who prepared the additional information, and the reason for adding it.[14/]

6. As detailed below, Respondent failed to cooperate with a Board investigation and violated PCAOB rules and standards when he: (1) improperly altered, created, backdated and added to audit work papers; (2) assisted the Firm in producing these false work papers to the Division; and (3) falsely testified in connection with a Board investigation that these documents represented the Firm's work papers completed during the audit, when he knew they did not.

8/ AS3 ¶ 4.

9/ Id. ¶ 6.

10/ Id. ¶ 16.

11/ Id. ¶ 14.

12/ Id. ¶ 15.

13/ Id. ¶ 16.

14/ Id.

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The Audits

7. At all relevant times, "Issuer A" and "Issuer B" were each an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

8. J&C performed the audits of both Issuer A's and Issuer B's financial statements, for the years ended December 31, 2009, 2010, and 2011, and reviews of the quarters ended therein. The Firm's audit reports stated that each of Issuer A's and Issuer B's December 31, 2009, 2010 and 2011 financial statements presented fairly, in all material respects, the issuer's financial position, results of operations and cash flows in conformity with U.S. generally accepted accounting principles. Each of the audit reports included an unqualified opinion, and was included in a Form 10-K and/or Form 10-K/A filed with the U.S. Securities and Exchange Commission ("Commission").

9. By mid-April 2012, the Firm had released one or more audit reports related to each of Issuer A's and Issuer B's 2009 through 2011 financial statements, and those reports were included in the issuers' Form 10-Ks and Form 10-K/As filed with the Commission. Therefore, the documentation completion date for each of these audits and preceding reviews had occurred by the end of May 2012.

Noncooperation with the Board's Investigation

10. On June 12, 2012, as part of an informal inquiry, the Division requested the production of certain work papers and information concerning certain of the Firm's issuer audit engagements (the "Document Request"), including the Firm's audit documentation for the audits and reviews it performed for the 2009 through 2011 financial statements of Issuer A and Issuer B.

11. On August 13, 2012 and September 12, 2012, as part of a formal investigation, the Division issued Accounting Board Demands ("ABDs") to the Firm and Respondent, respectively. The ABDs requested, among other things, the same audit documentation that was the subject of the Document Request. In response, the Firm referred the Division to the documents it previously produced in response to the Document Request concerning Issuer A.

Respondent's Conduct in the Document Productions

12. Respondent had served as an engagement team member on the audits and reviews of Issuer A's and Issuer B's 2009-2011 financial statements. In the summer of 2012, shortly after receiving the Document Request, the Firm Partner instructed Respondent to review the audit documentation for the Firm's audit of Issuer A's 2009 financial statements, before it was produced to the Division. The Firm Partner

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directed Respondent to identify any audit work papers that were missing, inaccurate, or that contained the Firm Partner's handwriting.

13. In the course of his review, Respondent showed the Firm Partner several hard copy work papers that the Firm Partner had completed for the audit of Issuer A's 2009 financial statements, including the "Engagement Completion Document," the "Client Information and Business Risk Form," the "Understanding of Internal Control Documentation Form," and the "Fraud Risk Information Form." Each of these documents was originally completed by the Firm Partner and contained the Firm Partner's handwriting. The audit report release date for that audit was prior to June 30, 2010. The documentation completion date, therefore, was prior to August 14, 2010.

14. After Respondent showed the Firm Partner the aforementioned work papers, Respondent made several changes to those work papers to indicate that Respondent, rather than the Firm Partner, had completed that audit work and documentation. Specifically, Respondent erased parts of three of the foregoing documents that the Firm Partner had previously handwritten. Respondent then rewrote the erased portions of these work papers in his own handwriting, and changed the "Completed by" information on each of the work papers to indicate that he had completed the work on a date during the audit, instead of the Firm Partner. For the fourth document, Respondent created a new version, in his own handwriting, to replace the original created by the Firm Partner. On that document as well, Respondent wrote his own name in the "Completed by" section of the work paper, and backdated it to a date during the audit. Respondent added these altered and newly created documents to the audit documentation. However, Respondent did not indicate the date that the work papers were altered or added to the audit documentation, or the reason they were altered or added after the relevant documentation completion date.

15. In July 2012, Respondent also created and added a new trial balance tie-out work paper to the audit documentation for the audit of Issuer A's 2009 financial statements. In doing so, Respondent backdated the new work paper to a date prior to the date of the audit report, and failed to document the reason that he added that work paper to the audit documentation after the relevant documentation completion date.

16. Also in late June 2012 and late October of 2012, the Firm Partner directed Respondent to review the audit documentation for any missing documents in the Firm's work papers for its reviews of Issuer A's and Issuer B's quarterly financial statements conducted in 2009, 2010 and 2011, before that documentation was produced to the Division. Respondent then identified missing audit documentation from those review work papers, and created audit documentation for those reviews. In doing so, Respondent backdated the new audit documentation to dates between 2009 and 2011. These documents were inserted into the work papers prior to their production to the

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Division. However, Respondent did not indicate the date the new documentation was added, the name of the person who prepared the additional documentation, and the reason that the new documentation was added after the relevant documentation completion dates.

Respondent's Testimony

17. As a result of the foregoing conduct, Respondent knew that the audit documentation related to Issuer A and Issuer B that the Firm produced to the Division in connection with the Board's investigation included altered and newly created audit documentation. Respondent also knew that the altered and newly created documentation was being produced as though it had been part of the original audit documentation, created during the relevant audits and reviews and before the relevant documentation completion dates.

18. In November 2012 investigative testimony before the Division, when asked whether he had made changes to specific work papers in the audit documentation for the audit of Issuer A's 2009 financial statements, Respondent denied making changes to those documents after being made aware of the investigation. Two months later, in investigative testimony before the Division, Respondent admitted that he had altered and added those work papers, as described above, before they were produced to the Division.

19. As a result of the conduct described above, Respondent failed to cooperate with a Board investigation, and Respondent violated AS3, *Audit Documentation*.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Paul W. Marchant is hereby censured; and

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Paul W. Marchant, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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C. After three (3) years from the date of this Order, Respondent may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 6, 2014

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Randall A. Stone, CPA,* *Respondent.*	PCAOB Release No. 105-2014-007 July 7, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring Randall A. Stone, CPA ("Stone"); (2) imposing a civil money penalty in the amount of $50,000; and (3) barring Stone from being associated with a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings concerning Stone's violations of PCAOB rules and auditing standards in connection with (1) the audit of the consolidated financial statements of ArthroCare Corporation ("ArthroCare" or "Company") for the fiscal year ended December 31, 2007, and (2) the consent to incorporate by reference the fiscal year 2007 audit report in a Form S-8 Registration Statement filed by ArthroCare with the United States Securities and Exchange Commission ("Commission" or "SEC") in June 2008.

I.

On December 19, 2012, the Board instituted disciplinary proceedings against Stone pursuant to Section 105 of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1). These proceedings were not public pursuant to Section 105(c)(2) of the Act and PCAOB Rule 5203. The Board determined, under Section 105(c)(2) and PCAOB Rule 5203, that good cause was shown to make the hearing in this proceeding public, and the Division of Enforcement and Investigations consented to making the hearing public. As permitted by Section 105(c)(2) and PCAOB Rule 5203, Stone did not consent to make the hearing in this proceeding public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Stone has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on

[1] Stone may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

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behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except to the Board's jurisdiction over him, which is admitted, Stone consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Stone's Offer, the Board finds that:[3]

A. Respondent

1. Randall A. Stone, age 51, of Austin, Texas, is a certified public accountant licensed under the laws of Texas (license no. 047916). At all relevant times, Stone was a partner in the Austin, Texas office of PricewaterhouseCoopers LLP ("PwC"), a registered public accounting firm, and was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Stone retired from PwC effective June 30, 2014.

B. Summary

2. This matter concerns Stone's failures to comply with PCAOB rules and standards in auditing revenue recognized by ArthroCare and reported in its 2007 financial statements. As the PwC partner in charge of the 2007 ArthroCare audit, Stone ignored or failed to properly evaluate numerous indicators—known to him during the audit—that should have alerted him to the possibility that ArthroCare may have been engaging in fraudulent financial reporting by improperly recognizing revenue on sales to DiscoCare, Inc. ("DiscoCare"), one of its largest distributors. By the time he authorized issuance of PwC's 2007 audit report, Stone was aware of considerable information that individually and collectively should have called into question whether ArthroCare's

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[2] The findings herein are made pursuant to Stone's Offer and are not binding on any other persons or entities in this or any other proceeding.

[3] The Board finds that Stone's conduct described in this Order meets the conditions set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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revenue from DiscoCare sales was realized or realizable, and earned, in accordance with U.S. generally accepted accounting principles ("GAAP"), including whether collectibility was reasonably assured. For example, despite appropriately identifying specific fraud risks relating to revenue recognition, Stone ignored repeated indications that DiscoCare may have relied on service fee payments received from ArthroCare to fund its purchases. Nevertheless, he failed to properly test or otherwise assess whether ArthroCare's revenue recognition complied with GAAP. Stone also failed to properly evaluate, using all of the information at his disposal, the business rationale for ArthroCare's significant and unusual sales transactions with DiscoCare. He repeatedly accepted management representations without applying the necessary auditing procedures, evaluating contradictory audit evidence, obtaining sufficient competent audit evidence, and exercising the requisite due care and professional skepticism.

3. This matter also concerns Stone's failure to comply with PCAOB rules and standards in auditing ArthroCare's accounting for its acquisition of DiscoCare on December 31, 2007. Stone failed to exercise due professional care and skepticism by agreeing with the Company's proposed accounting for the acquisition without adequately assessing whether such accounting treatment complied with GAAP. Stone also failed to properly audit management's assertions regarding the existence or occurrence, rights and obligations, and the fair market valuation of the accounts receivable acquired from DiscoCare.

4. Finally, this matter involves Stone's improper authorization of PwC's consent to include the 2007 audit report in ArthroCare's Form S-8 Registration Statement filed with the SEC on June 6, 2008, which registered shares for the Company's employee incentive stock plan. On May 30, 2008, PwC's Office of General Counsel received two anonymous faxes that included allegations of material errors in ArthroCare's current and past financial statements, and forwarded the faxes to Stone. Although many of the allegations were similar to those Stone had learned about during the 2007 audit, the faxes also contained new and more detailed allegations. Stone knew that ArthroCare was assessing these most recent allegations and was in the process of preparing a detailed written response to the allegations for PwC. Before he received ArthroCare's written response or completed a reasonable subsequent facts investigation, Stone improperly authorized PwC's consent to incorporate by reference the 2007 audit report in ArthroCare's Form S-8 filing.

C. Background

5. Stone was the engagement partner on PwC's audits of the consolidated financial statements of ArthroCare for the fiscal years ended December 31, 2005 through 2009. At all relevant times, ArthroCare was a medical device company that developed, manufactured and marketed disposable devices for minimally invasive

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surgeries, including a device called the SpineWand. At all relevant times, ArthroCare's common stock was registered under Section 12(b) of the Securities Exchange Act of 1934, and was quoted on the NASDAQ Stock Market. At all relevant times, ArthroCare was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

6. On February 29, 2008, Stone authorized PwC's issuance of a standard audit report expressing an unqualified opinion on ArthroCare's financial statements and internal control over financial reporting for the year ended December 31, 2007. A few months later, on June 6, 2008, he authorized PwC's consent to incorporate by reference that audit report in a Form S-8 Registration Statement filed by ArthroCare with the Commission.

7. On July 21, 2008, as a result of an internal reassessment, ArthroCare filed a Form 8-K with the SEC announcing that it would restate its financial statements for several periods, including the year ended December 31, 2007. The Company disclosed that "[t]he restatement follows a recommendation by management that revenue in these previously issued financial statements should be adjusted because: [among other things,] the relationship between the Company and DiscoCare, Inc. during the periods being restated was a sales agent relationship, rather than that of a traditional distributor…. The Company will therefore account for sales by ArthroCare of products to [DiscoCare] from the third quarter of 2006 to March 31, 2008, under a sell-through revenue recognition method …, as opposed to a sell-in method." The Company also disclosed that "[m]anagement's reassessment of its prior accounting for sales to distributors resulted from discussions initiated by PwC." ArthroCare's common stock closed at $23.21 per share that day, down 42 percent from its Friday, July 18, 2008 closing price of $40.03.

8. On November 18, 2009, following a detailed Audit Committee Review, ArthroCare filed a Form 10-K restating its financial statements for 2007 and other periods. The Review focused on two areas: (1) accounting issues and internal controls and (2) insurance billing and healthcare compliance issues. As disclosed in that Form 10-K: "The Review identified facts indicating that the Company's sales management and certain other senior managers maintained a significant focus on achieving particular revenue growth objectives over time." Further, "a substantial number of the transactions that were … corrected as a result of the restatement were quarter-end transactions and were frequently structured by the Company's sales management to result in revenue being recognized in a particular quarter in order to meet revenue forecasts." ArthroCare also disclosed that "[i]n a majority of the transactions reviewed, sales personnel involved in the transactions at issue, including a former executive officer, did not communicate information and practices bearing on revenue recognition and related matters to the Company's finance personnel, and as a consequence, it appears that the

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information was not conveyed to the Company's independent registered public accounting firm."

9. The auditing matters at issue in this proceeding concern ArthroCare's transactions with DiscoCare, a privately-held Florida company that was ArthroCare's largest distributor in 2007.

The DiscoCare Agreement

10. Effective November 1, 2006, ArthroCare and DiscoCare entered into a five-year "Consulting, Services and Purchasing Agreement" ("2006 Agreement"), which superseded a 2005 purchasing agreement between the parties. The 2006 Agreement designated DiscoCare as ArthroCare's "exclusive consultant" in the U.S. for collection from third-party payors for surgical procedures using the SpineWand. The then-audit manager sent Stone an email about the new agreement on October 31, 2006, describing it as "a new type of revenue deal for [ArthroCare]."

11. Under the 2006 Agreement, DiscoCare was obligated to pay ArthroCare for SpineWands at varying prices and payment terms depending on case-type. Under the agreement's original terms, the price was $5,750 per unit for personal injury cases; $6,500 for workers compensation cases; $3,000 for private health insurance cases with a "carve out"; and $1,400 per unit for cases with no "carve out."[4] Payment terms were 360 days for personal injury cases and 180 days for all others. Stone understood that these prices were substantially higher than those charged to ArthroCare's other customers, and he knew, or should have known, that these extended payment terms were substantially longer than those offered to ArthroCare's other customers.

12. Stone also knew that the 2006 Agreement obligated ArthroCare to pay a monthly service fee to DiscoCare, purportedly for consulting services, the nature of which was not specified in the agreement. The service fee amounts were based on sales volume and average selling price. Payable within 20 days of each month-end (well in advance of DiscoCare's 180-360 day payment obligations), the service fee was calculated using a formula based on total monthly SpineWand sales to DiscoCare and the average price of SpineWands sold that month. During 2007, the service fee approximated 50 percent of the amounts invoiced to DiscoCare for SpineWands each month. Stone knew that half of the monthly service fee was being applied against the

[4] Although not clearly defined in the 2006 Agreement, "carve out" appears to relate to the process for how the products will be reimbursed.

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accounts receivable owed by DiscoCare and the other half was being paid to DiscoCare in cash. None of ArthroCare's other distributors had a similar arrangement.

13. Stone understood that under the 2006 Agreement's original terms, (1) ArthroCare would "drop-ship" SpineWands directly to customers (e.g., hospitals, surgical centers, and surgeons) for use in approved surgical procedures; (2) DiscoCare would be invoiced for the products, would be responsible for paying ArthroCare for those products per the terms of the Agreement, and would be assigned the right to collect payments from third-party payors (e.g., from private health insurance providers, workers compensation insurers, and personal injury recoveries) for the products; and (3) DiscoCare would not hold SpineWand inventory or resell SpineWands purchased from ArthroCare.

14. For the 2006 Agreement, ArthroCare management concluded that "revenue will be recorded when the product is shipped to the customer and monthly the service fee paid to DiscoCare will be recorded in operating expenses." Stone concurred in both aspects of the Company's accounting treatment. Management discussed the principal terms of, and the accounting for, the 2006 Agreement with the Audit Committee. A Company-prepared memorandum provided to PwC and the Audit Committee in December 2006 justified expensing the monthly service fee (as opposed to recording it as a reduction in revenue, which GAAP generally requires for consideration given to a customer) based on its conclusion that DiscoCare was not acting in the capacity of a reseller of ArthroCare's products, and therefore not a customer. PwC's work papers concluded that expensing the monthly service fee was appropriate because "an entity cannot be both an agent … and a reseller … in respect to the same transaction."

15. The 2006 Agreement was amended in March 2007 to allow DiscoCare to maintain SpineWand inventory, in lieu of ArthroCare drop-shipping directly to customers. Concurrently, ArthroCare and DiscoCare entered into a bill and hold arrangement by which SpineWands were segregated in a dedicated location in ArthroCare's warehouse facilities, and later shipped on to customers. Stone concurred with ArthroCare recognizing revenue when SpineWands were segregated in ArthroCare's facilities. And when the bill and hold arrangement ended in or about July 2007, Stone also concurred with ArthroCare recognizing revenue when ArthroCare shipped SpineWands to DiscoCare's new warehouse location in Florida.

16. Although DiscoCare was then holding inventory like a reseller, ArthroCare continued to record the service fees as operating expenses (and not as a reduction in revenue), based on the Company's reassessment and renewed conclusion DiscoCare was not acting in the capacity of a reseller. Stone concurred in this accounting treatment.

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Surge in DiscoCare-Related Revenue and Receivables in 2007

17. Following the 2006 Agreement, ArthroCare's sales to DiscoCare, and the related receivables, grew rapidly. Sales to DiscoCare represented almost 10 percent of ArthroCare's total reported revenue in 2007, up from 2 percent in 2006. As of December 31, 2007, the accounts receivable from DiscoCare had grown to $26.2 million, or 29 percent of ArthroCare's gross trade accounts receivable balance, compared to only 7 percent at December 31, 2006. Stone knew of these increases through, among other things, his periodic receipt of client-prepared schedules showing DiscoCare's monthly purchases and payments.

ArthroCare's 2007 Public Disclosures Regarding Its Revenue and Earnings Targets

18. Throughout 2007, ArthroCare's press releases routinely included revenue, earnings and other forecasts, and touted the Company's achievement of management and analyst expectations. It was the general practice of Stone and his engagement team to review press releases and other communications made by the Company to the investing public and analysts.

19. At the outset of 2007, for example, ArthroCare publicly disclosed its earnings and performance expectations for the full year. In a February 15, 2007 press release, the Company said it expected "total revenue growth of 20 percent" in 2007, noting that "[s]pine business unit revenue growth is anticipated to be at least 50 percent." The Company also disclosed that its GAAP diluted earnings per share ("EPS") for 2007 was expected to be in the range of $1.40 to $1.50. In addition, ArthroCare disclosed that it "expects further improvement in both product and operating margins and for earnings to continue to grow faster than revenue." Subsequent quarterly earnings releases in 2007 emphasized the Company's strong sales growth, in each instance highlighting increased sales in its spine business unit, which primarily resulted from the increased SpineWand sales to DiscoCare.

20. As disclosed in a press release dated February 19, 2008, ArthroCare met or exceeded the 2007 full-year results it forecast a year earlier. Specifically, full-year revenue increased 21 percent (20 percent was forecast); GAAP diluted EPS was $1.50 (the Company's original $1.40-$1.50 forecast was revised upward to $1.48-$1.50 in October 2007); and spine sales increased 68 percent (at least 50 percent was forecast). The Company also announced that its full-year product margin increased 3 points (from 70 to 73 percent) over 2006. ArthroCare further disclosed that its 2007 fourth quarter revenue grew 25 percent, "exceed[ing] consensus estimates," and its fourth quarter EPS was $0.50, which met its revised fourth quarter guidance of $0.48-$0.50.

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ArthroCare Acquired DiscoCare at the End of 2007

21. As of December 31, 2007—the last day of its fiscal year—ArthroCare acquired DiscoCare in a stock purchase transaction. As a result of the acquisition, the 2006 Agreement ended. Through the post-acquisition consolidation of DiscoCare, the acquisition also eliminated the $26.2 million receivable that DiscoCare owed ArthroCare for purchases through December 31, 2007, but not the 2007 revenue recognized by ArthroCare on its pre-acquisition sales to DiscoCare.

D. Stone Failed to Comply with PCAOB Standards in Connection with PwC's Fiscal Year 2007 Audit of ArthroCare

22. As the engagement partner on the 2007 audit, Stone led the PwC engagement team, had final responsibility for the audit within the meaning of AU § 311, *Planning and Supervision*, and authorized the issuance of PwC's unqualified audit opinion.[5] In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with the Board's auditing standards.[6] Under PCAOB auditing standards, an auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed that opinion on the basis of an audit performed in accordance with PCAOB standards.[7] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[8]

23. Under PCAOB standards "[t]he auditor neither assumes that management is dishonest nor assumes unquestioned honesty. In exercising professional skepticism, the auditor should not be satisfied with less than persuasive evidence because of a

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[5] This Order applies PCAOB auditing standards in effect at the time of the conduct described herein.

[6] PCAOB Rule 3100, *Compliance With Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*.

[7] See AU § 508.07, *Reports on Audited Financial Statements*.

[8] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 326, *Evidential Matter*.

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belief that management is honest."[9] Further, "[i]n developing his or her opinion, the auditor should consider relevant evidential matter regardless of whether it appears to corroborate or to contradict the assertions in the financial statements."[10] Although management representations "are part of the evidential matter the independent auditor obtains, … they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[11] Moreover, if a management representation "is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made. Based on the circumstances, the auditor should consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified."[12]

24. In addressing consideration of fraud in an audit, PCAOB standards provide that "'[t]he auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud.'"[13] Auditors should "thoroughly probe the issues, acquire additional evidence as necessary, and consult with other [audit] team members and, if appropriate, experts in the firm, rather than rationalize or dismiss information or other conditions that indicate a material misstatement due to fraud may have occurred."[14]

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[9] AU § 230.09.

[10] AU § 326.25.

[11] AU § 333.02, *Management Representations*.

[12] AU § 333.04.

[13] AU § 316.01, *Consideration of Fraud in a Financial Statement Audit*, quoting AU § 110.02, *Responsibilities and Functions of the Independent Auditor*.

[14] AU § 316.16; see also AU § 316.46 ("As noted in paragraph .13 [of AU § 316], professional skepticism is an attitude that includes a critical assessment of the competency and sufficiency of audit evidence. Examples of the application of professional skepticism in response to the risks of material misstatement due to fraud are (a) designing additional or different auditing procedures to obtain more reliable evidence in support of specified financial statement account balances, classes of transactions, and related assertions, and (b) obtaining additional corroboration of management's explanations or representations concerning material matters….").

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25. In the case of "significant transactions that are outside the normal course of business for the entity [under audit], or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment," the auditor "should gain an understanding of the business rationale for such transactions and whether that rationale (or the lack thereof) suggests that the transactions may have been entered into to engage in fraudulent financial reporting …."[15] PCAOB standards further provide that "[i]n understanding the business rationale for the transactions, the auditor should consider [among other things] … [w]hether management has discussed the nature of and accounting for such transactions with the audit committee or board of directors," "[w]hether the transactions involve … parties that do not have the substance or the financial strength to support the transaction without assistance from the entity under audit," and "[w]hether management is placing more emphasis on the need for a particular accounting treatment than on the underlying economics of the transaction."[16]

26. In auditing fair value measurements made by management, "[t]he auditor should … evaluate whether the fair value measurements have been properly determined[, including] whether the data on which the fair value measurements are based … is accurate, complete and relevant…."[17] In the absence of observable market prices, PCAOB standards recognize that "GAAP requires fair value to be based on the best information available in the circumstances."[18] In addition, "[t]he auditor should evaluate the sufficiency and competence of the audit evidence obtained from auditing fair value measurements," as well as "evidence obtained from other audit procedures [that] also may provide evidence relevant to the measurement and disclosure of fair values."[19]

27. Stone failed to comply with these rules and standards in connection with the 2007 ArthroCare audit.

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15 AU § 316.66.

16 AU § 316.67.

17 AU § 328.39, *Auditing Fair Value Measurements and Disclosures*.

18 AU § 328.03.

19 AU §§ 328.47, 328.02.

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Stone Failed to Properly Audit Revenue Recognized from Sales to DiscoCare

28. Stone knew that ArthroCare's recognition of revenue from sales to DiscoCare was material to ArthroCare's 2007 financial statements. The increased sales to DiscoCare helped ArthroCare meet its 2007 revenue forecasts.

29. As disclosed in its public filings, ArthroCare recognized revenue in accordance with SEC Staff Accounting Bulletin No. 104, *Revenue Recognition in Financial Statements* ("SAB 104").[20] SAB 104 establishes that "revenue should not be recognized until it is realized or realizable and earned," which occurs when all of the following criteria are met: (1) "Persuasive evidence of an arrangement exists," (2) "Delivery has occurred or services have been rendered," (3) "The seller's price to the buyer is fixed or determinable," and (4) "Collectibility is reasonably assured."[21] ArthroCare disclosed that "[g]enerally, the [SAB 104] criteria are met upon shipment of the Company's products."[22]

30. In planning the 2007 audit, Stone and his engagement team identified the following "key risk" relating to revenue recognition: "The Company has undergone a period of rapid sales growth in the last two fiscal years, indicating a risk of improper revenue recognition in order to spur sales and meet performance objectives." In the 2007 audit's fraud risk assessment, Stone and his team identified as a risk of "fraudulent financial reporting … that possibly could result in a material misstatement: Improper recognition of revenue due to fictitious sales recorded by the Company in order to increase net sales…."[23] They also identified the following "specific fraud risks" related to ArthroCare's revenue recognition:

> Arthro[C]are Corporation has seen increasing revenues in comparison to prior year quarters and may be under pressure to

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[20] SAB 104 is codified in Topic 13—Revenue Recognition, in the SEC's Codification of Staff Accounting Bulletins.

[21] SAB 104 (Topic 13A1) (footnotes omitted).

[22] ArthroCare Corporation, Form 10-K for the year ended December 31, 2007 (Feb. 29, 2008), at 25.

[23] See AU § 316.41 ("the auditor should ordinarily presume that there is a risk of material misstatement due to fraud relating to revenue recognition").

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> meet internal and analyst expectations.... The following is our assessment as to opportunities for fraud to occur. The audit risk associated with all items is overstatement of revenues.
>
> 1.) Extended payment terms
> 2.) Fictitious customers and contracts
> 3.) Revenues recognized in improper period.

31. To address the identified risks, Stone and his team planned to perform substantive tests of details relating to ArthroCare's revenue recognition during the 2007 audit. A preliminary audit planning work paper reviewed by Stone identified the following tests of details that his team planned to perform in the revenue area: (1) "Revenue – Agree comparative summary totals to the general ledger"; (2) "Evaluate the accounting policy for revenue recognition"; (3) "Test sales/revenue transactions for proper revenue recognition"; and (4) "DiscoCare CM [i.e., Critical Matter[24]] – evaluate revenue recognition and assess collectibility of receivable."

32. In the final version of the same audit work paper, which was also reviewed by Stone, the team added a Critical Matter regarding ArthroCare's accounting and disclosures for the DiscoCare acquisition, but eliminated the DiscoCare Critical Matter on revenue recognition and collectibility. Stone and his team completed the Critical Matter regarding the DiscoCare acquisition, but did not complete a DiscoCare Critical Matter on revenue recognition and collectibility. Nor did they perform any of the planned detailed testing of sales/revenue transactions for proper revenue recognition during the 2007 year-end audit. Instead, PwC's year-end work papers stated that the "engagement team has determined that no detailed testing of Revenue is necessary due to high controls reliance and the rigor of our substantive analytical procedures."

33. Although Stone's engagement team performed sales cut-off testing during the 2007 first and second quarter reviews and certain analytical procedures, these

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[24] At all relevant times, PwC's internal auditing guidance identified "Critical Matters" as "significant findings or issues" (as that term is defined in PCAOB Auditing Standard No. 3, *Audit Documentation* ("AS 3"), ¶12) and "significant matters" (as discussed in Section 210.2-06 of Regulation S-X). PwC's internal guidance also stated: "Critical matters require appropriate documentation and resolution by the engagement team, timely review and clearance by the engagement leader, and timely review by the quality review partner." AS 3 defines "significant findings or issues" as "substantive matters that are important to the procedures performed, evidence obtained, or conclusions reached." (AS 3, ¶12.)

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procedures were not sufficient to test whether revenue recognized from DiscoCare sales met all SAB 104 criteria. Other than a limited assessment of bill and hold criteria during the 2007 first-quarter review, no other substantive procedures were performed to test or otherwise assess whether revenue recognized by ArthroCare on DiscoCare sales was realized or realizable, and earned in accordance with SAB 104, including whether ArthroCare was reasonably assured of collecting on the sales when revenue was recognized. None of the cut-off testing, the analytical procedures, the controls testing, or any of the other audit procedures provided sufficient competent evidence that ArthroCare had complied with SAB 104 in recognizing revenue on its 2007 sales to DiscoCare.

Indicators of Possible Improper Revenue Recognition Concerning DiscoCare Sales

34. Stone knew or should have known of numerous indicators concerning ArthroCare's arrangement with DiscoCare that highlighted the significant and unusual nature of ArthroCare's transactions with DiscoCare and that should have alerted him to the possibility that ArthroCare may have been improperly recognizing revenue on sales to DiscoCare throughout 2007. Indeed, as described below, beginning in late 2006 and continuing until ArthroCare filed its 2007 Form 10-K, there was an accumulation of evidence indicating possible improper revenue recognition for DiscoCare sales, which was or should have been known to Stone when he authorized issuance of PwC's 2007 audit report.

35. Many of these indicators were evidenced in periodic, client-prepared schedules of activity in ArthroCare's accounts receivable from DiscoCare ("DiscoCare Rollforwards"), which Stone requested and received quarterly beginning in July 2007. All of the DiscoCare Rollforwards included, among other things, monthly totals of invoices issued, payment terms, payments remitted by DiscoCare, and service fee amounts deducted from the DiscoCare accounts receivable balance.

DiscoCare's Past-Due Receivable

36. When the 2006 Agreement was executed, ArthroCare had an unpaid receivable from DiscoCare for earlier SpineWand purchases under the parties' prior agreement, more than half of which was past due. In fact, the 2006 Agreement, which Stone received, specifically referenced DiscoCare's unpaid receivable and permitted

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ArthroCare to deduct one-half of the service fees due to DiscoCare against it.[25] The DiscoCare Rollforwards that Stone reviewed during the 2007 quarterly reviews and the 2007 audit showed that the amount past due at the inception of the 2006 Agreement was at least $975,000. They also showed that, after May 2006, DiscoCare made no cash payments to ArthroCare for SpineWand purchases until DiscoCare began receiving service fee payments from ArthroCare.

37. Despite this knowledge, Stone failed to properly evaluate DiscoCare's previous inability to timely pay its obligations in concluding that the Company had properly recognized revenue on sales to DiscoCare in 2007.

DiscoCare Was Charged Substantially Higher Prices for SpineWands

38. Stone knew that the prices at which ArthroCare was selling SpineWands to DiscoCare under the 2006 Agreement were up to five times higher than those charged to other customers, and that those prices varied based on the case-type (i.e., private health insurance, personal injury, and workers compensation, respectively) for which the product would be used.[26] Stone reviewed work papers documenting that the prices charged DiscoCare for SpineWands ranged from $3,000 to $7,500 per unit, compared to $1,400 per unit for other distributors. The work papers also described management representations that "ArthroCare's beneficial pricing arrangement is feasible due to several factors," including, among other things, "selective distribution of products to healthcare professionals who can code cases using [ArthroCare] products … which in turn provides physicians with a near 100% level of success in obtaining reimbursement from insurers."

39. Stone improperly relied on management's representations about this purportedly "beneficial pricing arrangement," which the work papers also noted was unique to ArthroCare's agreement with DiscoCare. He failed to apply the necessary auditing procedures, and to obtain sufficient competent evidential matter, to reasonably conclude that ArthroCare had properly recognized revenue in 2007 on sales to

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[25] Stone was aware that ArthroCare's practice of deducting one-half of the service fee from the DiscoCare outstanding receivable balance continued throughout 2007.

[26] The prices charged to DiscoCare for SpineWands under the 2006 Agreement also were up to five times higher than the prices charged to DiscoCare under the parties' prior agreement.

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DiscoCare at varying prices substantially higher than those charged to other SpineWand purchasers.

Substantially Extended Payment Terms Based on Time Required for DiscoCare to Collect from Third Parties

40. The 2006 Agreement provided DiscoCare with extended payment terms ranging from 180 to 360 days, which were up to three times longer than the 120-day terms for DiscoCare's previous SpineWand purchases, and up to twelve times longer than ArthroCare's standard 30-day terms. Stone was aware of DiscoCare's extended payment terms under the 2006 Agreement. In addition, he knew that the overwhelming majority (72 percent) of DiscoCare SpineWand sales under the 2006 Agreement were at the longest (i.e., 360 days) of these extended payment terms.

41. As reflected in the 2007 work papers, ArthroCare's management told Stone and his team that the "collection risk [on DiscoCare's accounts receivable] is low" because (1) a sale is booked when a surgery has already been approved, (2) the extended payment terms are based on the time required for DiscoCare to collect payment, (3) DiscoCare has been paying ahead of schedule, and (4) ArthroCare would be renegotiating with DiscoCare to shorten the payment terms in hopes of lowering DiscoCare's percent of the accounts receivable balance.

42. Thus, Stone knew from management that the extended payment terms were based on "the time required for DiscoCare to collect payment from the insurance companies." Despite this knowledge, Stone failed to properly evaluate whether DiscoCare's ability to meet its obligations to ArthroCare was contingent on its ability to collect reimbursement from third-party payors. Instead, Stone relied on management's representations concerning the purportedly low collection risk, without applying the necessary auditing procedures, and obtaining sufficient competent evidential matter, to conclude that ArthroCare's sales to DiscoCare were reasonably assured of collection at the time revenue was recognized.

DiscoCare Bill and Hold Arrangement and the Change to Recognizing Revenue on Shipment to DiscoCare

43. ArthroCare's original accounting for the 2006 Agreement was, in part, premised on SpineWands being drop-shipped by ArthroCare directly to customers and DiscoCare not holding inventory or reselling products. Stone knew that a March 2007 amendment to the 2006 Agreement changed this arrangement to allow DiscoCare to regularly purchase SpineWands for inventory in advance of approved surgeries. He further knew that ArthroCare and DiscoCare had simultaneously entered into a bill and hold arrangement by which, according to a work paper reviewed by Stone, "ArthroCare

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has agreed to temporarily allow DiscoCare the use of [ArthroCare's] warehousing facilities, under an inventory segregation system," which would permit ArthroCare to recognize revenue upon segregation.

44. As explained in a client-provided memo reviewed by Stone, DiscoCare was negotiating a contract with a third party to provide it with warehousing and shipping services, purportedly to ensure that it had a constant supply of SpineWands. The memo stated that, given the time needed to finalize this arrangement, "DiscoCare has approached ArthroCare about storing their products temporarily in ArthroCare's [warehouse] space." A presentation Stone gave to the Audit Committee showed that ArthroCare's first quarter revenue from bill and hold transactions was $2.9 million. Work papers reviewed by Stone evidenced that this revenue was all recorded in the last 12 days of the first quarter.

45. Stone knew that the bill and hold arrangement remained in place at the end of the 2007 second quarter, at which time ArthroCare still had approximately $2.5 million of segregated DiscoCare bill and hold inventory. He further knew that the bill and hold arrangement ended shortly after the close of the 2007 second quarter, when DiscoCare had established its own warehouse space in Florida to which the remaining bill and hold inventory was shipped and where it then maintained SpineWand inventory. Stone and the engagement team performed substantive testing related to the bill and hold arrangement as part of the first quarter interim review.

46. SAB 104 provides that, in order to recognize revenue from bill and hold transactions, "[t]he buyer must have a substantial business purpose for ordering the goods on a bill and hold basis."[27] PwC's bill and hold work papers document management's representation that DiscoCare had requested the bill and hold to avoid SpineWand supply disruptions. Other work papers also document that ArthroCare's production facility had a one-week holiday shutdown in January 2007 and did not reach full production until the end of that month, but neither set of work papers documented that DiscoCare was aware of the shutdown or that the shutdown had affected supply of SpineWands to DiscoCare. Stone relied on management's representation, without applying the necessary auditing procedures and obtaining sufficient competent evidence at year end to reasonably conclude that recognizing revenue under the arrangement complied with SAB 104. Nor did he properly evaluate whether the business rationale for the bill and hold arrangement suggested that the arrangement may have been entered into to engage in fraudulent financial reporting.

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[27] SAB 104 (Topic 13A3a).

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47. Stone knew about, and concurred in, ArthroCare's decision to recognize revenue on bill and hold sales when the products were transferred to a segregated area of ArthroCare's warehouse facilities, as opposed to when drop-shipped by ArthroCare to customers. After the bill and hold ended, Stone knew about, and concurred in, ArthroCare's decision to similarly recognize revenue when SpineWands were shipped to DiscoCare's Florida warehouse. Other than an assessment of the bill and hold criteria, ArthroCare provided no analysis supporting its revenue recognition conclusions, and Stone and his engagement team did not obtain sufficient competent evidence to support, or independently assess, such conclusions.

ArthroCare's Contradictory Treatment of DiscoCare as a Reseller for Revenue Recognition Purposes, But as an Agent for Purposes of Service Fee Accounting

48. In October 2006, shortly before the 2006 Agreement became effective, ArthroCare provided Stone and the engagement team with a draft memo analyzing the service fee arrangement under EITF 01-09, *Accounting for Consideration Given by a Vendor to a Customer (Including a Reseller of the Vendor's Products)*, and concluding that the service fees to be paid to DiscoCare should be recorded as operating expenses, and not as reductions to revenue. After independently researching the issue, Stone and the engagement team concluded that if DiscoCare were a net-reporting entity under EITF 99-19, *Reporting Revenue Gross as a Principal versus Net as an Agent*, then DiscoCare would not be acting as a reseller; thus, the service fee arrangement would be outside the scope of EITF 01-09, and the service fees should be treated as an expense. After Stone and the engagement team discussed this with management, ArthroCare updated its memo in November 2006 to include an analysis under EITF 99-19, which determined that DiscoCare was a net-reporting entity and, therefore, not a reseller of ArthroCare's products (i.e., DiscoCare was effectively ArthroCare's agent), and concluded that "revenue will be recorded when the product is shipped to the customer and monthly the service fee paid to DiscoCare will be recorded in operating expenses." Stone and the engagement team concurred in that conclusion.

49. Under the 2006 Agreement's original terms, DiscoCare did not hold inventory, DiscoCare was precluded from reselling products bought from ArthroCare, and ArthroCare recognized revenue when SpineWands were drop-shipped directly to end-user customers for use in surgical procedures. That arrangement changed when the 2006 Agreement was amended beginning in March 2007. From that point on, DiscoCare began holding inventory like a reseller, and instead of recognizing revenue upon drop-shipment to a customer, ArthroCare recognized revenue when SpineWands were segregated in ArthroCare's warehouse facilities during the bill and hold arrangement, and when SpineWands were shipped to DiscoCare's warehouse after the bill and hold ended. ArthroCare re-assessed its analysis of the service fee arrangement

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in light of the 2007 amendments, and determined that DiscoCare's decision to hold inventory did not affect the conclusion that DiscoCare was a net-reporting entity under EITF 99-19, and therefore, "not acting in the capacity of a reseller," and that the service fees should continue to be recorded in operating expenses. Stone and the engagement team reviewed and concurred with these accounting decisions.

50. The practical impact of this accounting treatment was that ArthroCare recognized revenue at the earliest possible time (when product was shipped to DiscoCare or segregated in ArthroCare's warehouse) and at the maximum possible amount (at full invoice price with no reduction in revenue for the service fees). Stone concurred with ArthroCare's accounting conclusions without adequately evaluating or reconciling these accounting conclusions for elements in the same arrangement (i.e., how ArthroCare could simultaneously (1) recognize revenue under SAB 104 as if DiscoCare was a reseller, and (2) account for ArthroCare's service fee payments based on management's conclusion that DiscoCare was an agent for the same transactions).

ArthroCare's Involvement in Determining the Quantity and Price/Type of Products to be Ordered by DiscoCare

51. During the 2007 second quarter field work, Stone and members of his engagement team met with ArthroCare's account manager for DiscoCare (the "ArthroCare Account Manager") and other Company personnel "to follow up on any changes with the Company's DiscoCare procedures as well as [to] formally document[] the ordering and recording process." A memo summarizing the meeting, which was included in work papers reviewed by Stone, noted, among other things, that (1) the ArthroCare Account Manager had "access to review" a DiscoCare-maintained database of patient candidates for surgery (known as "Case Tracker"); (2) DiscoCare contacted insurance companies and pre-approved surgeries based on the patients in the database; (3) the database was updated once surgeries were approved; (4) the ArthroCare Account Manager used a formula based on approved surgeries to calculate how many products DiscoCare needed to order, and at what prices (depending on case-type); and (5) the ArthroCare Account Manager would send that calculation to DiscoCare "who in turn places an order with ArthroCare."

52. Because DiscoCare's monthly purchases purportedly were based on data found in Case Tracker, access to the database by the ArthroCare Account Manager or other ArthroCare employees gave rise to a risk of fraud. By manipulating data in Case Tracker, for example, ArthroCare could have caused DiscoCare to improperly increase its monthly SpineWand purchases to meet ArthroCare's revenue forecasts (a fraud risk identified by Stone). Despite this risk of fraud, Stone never properly assessed the ArthroCare Account Manager's or other ArthroCare employees' access to Case Tracker, or what internal controls, if any, ArthroCare had in place to mitigate this fraud risk.

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Although Stone identified specific fraud risks concerning revenue recognition in improper periods and management pressure to meet internal and analyst expectations, he failed to properly evaluate ArthroCare's involvement in DiscoCare's product ordering process.

Pattern of Quarter-End Spikes in DiscoCare Sales

53. Stone knew about significant spikes in sales to DiscoCare at or near the end of fiscal quarters. For example, a second quarter work paper reviewed by Stone observed that "PwC … noted a spike in [DiscoCare] sales at the end of each quarter (Q1 and Q2 '07)." DiscoCare Rollforwards seen by Stone during 2007 quarterly reviews showed a clear pattern of spikes in DiscoCare sales in the last month of fiscal quarters, a pattern that began even before the 2006 Agreement. From the adoption of the 2006 Agreement through the end of the third quarter of 2007, these schedules showed that sales in quarter-end months averaged $3.3 million, while sales in non-quarter-end months averaged $900,000.

54. Moreover, Stone was aware of the substantially increased volume of SpineWand shipments to DiscoCare near year-end 2007, shortly before ArthroCare acquired DiscoCare. Based on a DiscoCare Rollforward sent to Stone during the 2007 audit, fourth quarter SpineWand sales to DiscoCare totaled nearly $6.5 million, with $4.4 million occurring in December 2007 alone. This year-end spike, along with previous quarter-end spikes, raised a question of whether ArthroCare was using end-of-period DiscoCare sales to meet its revenue forecasts (a fraud risk factor identified by Stone).

55. Stone and his engagement team attributed the sales spike at the end of the first quarter to the "start of the bill and hold agreement," and later accepted certain representations from management about the spike at the end of the second quarter. Although they monitored the monthly and quarterly sales thereafter, Stone and his team failed to properly evaluate the impact of quarter-end sales spikes in concluding that the Company had properly recognized revenue on sales to DiscoCare in 2007.

Evidence Suggesting That ArthroCare Was Funding DiscoCare's SpineWand Purchases through the Service Fees

56. The first DiscoCare Rollforward, received and reviewed by Stone in July 2007, showed that from the inception of the 2006 Agreement in November 2006 through June 2007, DiscoCare paid ArthroCare a total of $1.6 million for SpineWand purchases. The schedule also showed that ArthroCare deducted a total of $2.1 million in service fees from the DiscoCare accounts receivable balance during that same period. As Stone knew from the terms of the 2006 Agreement, however, that $2.1 million

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represented just half of the monthly service fee; the other half (another $2.1 million) was paid in cash directly to DiscoCare. Thus, the schedule provided information indicating that the cash half of the service fees paid to DiscoCare was $500,000 more than ArthroCare received back as payment against the DiscoCare receivable for sales under the 2006 Agreement. A later DiscoCare Rollforward showing activity through the end of September likewise indicated that the cash half of the service fees paid to DiscoCare was more than ArthroCare received back as payment against its receivables for sales under the 2006 Agreement.

57. During the year-end audit, Stone reviewed another DiscoCare Rollforward reflecting activity through December 2007. This schedule provided information indicating that DiscoCare's payments to ArthroCare exceeded the service fee cash payments it received from ArthroCare through year-end. However, Stone knew that, under the terms of the December 31, 2007 DiscoCare acquisition, ArthroCare was required to make a final service fee payment of $2.2 million related to the $4.4 million of SpineWands purchased by DiscoCare in December. As a result, during the audit, Stone possessed information indicating that the cumulative amount of service fees paid in cash by ArthroCare exceeded the total payments made in cash by DiscoCare for SpineWand purchases under both the 2006 Agreement and the parties' earlier agreement.

58. In addition, during the audit, Stone reviewed PwC work papers relating to the DiscoCare acquisition, which showed that, on average, DiscoCare had collected less in third-party reimbursement for the SpineWands than the invoice amounts charged it by ArthroCare. Thus, DiscoCare's history of collections suggested that it lost money on the SpineWands it purchased and resold, and relied on the service fee payments to earn a profit under the 2006 Agreement.[28]

59. This evidence suggested that the service fees ArthroCare paid to DiscoCare—in the form of both direct cash payments and amounts deducted from DiscoCare's receivables balance—may have been funding DiscoCare's obligations to ArthroCare. This evidence—together with other evidence Stone possessed—highlighted the significant and unusual nature of ArthroCare's 2007 selling arrangement with DiscoCare. In light of such evidence, Stone was required to gain an understanding of the business rationale for this arrangement and "whether that rationale (or the lack

[28] Although ArthroCare recognized revenue on the full invoice amounts of SpineWands shipped to DiscoCare, the practical effect of the service fee (which was 50 percent of total monthly invoices) was to offset the invoice amounts owed by DiscoCare by half.

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thereof) suggest[ed] that the [arrangement] may have been entered into to engage in fraudulent financial reporting."[29]

60. Stone failed to reasonably evaluate that business rationale as required by PCAOB standards. Among other things, he failed to properly consider whether DiscoCare had "the substance or the financial strength to support the transaction[s] without [ArthroCare's] assistance," and whether the accounting for the selling arrangement reflected its underlying economic substance.[30] In addition, Stone relied on management representations instead of applying the procedures necessary to properly evaluate the nature of the consulting services that DiscoCare purportedly provided to ArthroCare in exchange for the service fees, and the value received by ArthroCare for such services.

Allegations by Short Sellers and ArthroCare's Chief Medical Officer Concerning DiscoCare

61. Stone learned no later than early December 2007 that allegations of potential wrongdoing were being made against ArthroCare by short sellers, which focused on the Company's relationship with DiscoCare. These allegations intensified after ArthroCare's acquisition of DiscoCare became public in early January 2008.

62. In response, Stone's engagement team obtained representations that ArthroCare's management had "reviewed the relationships and is confident that their relationships with the doctors[’] offices are legal and that these allegations are without merit" and that management was "not aware of any illegal activity." After speaking during the 2007 audit with PwC's local Regional Risk Management Partner about the "short-attack on ArthroCare," Stone told the Quality Review Partner on the engagement that there were "no further actions for our team to take at the present." In connection with the 2007 audit, Stone accepted management's representations regarding the short seller allegations, ultimately concluding that they did not appear to have merit. Neither Stone nor his team performed any additional procedures to specifically respond to the short seller allegations, and, at the completion of the audit, they concluded that "[n]o additional procedures are necessary based on the accumulated results of our auditing procedures."

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[29] AU § 316.66.

[30] AU § 316.67.

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63. On the day before the 2007 audit opinion was issued, Stone became aware that ArthroCare's Chief Medical Officer ("CMO") had resigned because of his "serious concerns about the potential risks posed by the company's growing association with DiscoCare," and because "the DiscoCare model, and the company's increasing reliance on that model, present serious opportunities for abuse by unethical or uninformed individuals." The CMO further stated: "Should such abuse occur, [ArthroCare] could find itself faced with potentially serious allegations of insurance or other fraud."

64. In response to the short seller and CMO allegations, Stone got certain representations from ArthroCare's management, the Audit Committee chair, and outside counsel. But he failed to apply the necessary auditing procedures, and failed to obtain sufficient competent evidential matter, to provide reasonable assurance that the 2007 DiscoCare-related revenue was recognized in compliance with SAB 104.

Stone Failed to Perform Sufficient Audit Procedures Concerning ArthroCare's Accounting for the DiscoCare Acquisition

65. ArthroCare acquired DiscoCare in a stock purchase transaction that closed as of December 31, 2007. Under the acquisition terms, ArthroCare purchased all of the outstanding common stock of DiscoCare for $25 million in cash, plus potential future earn out payments.

Accounting for Settlement of the Pre-Existing Arrangement

66. ArthroCare evaluated the DiscoCare acquisition under EITF 04-01, *Accounting for Preexisting Relationships Between the Parties to a Business Combination*, and concluded that it was not required to record any gain or loss for settlement of the 2006 Agreement. The Company therefore allocated the entire purchase price first to the purported fair market value of the acquired net assets, with the remainder recorded as goodwill.

67. To support its accounting conclusion, ArthroCare prepared a February 2008 memo stating that there was no direct evidence of an "off-market component" related to the 2006 Agreement and that all "indirect evidence" pointed toward the contract being at market value. The indirect evidence cited by the Company included management's belief that, if the 2006 Agreement were up for renewal at the time of the acquisition, "the prices and other significant terms would remain unmodified from the terms of the current contract." However, this representation was contradicted by an earlier management representation that ArthroCare "will be renegotiating with DiscoCare to lower the timing of the payment terms in hopes of lowering DiscoCare's

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[accounts receivable balance]," which was included in 2007 second and third quarter work papers that Stone reviewed. Further, Stone reviewed other PwC work papers concerning the DiscoCare acquisition that showed that DiscoCare was collecting, on average, less than what ArthroCare was charging DiscoCare for each SpineWand, which should have caused Stone to question management's representation that there was no direct evidence of an off-market component in the 2006 Agreement.

68. Stone knew that the 2006 Agreement contained a provision requiring ArthroCare to pay DiscoCare $25 million upon early termination—the same amount as the up-front $25 million cash portion of the acquisition fee. Despite his knowledge of the early-termination fee and evidence that should have caused him to question management representations regarding settlement of the 2006 Agreement, Stone agreed with the Company's decision not to record any gain or loss for settlement of the 2006 Agreement, without adequately assessing whether such accounting treatment complied with GAAP.

Receivables Acquired From DiscoCare

69. Based on the fair values estimated by management, one of the most significant tangible assets acquired by ArthroCare was DiscoCare's accounts receivable, which represented DiscoCare's claims for reimbursement from third party payors for SpineWands used in surgical procedures. ArthroCare valued the acquired receivables at $10.9 million. In auditing the acquired receivables, Stone and his engagement team concluded that confirmations would be ineffective because DiscoCare's receivables were primarily owed by insurance companies. Instead, Stone's team decided to test, based on PwC's sampling guidance, a sample of 19 receivables in an effort "[t]o gain comfort over the existence/occurrence and rights/obligations of DiscoCare's [a]ccounts [r]eceivable balance at year end." Through this testing, Stone and his team sought to validate not only that medical procedures took place, but also that the "company's supporting documentation used to submit collections from the insurance companies is adequate to support the balance."

70. At Stone's request, his then-audit manager sought the assistance of a PwC subject-matter expert "with healthcare compliance expertise to assist the audit team in the review of [DiscoCare] receivables files." A director in PwC's healthcare advisory practice, who "specialize[d] in health care and insurance collections" ("HC Specialist"), was selected to assist Stone and his team in validating the supporting documents for insurance collection, because the "engagement team did not have the benefit of extensive industry expertise" to do so. The HC Specialist's assistance was also sought because "[t]here ha[d] been some recent scrutiny by certain analysts into the company's practices that we believe warrants an increased level of audit procedures on our end."

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71. The HC Specialist reviewed patient file documentation provided to him by ArthroCare for the 19 sampled receivables. In a memo provided to Stone and included in the work papers, the HC Specialist noted: "Overall, there was a lack of consistency in the documentation provided to review the accounts. The lack of consistency was also noted in many data fields that were not populated in the screen shots of the DiscoCare Case Tracker." The HC Specialist also observed that, although he was told by ArthroCare staff that pre-authorizations were required before processing cases involving commercial payors, he found no evidence that pre-authorizations had been obtained. The HC Specialist similarly noted, based on his experience in the healthcare field, that pre-authorizations were required in workers' compensation cases; however, he located no such pre-authorizations in the workers' compensation cases he reviewed. In addition, he found a patient-executed assignment of benefits in only one of the ten cases in which DiscoCare purportedly took such an assignment.

72. The HC Specialist recommended that additional efforts "be made to assess the activity associated with DiscoCare's account follow-up procedures," including that ArthroCare should determine the legal effect of the letters of protection used in connection with personal injury and some auto insurance claims; he noted, based on his experience, that liens are typically filed in the relevant courts to protect the claimant's financial exposure in such cases. The HC Specialist provided no conclusion, based on records and data available to him or otherwise, that the acquired accounts receivable were collectible.

73. After receiving the HC Specialist's memo, Stone knew that his engagement team sought to obtain operative reports evidencing that surgical procedures had, in fact, been performed for each of the 19 sampled receivables. The engagement team obtained such operative reports or alternative documentation for each.[31] The work paper summarizing the engagement team's testing, which was reviewed by Stone, noted that "[a]s a result of testing, all A/R balances selected were verified without exception." However, as Stone knew, the HC Specialist identified numerous exceptions in the documentation supporting the sampled receivables. Stone also knew, or should have known, that neither the HC Specialist's nor the engagement team's work constituted sufficient competent evidence to support the rights and

[31] As Stone knew, in the four instances where such operative reports were not available, his engagement team obtained either a signed statement from a sales representative who purportedly witnessed the surgery (two instances), or a copy of the UPC code from the box that contained the SpineWand purportedly used in the procedure together with the date the procedures were performed and the names of the patients (two instances).

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obligations assertions for those receivables, or to support their collectibility. Moreover, Stone knew, or should have known, that the operative reports and alternative documentation did not constitute sufficient competent evidence to support all of the financial statement assertions for those receivables, or to support their collectibility, particularly in light of the numerous exceptions noted by the HC Specialist.

74. The HC Specialist's findings also cast doubt on certain management representations made to Stone and his team. ArthroCare management told Stone and his team that Case Tracker was used by the ArthroCare Account Manager to determine the number of SpineWands to be ordered each month by DiscoCare, based on approved surgical cases that were recorded and tracked in the database. Management also represented that a SpineWand sale was booked only after a surgery had been approved. But the HC Specialist found missing Case Tracker data, missing surgery pre-authorizations, and other significant document deficiencies and inconsistencies for most of the 19 sampled receivables he reviewed. Stone did not assess the inconsistency between the HC Specialist's findings and management's representations, nor did he assess the impact of the HC Specialist's findings on ArthroCare's conclusion that revenue it recognized from sales to DiscoCare in 2007 met all SAB 104 criteria, including reasonable assurance of collectibility.

75. In estimating the fair market value of the acquired receivables, ArthroCare determined DiscoCare's average historical collection amounts by case-type of receivables and applied those amounts by case-type to calculate the fair value of the acquired receivables. Stone and his engagement team failed to consider the impact of the HC Specialist's findings on the Company's fair value determinations. Specifically, Stone and his team failed to assess whether the acquired receivables differed from the historical receivables in terms of documentation supporting collectibility, including evidence of pre-authorizations and benefit assignments.

76. Additionally, in determining historical collection amounts, management excluded unpaid receivables owed to DiscoCare by third-party payors that were older than 360 days at the time of acquisition. Although management represented that those receivables were not acquired by ArthroCare, Stone and his engagement team did not properly consider the impact, if any, of their exclusion on the fair value determinations.

E. Stone Failed to Conduct a Reasonable Subsequent Events Investigation Before Consenting to Incorporate PwC's 2007 Audit Report in ArthroCare's June 6, 2008 Form S-8 Registration Statement

77. On June 6, 2008, ArthroCare filed a Form S-8 Registration Statement with the SEC under which the Company registered 1.2 million shares of its common stock for offer and sale under its Amended and Restated 2003 Incentive Stock Plan. The

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Form S-8, made under the Securities Act of 1933, became effective upon its filing. ArthroCare's Form S-8 included PwC's consent to incorporate by reference PwC's February 29, 2008 audit report relating to ArthroCare's 2007 financial statements ("PwC Consent"). In his capacity as the ArthroCare engagement partner, Stone authorized issuance of the PwC Consent on June 6, 2008.

78. PCAOB standards provide that "[w]hen an independent accountant's report is included in registration statements … filed under the federal securities statutes, the accountant's responsibility, generally, is in substance no different from that involved in other types of reporting."[32] Under PCAOB standards, Stone was required to complete a "reasonable investigation" sufficient for him to have a "reasonable ground to believe" that the statements in PwC's 2007 audit report remained true.[33] Stone had to "extend his procedures with respect to subsequent events from the [February 29, 2008] date of his audit report up to the effective date [of the Form S-8] or as close thereto as is reasonable and practicable in the circumstances."[34]

79. If, while performing such subsequent event procedures (or otherwise), the auditor "becomes aware that facts may have existed at the date of his report that might have affected his report had he then been aware of those facts, he should follow the guidance in [AU §§] 560 and 561,"[35] which provides in pertinent part:

> When the auditor becomes aware of information which relates to financial statements previously reported on by him, but which was not known to him at the date of his report, and which is of such a nature and from such a source that he would have investigated it had it come to his attention during the course of his audit, he should, as soon as practicable, undertake to determine whether the information is reliable and whether the facts existed at the date of his report.[36]

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[32] AU § 711.02, *Filings Under Federal Securities Statutes*.

[33] AU § 711.03.

[34] AU § 711.10.

[35] AU § 711.12.

[36] AU § 561.04, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*.

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80. Stone became aware no later than May 29, 2008 of ArthroCare's intention to file the Form S-8. At the time, Stone understood that a national securities exchange inquiry concerning ArthroCare's relationship with DiscoCare had closed without action based on information provided to the exchange by ArthroCare, and that the Audit Committee had received a report from an outside health care attorney who had examined DiscoCare's business model and found nothing improper in the model. On May 30, 2008, PwC, including Stone, received two anonymous faxes ("May 30th Faxes") containing allegations similar to those Stone learned of and discussed with senior ArthroCare management during the 2007 audit; namely, allegations that DiscoCare's relationships with ArthroCare, insurance carriers, and others were improper. The May 30th Faxes also contained new allegations, including that ArthroCare had purchased DiscoCare because of the rising DiscoCare receivable and ArthroCare's belief that the receivable was not collectible, and that ArthroCare had engaged in "channel stuffing" relating to pre-acquisition sales to a European company acquired by ArthroCare in the second quarter of 2008. The next business day, Stone brought the May 30th Faxes to the attention of ArthroCare's Chief Financial Officer, General Counsel, and Audit Committee Chair.

81. On June 5, 2008, Stone learned that the sender of the May 30th Faxes had spoken by phone that day with an attorney in PwC's Office of General Counsel, and had identified himself as a short seller of ArthroCare's common stock. Also on June 5, 2008, PwC, including Stone, received a third fax from the short seller. The information in the third fax and the phone call (collectively, "June 5th Communications") contained additional details regarding the allegations, including the name of a former ArthroCare employee who allegedly had personal knowledge of certain alleged misconduct. Stone conferred on these matters with the Company's management and counsel, and his Quality Review and National Risk Management Partners, among others.

82. After he conferred regarding the Form S-8 with PwC's National Risk Management Partner, Stone authorized issuance of the PwC Consent on June 6, 2008. When he did so, he was aware of allegations concerning a potential material misstatement of ArthroCare's 2007 financial statements and he knew that management was continuing to assess the allegations. While he had spoken with the Company's management and counsel about the allegations, he was still awaiting management's detailed written response to the allegations in the May 30th Faxes, which he had requested and which he did not receive until the next day. All of this was confirmed in an email he sent to his Quality Review Partner shortly after the Form S-8 was filed, in which he articulated his awareness of the ongoing nature of the inquiries, by both ArthroCare and PwC, concerning the allegations in the May 30th Faxes and the June 5th

PCAOB
Public Company Accounting Oversight Board

ORDER

Communications.[37] In authorizing the PwC Consent on June 6, Stone failed to obtain sufficient competent evidential matter, failed to exercise the requisite due professional care and professional skepticism, and failed to conduct a reasonable subsequent events investigation sufficient to give him reasonable assurance that ArthroCare's 2007 financial statements were free of misstatement.

83. On July 21, 2008, six weeks after Stone authorized issuance of the PwC Consent, ArthroCare publicly announced that its financial statements for 2007, as well as other periods, could no longer be relied upon and would be restated.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Stone's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Randall A. Stone is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Randall A. Stone is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

C. After three (3) years from the date of this Order, Randall A. Stone may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 payable by Randall A. Stone is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Randall A. Stone shall pay this civil money

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[37] Stone's engagement team performed certain subsequent events procedures relating to the Form S-8, including reading the latest interim financial statements and making inquiries of management. However, none of the engagement team's subsequent events work adequately addressed the allegations contained in the May 30th Faxes and the June 5th Communications.

PCAOB
Public Company Accounting Oversight Board

ORDER

penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Randall A. Stone as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 7, 2014

PCAOB
Public Company Accounting Oversight Board

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of BeachFleischman PC,* *Respondent.*	PCAOB Release No. 105-2014-008 November 4, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring BeachFleischman PC ("Respondent" or "BeachFleischman") and imposing a civil money penalty in the amount of $1,000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in 2013 and 2014 and timely pay an annual fee in 2013 and 2014.

I.

On September 10, 2014, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, BeachFleischman did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer, the Board finds[1] that:

A. Respondent

1. BeachFleischman is a professional corporation located in Tucson, Arizona. BeachFleischman is licensed by the Arizona State Board of Accountancy to engage in the practice of public accounting (License No. 770). The firm registered with the Board on August 16, 2011, pursuant to Section 102 of the Act and Board rules.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, BeachFleischman failed to timely file an annual report for 2013 and 2014.

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, BeachFleischman failed to timely pay its annual fee in 2013 and 2014.

C. Subsequent Events

4. The Board instituted these proceedings on September 10, 2014. BeachFleischman failed to file an answer pursuant to PCAOB Rule 5421(b).

5. On September 26, 2014, BeachFleischman paid its annual fees for 2013 and 2014.

6. On September 26, 2014, BeachFleischman filed its annual reports for 2013 and 2014.

7. On September 30, 2014, BeachFleischman filed a Form 1-WD to request leave to withdraw its registration from the Board.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), BeachFleischman is censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000 is imposed upon BeachFleischman. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. BeachFleischman shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies BeachFleischman as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

PCAOB
Public Company Accounting Oversight Board

ORDER

V.

Upon performance by BeachFleischman of Part IV above, pursuant to PCAOB Rule 2107, the Board shall consider BeachFleischman's Form 1-WD and whether to grant it leave to withdraw. In doing so, the Board shall not take into consideration its findings contained in Part III herein.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 4, 2014

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Reginald G. Campos, CPA, P.C.,* *Respondent.*	PCAOB Release No. 105-2014-009 November 4, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") censuring Reginald G. Campos, CPA, P.C. ("Respondent" or "Campos") and revoking Respondent's registration. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report and timely pay an annual fee in 2010, 2011, 2012, 2013, and 2014.

I.

On September 10, 2014, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Respondent did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer, the Board finds[1] that:[2]

A. Respondent

1. Reginald G. Campos, CPA, P.C. is a professional corporation located in Hurricane, Utah. The firm registered with the Board on May 10, 2005, pursuant to Section 102 of the Act and Board rules. Campos was licensed by the Utah Division of Occupational and Professional Licensing to engage in the practice of public accounting (License No. 5651733-2603), but such license expired on September 30, 2008. A search of public records indicates that the firm has not issued any audit reports or broker-dealer certifications since registering with the Board.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Campos failed to timely file an annual report for 2010, 2011, 2012, 2013, and 2014.

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Campos failed to pay its annual fee in 2010, 2011, 2012, 2013, and 2014.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Campos' conduct described in this Order meets the conditions set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

PCAOB
Public Company Accounting Oversight Board

ORDER

C. Subsequent Events

4. The Board instituted these proceedings on September 10, 2014.

5. On September 28, 2014, Campos filed its annual reports for 2010, 2011, 2012, 2013, and 2014.

6. To date, Campos has not paid its annual fee for 2010, 2011, 2012, 2013, and 2014.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Campos is censured; and

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Campos is revoked.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 4, 2014

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Carney, Delplato LLC,* *Respondent.*	PCAOB Release No. 105-2014-010 November 4, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Carney, Delplato LLC, ("Respondent") and imposing a civil money penalty in the amount of $3,000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report and timely pay an annual fee in 2010, 2011, 2012, 2013, and 2014.

I.

On September 10, 2014, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Respondent did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer, the Board finds[1] that:

A. Respondent

1. Carney, Delplato LLC is a limited liability corporation located in West Orange, New Jersey. The firm was licensed by the New Jersey State Board of Accountancy to engage in the practice of public accounting (License No. 20CB00349900), but such license expired June 30, 2012 (under the name "Snare, Foti & Delplato LLP"). The firm registered with the Board on January 27, 2004, pursuant to Section 102 of the Act and Board rules.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Respondent failed to timely file an annual report for 2010, 2011, 2012, 2013, and 2014.

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Respondent failed to timely pay its annual fee in 2010, 2011, 2012, 2013, and 2014.

C. Subsequent Events

1. The Board instituted these proceedings on September 10, 2014.

2. On September 29, 2014, Respondent paid its annual fees for 2010, 2011, 2012, 2013 and 2014.

3. On September 30, 2014, Respondent filed its annual reports for 2010, 2011, 2012, 2013, and 2014.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

4. On September 29, 2014, Respondent filed a Form 1-WD to request leave to withdraw its registration from the Board.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Respondent, Carney, Delplato LLC, is censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $3,000 is imposed upon Respondent. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies Carney, Delplato, LLC as Respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

PCAOB
Public Company Accounting Oversight Board

ORDER

V.

Upon performance by Respondent of Part IV above, pursuant to PCAOB Rule 2107, the Board shall consider Respondent's Form 1-WD and whether to grant it leave to withdraw. In doing so, the Board shall not take into consideration its findings contained in Part III herein.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 4, 2014

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Appelrouth, Farah & Co., P.A.,* *Respondent.*	PCAOB Release No. 105-2014-011 December 8, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Appelrouth, Farah & Co., P.A. ("Respondent" or "Appelrouth"); temporarily suspending Respondent's registration for a period of one year from the date of the issuance of this Order, and imposing a civil money penalty in the amount of $1,000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in 2013 and 2014.

I.

On September 10, 2014, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Appelrouth did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction

PCAOB
Public Company Accounting Oversight Board

ORDER

over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer, the Board finds[1] that:[2]

A. Respondent

1. Appelrouth is a corporation located in Coral Gables, Florida. Appelrouth is licensed by the Florida Department of Business & Professional Regulation to engage in the practice of public accounting (License No. AD0016486). The firm registered with the Board on September 4, 2008, pursuant to Section 102 of the Act and Board rules.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Appelrouth failed to timely file an annual report for 2013 and 2014.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The sanctions that the Board is imposing on Respondent in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

PCAOB
Public Company Accounting Oversight Board

ORDER

C. Subsequent Events

3. The Board instituted these proceedings on September 10, 2014.

4. On September 15, 2014, Appelrouth filed its annual report for 2013 and an amendment thereto.

5. On September 23, 2014, Appelrouth filed a second amendment to its annual report for 2013, and filed its annual report for 2014.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Appelrouth is censured;

B. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(1), Appelrouth's registration is temporarily suspended for a period of one year from the date of the issuance of this Order; and

C. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000 is imposed upon Appelrouth. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Appelrouth shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies Appelrouth as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public

PCAOB
Public Company Accounting Oversight Board

ORDER

Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 8, 2014

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Iftikhar A. Dar, CPA,* *Respondent.*	PCAOB Release No. 105-2014-012 December 8, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Iftikhar A. Dar, CPA ("Respondent" or "Dar") and imposing a civil money penalty in the amount of $1,000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in 2012, 2013 and 2014 and timely pay an annual fee in 2014.

I.

On September 10, 2014, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Dar did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer, the Board finds[1] that:

A. Respondent

1. Dar is a proprietorship located in Valley Stream, New York. Dar is licensed by the New York State Education Department to engage in the practice of public accounting (License No. 052646). The firm registered with the Board on May 17, 2011, pursuant to Section 102 of the Act and Board rules.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Dar failed to timely file an annual report for 2012, 2013 and 2014.

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Dar failed to timely pay its annual fee in 2014.

C. Subsequent Events

4. The Board instituted these proceedings on September 10, 2014. Dar failed to file an answer pursuant to PCAOB Rule 5421(b).

5. On October 28, 2014, Dar paid its annual fee for 2014.

6. On October 28, 2014, Dar filed its annual reports for 2012, 2013 and 2014.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

7. On November 3, 2014, Dar filed a Form 1-WD to request leave to withdraw its registration from the Board.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Dar is censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000 is imposed upon Dar. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Dar shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies Dar as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

PCAOB
Public Company Accounting Oversight Board

ORDER

V.

Upon performance by Dar of Part IV above, pursuant to PCAOB Rule 2107, the Board shall consider Dar's Form 1-WD and whether to grant it leave to withdraw. In doing so, the Board shall not take into consideration its findings contained in Part III herein.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 8, 2014

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Riley and Company PLLC,* *Respondent.*	PCAOB Release No. 105-2014-013 December 8, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Riley and Company PLLC ("Respondent" or "Riley") and imposing a civil money penalty in the amount of $1,000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in 2013 and 2014 and timely pay an annual fee in 2013 and 2014.

I.

On September 10, 2014, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Riley did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer, the Board finds[1] that:

A. Respondent

1. Riley is a corporation located in Houston, Texas. Riley is licensed by the Texas State Board of Public Accountancy to engage in the practice of public accounting (License No. C07672). The firm registered with the Board on April 5, 2005, pursuant to Section 102 of the Act and Board rules.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Riley failed to timely file an annual report for 2013 and 2014.

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Riley failed to timely pay its annual fee in 2013 and 2014.

C. Subsequent Events

4. The Board instituted these proceedings on September 10, 2014. Riley did not file an answer pursuant to PCAOB Rule 5421(b).

5. On October 28, 2014, Riley paid its annual fee for 2013 and 2014.

6. On October 28, 2014, Riley filed its annual reports for 2013 and 2014.

---

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

ORDER

7. On November 3, 2014, Riley filed a Form 1-WD to request leave to withdraw its registration from the Board.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Riley is censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000 is imposed upon Riley. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Riley shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies Riley as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

PCAOB
Public Company Accounting Oversight Board

ORDER

V.

Upon performance by Riley of Part IV above, pursuant to PCAOB Rule 2107, the Board shall consider Riley's Form 1-WD and whether to grant it leave to withdraw. In doing so, the Board shall not take into consideration its findings contained in Part III herein.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 8, 2014

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Southwest CPA, LLC,* *Respondent.*	PCAOB Release No. 105-2014-014 December 8, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Southwest CPA, LLC ("Respondent" or "Southwest") and revoking Respondent's registration. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in 2012, 2013 and 2014 and failure to pay an annual fee in 2012, 2013 and 2014.

I.

On September 10, 2014, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Southwest did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer, the Board finds[1] that:[2]

A. Respondent

1. Southwest is a limited liability company located in Bradenton, Florida. Southwest is licensed by the Florida Department of Business & Professional Regulation to engage in the practice of public accounting (License No. AD67345). The Firm registered with the Board on January 31, 2012 pursuant to Section 102 of the Act and Board rules.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Southwest failed to timely file an annual report for 2012, 2013 and 2014.

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Southwest failed to pay its annual fee for 2012, 2013 and 2014.

---

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

PCAOB
Public Company Accounting Oversight Board

ORDER

C. Subsequent Events

4. The Board instituted these proceedings on September 10, 2014. Southwest failed to file an answer pursuant to PCAOB Rule 5421(b).

5. On October 6, 2014, Southwest filed its annual reports for 2012, 2013 and 2014.

6. To date, Southwest has not paid its annual fee for 2012, 2013, and 2014.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Southwest is censured; and

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Southwest is revoked.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 8, 2014

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Timpson Garcia, LLP,* *Respondent.*	PCAOB Release No. 105-2014-015 December 8, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Timpson Garcia, LLP ("Respondent" or "Timpson"); temporarily suspending Respondent's registration for a period of one year from the date of the issuance of this Order, and imposing a civil money penalty in the amount of $1,000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in 2012, 2013, and 2014.

I.

On September 10, 2014, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Timpson did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction

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ORDER

over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer, the Board finds[1] that:[2]

A. Respondent

1. Timpson is a limited liability partnership located in Oakland, California. Timpson is licensed by the California Board of Accountancy to engage in the practice of public accounting (License No. PAR 5673). The firm registered with the Board on October 22, 2003, pursuant to Section 102 of the Act and Board rules.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Timpson failed to timely file an annual report for 2012, 2013, and 2014.

---

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The sanctions that the Board is imposing on Respondent in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

PCAOB
Public Company Accounting Oversight Board

ORDER

C. Subsequent Events

3. The Board instituted these proceedings on September 10, 2014.

4. On October 30, 2014, Timpson filed its annual reports for 2012, 2013 and 2014.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Timpson is censured;

B. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(1), Timpson's registration is temporarily suspended for a period of one year from the date of the issuance of this Order; and

C. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000 is imposed upon Timpson. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Timpson shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies Timpson as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary,

PCAOB
Public Company Accounting Oversight Board

ORDER

Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 8, 2014

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Walker & Associates, CPA, PA,* *Respondent.*	PCAOB Release No. 105-2014-016 December 8, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Walker & Associates, CPA, PA ("Respondent" or "Walker") and revoking Respondent's registration. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in 2013 and 2014 and failure to pay an annual fee in 2013 and 2014.

I.

On September 10, 2014, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Walker did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer, the Board finds[1] that:[2]

A. Respondent

1. Walker is a corporation located in Charlotte, North Carolina. Walker is licensed by the North Carolina Board of Accountancy to engage in the practice of public accounting (License No. 31023). The firm registered with the Board on November 16, 2010, pursuant to Section 102 of the Act and Board rules.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Walker failed to timely file an annual report for 2013 and 2014.

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Walker failed to pay its annual fee for 2013 and 2014.

C. Subsequent Events

4. The Board instituted these proceedings on September 10, 2014.

5. On November 9, 2014, Walker filed its annual reports for 2013 and 2014.

---

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

6. To date, Walker has not paid its annual fees for 2013 and 2014.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Walker is censured; and

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Walker is revoked.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 8, 2014

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Alexander Thompson Arnold PLLC,* *Respondent.*	PCAOB Release No. 105-2014-017 December 8, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Alexander Thompson Arnold PLLC ("ATA," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission") as a result of having prepared financial statements that were filed with the Commission for a registered broker-dealer audit client and thus impairing its independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings,

PCAOB
Public Company Accounting Oversight Board

ORDER

Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. ATA is a registered public accounting firm with offices in ten locations in Tennessee and Kentucky. At all relevant times, the Firm was licensed by the Tennessee State Board of Accountancy (license nos. 29, 196, 358, 359, 360, 361, 472, 883, 890, 909, 2826, 3994) and the Kentucky State Board of Accountancy (license nos. 486, B 486). The Firm, formed in 1997, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. ATA prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended December 31, 2012. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X apply to

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[3] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

PCAOB
Public Company Accounting Oversight Board

ORDER

audits of brokers and dealers.[5] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's December 31, 2012 financial statements. At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In February 2013, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2012. Included in that filing was an audit report signed by the Firm dated February 26, 2013. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in [the] United States of America."

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[5] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

PCAOB
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10. Firm staff completed an "Engagement Acceptance and Continuance Form" in connection with the audit of the Broker-Dealer's December 31, 2012 and 2011 financial statements ("Audit"). That form included a pre-printed item reading, "What services does the financial institution desire from our firm?" Firm staff added a checkmark under "Yes" alongside the pre-printed sub-item reading, "Preparation of financial statements."

11. Firm staff obtained from the Broker-Dealer in January and February 2013 various documents including a trial balance as of December 31, 2012, a "Trial Balance Worksheet," a "Grouping Schedule Report," and a Form X-17A-5 Part IIA that Firm staff understood had been filed by the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA") and that bore the header "FOCUS Report (Financial and Operational Combined Uniform Single Report)." That Form X-17A-5 Part IIA contained, among other things, three financial statements: a Statement of Financial Condition as of December 31, 2012 ("FOCUS Statement of Financial Condition"), a Statement of Income (Loss) for the period October 1, 2012 through December 31, 2012 ("FOCUS Statement of Income"), and a Statement of Changes in Ownership Equity for the period October 1, 2012 through December 31, 2012 ("FOCUS Statement of Changes in Ownership Equity").

12. Firm staff used the above documents obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of December 31, 2012, as well as the Statement of Income and Statement of Changes in Stockholders' Equity for the year ended December 31, 2012, filed by the Broker-Dealer with the Commission in February 2013.

13. In preparing the Statement of Financial Condition and Statement of Income filed by the Broker-Dealer with the Commission, Firm staff aggregated line items and changed line item descriptions as compared to corresponding information in the documents obtained from the Broker-Dealer. Moreover, Firm staff added to the filed Statement of Financial Condition two asset-related captions not found in the above documents obtained from the Broker-Dealer, and classified asset line items by listing them under one or the other.

14. In preparing the Statement of Changes in Stockholders' Equity, Firm staff included information for that portion of 2012—January 1, 2012 through September 30, 2012—not reflected in the FOCUS Statement of Changes in Ownership Equity. Firm staff also included a line item amount found in each of the trial balance, the Trial Balance Worksheet, and the Grouping Schedule Report, but changed the line item description.

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15. Firm staff also prepared the Statement of Comprehensive Income and Statement of Cash Flows for the year ended December 31, 2012, as well as drafted the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in February 2013.

16. Firm staff provided the Broker-Dealer with a set of draft financial statements on February 26, 2013 for management approval.

17. As a result of the Firm's conduct in preparing the financial statements, including the notes thereto, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audit of the Broker-Dealer's financial statements. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[6]

18. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the audit of the Broker-Dealer's December 31, 2012 financial statements in accordance with GAAS when in fact, because of the independence impairment described above, the audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

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[6] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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Public Company Accounting Oversight Board

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

ORDER

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an audit; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning

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compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 8, 2014

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Dean Dorton Allen Ford, PLLC,* *Respondent.*	PCAOB Release No. 105-2014-018 December 8, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Dean Dorton Allen Ford, PLLC ("DDAF," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission") as a result of having prepared financial statements that were filed with the Commission for a registered broker-dealer audit client and thus impairing its independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings,

PCAOB
Public Company Accounting Oversight Board

ORDER

Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. DDAF is a registered public accounting firm with offices in Lexington and Louisville, Kentucky. It is a member firm of the McGladrey Alliance. At all relevant times, the Firm was licensed by the Kentucky State Board of Accountancy (license nos. 56, B 56). The Firm, formed in 1982, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. DDAF prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended December 31, 2012. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X apply to

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[3] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

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audits of brokers and dealers.[5] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's December 31, 2012 financial statements. At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In February 2013, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2012. Included in that filing was an audit report signed by the Firm dated January 25, 2013. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

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[5] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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10. The Firm's engagement letter with the Broker-Dealer for the audit of the Broker-Dealer's December 31, 2012 financial statements acknowledged that the Broker-Dealer might request that the Firm "perform accounting services necessary for the preparation of the financial statements," including "drafting the financial statements."

11. Firm staff prepared and included in the Firm's audit documentation an "MRAM [McGladrey Risk Assessment Model] Risk Assessment & Client Acceptance" form noting that the Broker-Dealer's management "prepares the entity's audited financial statements and related disclosures with significant assistance/revision necessary from the independent auditor" (emphasis added) and assigning a corresponding risk of "Medium" to this aspect of the engagement.

12. Firm staff also prepared and included in the Firm's audit documentation a form titled "0808 FSR Financial Statement Preparation." This form stated in pre-printed text that "[a]uditors of financial statements subject to SEC independence are prohibited from performing certain prohibited services, including bookkeeping and financial statement preparation services" and noted that the form was "used to document the engagement team's compliance with this prohibition." The text added to the form by Firm staff included: a list of items obtained from the Broker-Dealer, such as a trial balance, general ledger detail, and a FOCUS report, as well as schedules concerning cash flow, changes in members' equity, and changes in liabilities subordinated to claims of general creditors; a statement that Firm staff prepared the Broker-Dealer's financial statements based on this information and based on related inquiries to the Broker-Dealer, then provided those drafts to the Broker-Dealer, which the Broker-Dealer's management "review[ed] and approve[d]"; and the engagement team's conclusion that these activities by the Firm constituted only a "clerical task" and a "word processing function" that did "not impair our independence."

13. Firm staff used the trial balance obtained from the Broker-Dealer to prepare the Broker-Dealer's Statement of Financial Condition as of December 31, 2012 and Statement of Income for the year ended December 31, 2012 filed with the Commission. In preparing these two financial statements, Firm staff aggregated line items and changed line item descriptions as compared to corresponding information in the trial balance.

14. Firm staff used general ledger detail and information resulting from inquiries to the Broker-Dealer's management to prepare the Broker-Dealer's Statement of Changes in Stockholders' Equity and Statement of Cash Flows for the year ended December 31, 2012 filed with the Commission. In preparing these two financial statements, Firm staff aggregated line items, changed line item descriptions, and changed non-line-item text as compared to corresponding information in, and added

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text absent from, the general ledger detail and other documents obtained by the Firm from the Broker-Dealer.

15. Firm staff emailed the Broker-Dealer a set of draft financial statements on January 23, 2013 for management approval.

16. As a result of the Firm's conduct in preparing the financial statements, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audit of the Broker-Dealer's financial statements. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[6]

17. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the audit of the Broker-Dealer's December 31, 2012 financial statements in accordance with GAAS when in fact, because of the independence impairment described above, the audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty of $2,500 is imposed upon the Firm. All funds

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[6] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's

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Public Company Accounting Oversight Board

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release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an audit; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 8, 2014

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Goldman & Company CPAs P.C.,* *Respondent.*	PCAOB Release No. 105-2014-019 December 8, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Goldman & Company CPAs P.C. ("Goldman & Company," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission") as a result of having prepared financial statements that were filed with the Commission for a registered broker-dealer audit client and thus impairing its independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings,

PCAOB
Public Company Accounting Oversight Board

ORDER

Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Goldman & Company is a registered public accounting firm with offices in Marietta, Georgia. At all relevant times, the Firm was licensed by the Georgia Board of Accountancy (license no. ACF004707). The Firm, formed in 2002, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. Goldman & Company prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended December 31, 2012. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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Public Company Accounting Oversight Board

ORDER

C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X apply to

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[3] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

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audits of brokers and dealers.[5] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's December 31, 2012 financial statements. At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In February 2013, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2012. Included in that filing was an audit report signed by the Firm dated February 5, 2013. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

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[5] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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10. Firm staff completed an "Engagement Acceptance and Continuance Form" in connection with the audit of the Broker-Dealer's December 31, 2012 financial statements ("Audit"). That form included a pre-printed item reading, "What services does the financial institution desire from our firm?" Firm staff added alongside that item the text, "We will prepare disclosures." This was a reference to the intention by Firm staff to prepare the notes to the Broker-Dealer's financial statements.

11. Firm staff obtained from the Broker-Dealer on January 2, 2013 various documents including a "Balance Sheet" and an "Income Statement." Firm staff also obtained from the Broker-Dealer on January 29, 2013 various documents including a Form X-17A-5 Part II that Firm staff understood had been filed by the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA") and that bore the header "FOCUS Report (Financial and Operational Combined Uniform Single Report)." That Form X-17A-5 Part II contained, among other things, two financial statements: a Statement of Financial Condition as of December 31, 2012 ("FOCUS Statement of Financial Condition") and a Statement of Income (Loss) for the period October 1, 2012 through December 31, 2012 ("FOCUS Statement of Income").

12. Firm staff used the above financial statements obtained from the Broker-Dealer—Balance Sheet, Income Statement, FOCUS Statement of Financial Condition, and FOCUS Statement of Income—to prepare the Statement of Financial Condition, Statement of Income, and Statement of Changes in Shareholder's Equity filed by the Broker-Dealer with the Commission in February 2013.

13. In preparing the Statement of Financial Condition and Statement of Income filed by the Broker-Dealer with the Commission, Firm staff aggregated line items and changed line item descriptions as compared to corresponding information in the financial statements obtained from the Broker-Dealer. Moreover, Firm staff included in the filed Statement of Financial Condition an additional asset line item contained in neither the Balance Sheet nor the FOCUS Statement of Financial Condition. Furthermore, Firm staff included in the filed Statement of Financial Condition amounts for three liability and equity line items that were different from those in the Balance Sheet, and amounts for two equity line items that were different from those in the FOCUS Statement of Financial Condition.

14. In preparing the Statement of Changes in Shareholder's Equity filed by the Broker-Dealer with the Commission, Firm staff added three columns of information not included in the FOCUS Statement of Financial Condition. Firm staff also changed a line item description, and included different amounts in all four line items, as compared to corresponding information in the FOCUS Statement of Financial Condition.

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15. Firm staff obtained at various times from the Broker-Dealer four different documents purporting to reflect the Broker-Dealer's trial balance as of December 31, 2012. Firm staff used one of those trial balances to prepare the Broker-Dealer's Statement of Cash Flows, which was filed by the Broker-Dealer with the Commission.

16. Firm staff also drafted the notes to the financial statements filed by the Broker-Dealer with the Commission. Those notes included disclosures that the engagement partner described in a February 5, 2013 letter addressed to the Broker-Dealer's sole equity holder and president, and titled "Communication with Those Charged with Governance at or Near the Conclusion of the Audit," as "particularly sensitive because of their significance to financial statement users." Those notes also included a disclosure stating that the Broker-Dealer had few customers, that the departure of one or more of those customers would materially affect the Broker-Dealer's financial statements, and that the Broker-Dealer's management considered this risk "remote." The engagement partner, in a work paper titled "Going-concern Checklist," cited the inclusion and quality of that disclosure as the reason for the Firm's decision not to include a going concern paragraph in its audit opinion.

17. Firm staff emailed the Broker-Dealer a set of draft financial statements on February 3, 2013, and additional draft sets on February 5, 2013, for management approval.

18. As a result of the Firm's conduct in preparing the financial statements, including the notes thereto, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audit of the Broker-Dealer's financial statements. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[6]

19. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the audit of the Broker-Dealer's December 31, 2012 financial statements in accordance with GAAS when in fact, because of the independence impairment described above, the audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the

[6] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an

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examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an audit; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within

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one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 8, 2014

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Lederman Zeidler Gray & Co., LLP,* *Respondent.*	PCAOB Release No. 105-2014-020 December 8, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Lederman Zeidler Gray & Co., LLP ("Lederman Zeidler Gray," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission") as a result of having prepared financial statements that were filed with the Commission for a registered broker-dealer audit client and thus impairing its independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings,

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ORDER

Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Lederman Zeidler Gray is a registered public accounting firm with offices in Beverly Hills, California. At all relevant times, the Firm was licensed by the California Board of Accountancy (license no. 5364). The Firm, formed in 1989, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. Lederman Zeidler Gray prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended September 30, 2012. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X apply to audits of brokers and dealers.[5] The applicable provisions include Rule 2-01(c)(4), which states in part:

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[3] AU Section 220, *Independence*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

[5] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to

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> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's September 30, 2012 financial statements. At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In November 2012, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended September 30, 2012. Included in that filing was an audit report signed by the Firm dated November 21, 2012. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

10. Firm staff completed an "Engagement Acceptance and Continuance Form" in connection with the audit of the Broker-Dealer's September 30, 2012 financial statements ("Audit"). That form included a pre-printed item reading, "What services does the financial institution desire from our firm?" Firm staff typed an "x" under "Yes" alongside the pre-printed sub-item reading, "Preparation of financial statements."

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the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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11. A work paper prepared in connection with the Audit and titled "List of Audit Procedures Performed" included the entry, "Prepare Financial Statements and Checklists." Handwritten alongside that entry were the initials of the audit manager assigned to the Audit.

12. In October and November 2012, Firm staff obtained from the Broker-Dealer various documents including a "Balance Sheet" as of September 30, 2012 ("Balance Sheet"), a "Profit and Loss" report for the period October 1, 2011 through September 30, 2012 ("Profit and Loss Report"), and four Forms X-17A-5 Part IIA—one for each of the four quarters of 2012—that Firm staff understood had been filed by the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA"), that bore the headers "FOCUS Report (Financial and Operational Combined Uniform Single Report)," and that contained quarterly financial statements ("Quarterly FOCUS Reports").

13. Firm staff used the above documents obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of September 30, 2012, as well as the Statement of Income and Statement of Changes in Stockholder's Equity for the year ended September 30, 2012, filed by the Broker-Dealer with the Commission.

14. In preparing the Statement of Financial Condition and Statement of Income, Firm staff aggregated line items and changed line item descriptions as compared to corresponding information in the documents obtained from the Broker-Dealer. Moreover, in preparing the Statement of Income, Firm staff deleted three captions included in, and added one caption absent from, the Profit and Loss Report.

15. In preparing the Statement of Changes in Stockholder's Equity filed by the Broker-Dealer with the Commission, Firm staff added a tabular presentation contained in neither the equity portion of the Balance Sheet nor any Statement of Changes in Ownership Equity in the Quarterly FOCUS Reports; included disaggregated amounts for "Common Stock," "Paid-in Capital," and "Retained Earnings" contained in the Balance Sheet but not in the Quarterly FOCUS Reports; and included row descriptions different from line item descriptions in the Quarterly FOCUS Reports and altogether absent from the Balance Sheet.

16. Firm staff also prepared the Statement of Cash Flows for the year ended September 30, 2012, as well as drafted the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in November 2012. The notes to the financial statements drafted by Firm staff included a disclosure consisting of several paragraphs that concerned pending litigation against the Broker-Dealer. The Firm's November 21, 2012 audit report included a paragraph captioned "Emphasis of Matter" that cited that disclosure, summarized some of its content, and stated that the Firm's opinion was not modified with respect to that matter.

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17. Firm staff emailed the Broker-Dealer a set of draft financial statements on November 21, 2012 for management approval.

18. As a result of the Firm's conduct in preparing the financial statements, including the notes thereto, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audit of the Broker-Dealer's financial statements. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[6]

19. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the audit of the Broker-Dealer's September 30, 2012 financial statements in accordance with GAAS when in fact, because of the independence impairment described above, the audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The

[6] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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Firm shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

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ORDER

4. to provide a copy of this Order—

a. within (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an audit; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 8, 2014

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Leonard Rosen & Company, P.C.,* *Respondent.*	PCAOB Release No. 105-2014-021 December 8, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Leonard Rosen & Company, P.C. ("Leonard Rosen," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission") as a result of having prepared financial statements that were filed with the Commission for a registered broker-dealer audit client and thus impairing its independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings,

PCAOB
Public Company Accounting Oversight Board

ORDER

Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Leonard Rosen is a registered public accounting firm with offices in New York, New York. At all relevant times, the Firm was registered with the New York State Education Department (Professional Service Corporation No. 007897). The Firm, formed in 1976, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. Leonard Rosen prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended December 31, 2012. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X apply to

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[3] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

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audits of brokers and dealers.[5] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's December 31, 2012 financial statements. At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In February 2013, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2012. Included in that filing was an audit report signed by the Firm dated February 15, 2013. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

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[5] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

ORDER

10. Firm staff obtained from the Broker-Dealer in February 2013 various documents including a trial balance as of December 31, 2012, a "Balance Sheet" as of December 31, 2012, and several schedules.

11. Firm staff used the above documents to prepare the Statement of Financial Condition, Statement of Income, Statement of Changes in Member's Equity, Statement of Cash Flows, and Statement of Changes in Liabilities Subordinated to the Claims of General Creditors filed by the Broker-Dealer with the Commission in February 2013. In preparing the Statement of Financial Condition filed by the Broker-Dealer with the Commission, Firm staff aggregated line items, deleted captions, and deleted a line item description (while retaining the associated line item amount) as compared to corresponding information in the Balance Sheet obtained from the Broker-Dealer.

12. Firm staff also drafted the notes to the financial statements filed by the Broker-Dealer with the Commission.

13. Firm staff provided the Broker-Dealer a set of draft financial statements on February 14 or 15, 2013 for management approval.

14. As a result of the Firm's conduct in preparing the financial statements, including the notes thereto, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audit of the Broker-Dealer's financial statements. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[6]

15. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the audit of the Broker-Dealer's December 31, 2012 financial statements in accordance with GAAS when in fact, because of the independence impairment described above, the audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

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[6] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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Public Company Accounting Oversight Board

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

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2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an audit; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning

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compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 8, 2014

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Raines and Fischer LLP,* *Respondent.*	PCAOB Release No. 105-2014-022 December 8, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Raines and Fischer LLP ("Raines and Fischer," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission") as a result of having prepared financial statements that were filed with the Commission for a registered broker-dealer audit client and thus impairing its independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings,

PCAOB
Public Company Accounting Oversight Board

ORDER

Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Raines and Fischer is a registered public accounting firm with offices in New York, New York. At all relevant times, the Firm was registered with the New York State Education Department (Partnership Identification No. 024631). The Firm, formed in 1984, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. Raines and Fischer prepared portions of the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended December 31, 2012. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

ORDER

C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X apply to

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[3] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

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audits of brokers and dealers.[5] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's December 31, 2012 financial statements. At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In March 2013, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2012. Included in that filing was an audit report signed by the Firm dated February 27, 2013. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

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[5] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

ORDER

10. Firm staff obtained from the Broker-Dealer in February 2013 various documents including a trial balance, a general ledger, a schedule titled "Balance Sheet - Groupings," and a Statement of Financial Condition as of December 31, 2012, as well as a schedule titled "Profit & Loss - Grouping Sch," a Statement of Income, and a Statement of Changes in Members' Equity for the year ended December 31, 2012. The Firm did not obtain from the Broker-Dealer a cash flow statement or notes to the financial statements.

11. Firm staff used information from the balance sheet and profit and loss grouping schedules obtained from the Broker-Dealer to prepare the Statement of Cash Flows for the year ended December 31, 2012 filed by the Broker-Dealer with the Commission. Firm staff also prepared the notes to the December 31, 2012 financial statements filed by the Broker-Dealer with the Commission. Firm staff prepared the notes by using as an initial draft the notes to the December 31, 2011 financial statements filed by the Broker-Dealer with the Commission the previous year, deleting a revenue-related note after confirming with the Broker-Dealer's management that it was no longer applicable, significantly revising two paragraphs of a note concerning the Broker-Dealer's accounting policies, modifying two other notes to reflect updated information, and adding a paragraph disclosure concerning customer funds and securities.

12. Firm staff provided the Broker-Dealer with a draft Statement of Cash Flows and draft notes to the financial statements in February 2013 for management approval.

13. As a result of the Firm's conduct in preparing the cash flow statement and the notes to the financial statements, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audit of the Broker-Dealer's financial statements. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[6]

14. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the audit of the Broker-Dealer's December 31, 2012 financial statements

[6] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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ORDER

in accordance with GAAS when in fact, because of the independence impairment described above, the audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence

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ORDER

requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an audit; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification

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ORDER

shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 8, 2014

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Raphael and Raphael LLP,* *Respondent.*	PCAOB Release No. 105-2014-023 December 8, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Raphael and Raphael LLP ("Raphael and Raphael," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission") as a result of having prepared financial statements that were filed with the Commission for a registered broker-dealer audit client and thus impairing its independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings,

PCAOB
Public Company Accounting Oversight Board

ORDER

Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Raphael and Raphael is a registered public accounting firm with offices in Massachusetts and New Jersey. At all relevant times, the Firm was licensed by the Massachusetts Board of Public Accountancy (license no. 23) and the New Jersey State Board of Accountancy (license no. 20CB00602100). The Firm, formed in 1944, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. Raphael and Raphael prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended September 30, 2012. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X apply to audits of brokers and dealers.[5] The applicable provisions include Rule 2-01(c)(4), which states in part:

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[3] AU Section 220, *Independence*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

[5] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to

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> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's September 30, 2012 financial statements. At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In November 2012, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended September 30, 2012. Included in that filing was an audit report signed by the Firm dated November 19, 2012. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

10. An engagement letter dated October 10, 2012 confirmed the Firm's understanding of the services it would provide to the Broker-Dealer for the year ended September 30, 2012. The engagement letter stated that "[a]s part of our engagement, we will prepare the audited financial statements."

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the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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11. A work paper prepared in connection with the Firm's audit of the Broker-Dealer's September 30, 2012 financial statements ("Audit") and titled "Audit Program for General Auditing and Completion Procedures" included a pre-printed item reading, "Draft or assist the client in drafting the financial statements." Typed alongside that item were the initials of a staff accountant assigned to the Audit.

12. Firm staff obtained from the Broker-Dealer in October 2012 various documents including a trial balance as of September 30, 2012; a "Balance Sheet" as of September 30, 2012 ("Balance Sheet"); and a "Profit & Loss" report for the period October 1, 2011 through September 30, 2012 ("Profit and Loss Report").

13. Firm staff entered the information contained in the trial balance into a software program used by the Firm to generate financial statements. Firm staff then used the software to prepare the Statement of Financial Condition as of September 30, 2012, as well as the Statement of Income, Statement of Changes in Stockholder's Equity, and Statement of Cash Flows for the year ended September 30, 2012, filed by the Broker-Dealer with the Commission.

14. In preparing the Statement of Financial Condition and Statement of Income, Firm staff aggregated line items, and added and deleted captions, as compared to corresponding information in the Balance Sheet and Profit and Loss Report obtained from the Broker-Dealer.

15. Firm staff also drafted the notes to the financial statements filed by the Broker-Dealer with the Commission.

16. Firm staff included in the work papers for the Audit copies of several pages from the Audit and Accounting Guide on Brokers and Dealers in Securities published by the American Institute of Certified Public Accountants. The text on those pages included the statements, "SEC Rule 17a-5 requires that the provisions set forth in SEC Rules 2-01(b) and (c) of Regulation S-X be adhered to when determining whether the accountant is deemed to be independent" and "Auditors of nonissuer broker-dealers are restricted from performing those services specifically excluded by the Sarbanes-Oxley Act of 2002 and are expected to comply with all other SEC independence rules, including those that prohibit bookkeeping and the preparation of financial statements for nonissuer broker-dealers."

17. Firm staff emailed the Broker-Dealer a set of draft financial statements on November 13, 2012, and an additional draft set on November 19, 2012, for management approval.

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18. As a result of the Firm's conduct in preparing the financial statements, including the notes thereto, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audit of the Broker-Dealer's financial statements. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[6]

19. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the audit of the Broker-Dealer's September 30, 2012 financial statements in accordance with GAAS when in fact, because of the independence impairment described above, the audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order; (c) made payable to the

[6] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

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4. to provide a copy of this Order—

a. within (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an audit; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 8, 2014

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Akiyo Yoshida, CPA,* *Respondent.*	PCAOB Release No. 105-2014-024 December 17, 2014

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Akiyo Yoshida, CPA ("Yoshida" or "Respondent"); (2) suspending him from being associated with a registered public accounting firm for a period of one year from the date of this Order; (3) limiting his activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for an additional period of one year following the expiration of his suspension; and (4) requiring that he complete forty (40) additional hours of continuing professional education in subjects that are directly related to the audits of issuer financial statements under PCAOB standards. The Board is imposing these sanctions on the basis of its findings concerning Yoshida's violations of PCAOB rules and auditing standards in connection with the audit of the financial statements of Baldwin Technology Company, Inc. ("Baldwin") for the fiscal year ended June 30, 2010 ("FY 2010").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Yoshida.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Yoshida has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and

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without admitting or denying the findings herein, except as to the Board's jurisdiction over Yoshida and the subject matter of these proceedings, which are admitted, Yoshida consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Yoshida's Offer, the Board finds[2] that:

A. Respondent

1. Akiyo Yoshida, age 52, of Tokyo, Japan, is a certified public accountant ("CPA") licensed under the laws of the state of California (license no. 64454). In 2000, Yoshida's California CPA license became inactive. As a result, Yoshida is not required to meet California's continuing professional education requirements, and is not licensed to engage in the practice of public accountancy. At all relevant times, Yoshida was a partner in the Tokyo, Japan office of Grant Thornton Taiyo ASG, LLC ("GT Japan"),[3] a registered public accounting firm, and was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Yoshida's failures to comply with PCAOB rules and auditing standards in connection with his audit work concerning the revenue recognized by Baldwin-Japan, Limited ("BJL"), a material subsidiary of Baldwin. Baldwin's external auditor for FY 2010 was Grant Thornton LLP ("GT US"). Baldwin had subsidiaries in 11

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Yoshida's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] On October 21, 2014, GT Japan submitted a Form 3, *Special Report*, to the Board stating that the firm had changed its legal name to Grant Thornton Taiyo LLC.

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countries, and GT US used the work of other auditors, including GT Japan, to audit the financial reporting packages of Baldwin's subsidiaries. Baldwin consolidated these financial reporting packages into its FY 2010 consolidated financial statements, and GT US issued its audit report on Baldwin's consolidated financial statements.

3. BJL's revenue was included in net sales reported in Baldwin's FY 2010 consolidated financial statements. During FY 2010, BJL changed its revenue recognition policy. Prior to 2010, BJL's policy was to recognize revenue for both the sale and installation of equipment when installation was completed. In 2010, however, BJL began separating the elements of multiple-element arrangements. As a result, BJL began recognizing revenue from the sale of equipment at the time that the delivery of equipment occurred, instead of deferring that revenue until the installation of equipment was completed.

4. First, Yoshida was aware of the change in revenue recognition policy at the time of the FY 2010 audit, and he was instructed by GT US to test BJL's change in revenue recognition policy for compliance with U.S. Generally Accepted Accounting Principles ("US GAAP"). Yoshida recognized, during audit planning, that the change in policy had the potential to cause material misstatements in BJL's FY 2010 financial reporting package.[4] Yoshida, however, failed adequately to test the change in revenue recognition policy to determine whether BJL had appropriate evidence to support separating deliverables in multiple-element arrangements pursuant to US GAAP.

5. Second, Yoshida failed to evaluate properly red flags that should have alerted him to the possibility that BJL may have been improperly accelerating the recognition of revenue during FY 2010. For example, while planning the audit, Yoshida recognized a risk of material misstatement related to fraud: "Since the power of the president of the company is relatively strong and the controller is new, the president could make employees accelerate sales recognition . . ." Yoshida, however, ignored red flags indicating that BJL may, in fact, have been improperly accelerating sales. Those red flags included BJL's recording of all of the material sales for the last month of FY 2010 on the last day of the fiscal year. Yoshida's failures compromised the audit's ability to detect the improperly accelerated sales at BJL.

6. This matter also concerns Yoshida's failure to supervise assistants in accordance with professional standards. Yoshida failed to review the work of assistants in order to determine whether their work was adequately performed and audit

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[4] PCAOB standards state that "the auditor should ordinarily presume that there is a risk of material misstatement due to fraud relating to revenue recognition." AU § 316.41, *Consideration of Fraud in a Financial Statement Audit*.

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objectives were accomplished. One of the audit tests that Yoshida planned to perform to address the risk of improperly accelerated sales was to vouch sales to purchase orders and delivery documentation. Yoshida's review of the relevant work paper, however, did not provide him with sufficient information to determine if his assistants had tested whether BJL was delivering equipment at or near the date that its customers had requested delivery. In fact, BJL purportedly accelerated delivery for four of the 13 material sales recorded on the last day of FY 2010. For each of these orders, BJL's customers requested delivery in the fiscal year ended June 30, 2011 ("FY 2011"), but BJL purported to have delivered the equipment in FY 2010.

7. Finally, this matter concerns Yoshida's failure to ensure that he was technically proficient in relevant matters. Prior to FY 2010, Yoshida had never performed an audit that required testing whether the audit client was able to separate the elements of multiple-element arrangements in compliance with US GAAP. Yoshida, however, did not seek out training, and did not perform a sufficient review of the relevant professional guidance, in order to ensure that he would test BJL's new revenue recognition policy in accordance with professional standards.

C. Background

8. GT US audited the consolidated financial statements of Baldwin for the fiscal years ending June 30, 2007 through June 30, 2011. In auditing Baldwin's consolidated financial statements, GT US used the work of other independent auditors that were members of the Grant Thornton International Ltd. network of firms. GT US engaged GT Japan to audit the financial reporting packages prepared by BJL. At all relevant times, Yoshida was the GT Japan partner responsible for auditing BJL's financial reporting package.

9. Baldwin is a manufacturer of cleaning equipment and related consumable products used in the commercial printing industry. Baldwin has subsidiaries in 11 countries, including Japan. At all relevant times, Baldwin's common stock was registered under Section 12(b) of the Securities Exchange Act of 1934 and was listed on the New York Stock Exchange. At all relevant times, Baldwin was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).[5]

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[5] On March 30, 2012, Baldwin filed with the U.S. Securities and Exchange Commission ("Commission") a Form 15, *Certification and Notice of Termination of Registration Under Section 12(g) of the Securities Exchange Act of 1934 or Suspension of Duty to File Reports Under Sections 13 and 15(d) of the Securities Exchange Act of 1934*.

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10. In FY 2010, BJL was a material subsidiary of Baldwin. BJL was the largest contributor to Baldwin's FY 2010 consolidated net sales, constituting 26 percent, or approximately $40 million, of Baldwin's reported net sales. The vast majority of BJL's sales fell into two categories: (a) the sale and installation of blanket cleaning and spray dampening equipment (collectively, "equipment"); and (b) the sale of woven fabric, cleaning fluids, and spare parts used in BJL's equipment (collectively, "consumable products"). Equipment sales constituted more than half of BJL's total revenue in FY 2010.

The FY 2010 Audit

11. In June 2010, GT US sent Yoshida and his engagement team an International Assignment Memorandum ("IAM") containing instructions for Yoshida to follow in performing his audit work. The IAM instructed Yoshida that Baldwin's consolidated financial statements would be presented in conformity with US GAAP, and that Yoshida should conduct his audit work in accordance with PCAOB standards. The IAM instructed Yoshida to perform a full-scope integrated audit of BJL's financial reporting package.

12. After receiving the IAM, Yoshida sent GT US a letter stating that he would comply with the instructions contained in the IAM. This letter stated, in relevant part:

> [W]e confirm that we have received and reviewed the [FY 2010 IAM] as it relates to our work on [BJL's financial reporting package.]
>
> Our work will be carried out in accordance with the applicable US professional standards, and our personnel assigned to this engagement have the necessary knowledge and experience to perform their responsibilities. In addition, we understand the IAM instructions and anticipate no problems in responding by the due dates specified.

Yoshida signed this letter on July 7, 2010.

13. Approximately one month later, on August 12, 2010, Yoshida's engagement team sent GT US a reporting package concerning BJL. The reporting package did not identify any material unadjusted differences that were required to be made to BJL's FY 2010 financial reporting package. On September 28, 2010, the GT US partner for the Baldwin audit engagement authorized the release of GT US's audit report. The report contained an unqualified opinion on Baldwin's FY 2010 consolidated financial statements. On the same day, Baldwin filed its Form 10-K with the Commission. The Form 10-K contained Baldwin's FY 2010 consolidated financial statements, and GT US's audit report on those financial statements.

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Accounting Irregularities at BJL and Baldwin's Related Restatement

14. On May 10, 2011, Baldwin filed a Form 8-K with the Commission reporting that Baldwin's FY 2010 financial statements should no longer be relied upon. Baldwin reported that sales transactions recognized as revenue in the fourth quarter of FY 2010 should have been recognized as revenue in FY 2011. Baldwin reported that its premature recognition of revenue resulted from financial irregularities at BJL.

15. Two weeks later, on May 23, 2011, Baldwin filed a Form 10-K/A with the Commission. This filing contained Baldwin's restated FY 2010 financial statements. The restatement decreased consolidated net sales by 2.6 percent, or approximately $4 million, from approximately $152 million to approximately $148 million. The restatement decreased net income by 23 percent, from approximately $5 million to approximately $4 million. As a result of the restatement, Baldwin was in violation of the financial covenants contained in its revolving credit agreement. In March 2012, Baldwin was acquired by a private equity firm and Baldwin's stock ceased trading on the public markets.

16. In its restated financial statements, Baldwin disclosed, as follows: "In late February 2011, allegations surfaced that profits were being manipulated at the Company's Japanese subsidiary. The Audit Committee of the Board of Directors commissioned an investigation consisting of extensive employee interviews and audit procedures to review the allegations. The investigation confirmed the premature recognition of revenue and related costs primarily during the quarter ended June 30, 2010 through intentional circumvention of internal controls apparently intended to achieve sales and earnings forecasts previously submitted by the Japanese subsidiary to corporate senior management."

D. Yoshida Failed to Comply with PCAOB Standards in Connection with the Audit of BJL's FY 2010 Financial Reporting Package.

17. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with the Board's auditing standards.[6] Among other things, PCAOB standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain

[6] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards;* PCAOB Rule 3200T, *Interim Auditing Standards*.

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sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[7]

18. Under PCAOB auditing standards, the auditor "has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud."[8] Because fraudulent financial reporting often results from an overstatement of revenues, including premature revenue recognition, "the auditor should ordinarily presume that there is a risk of material misstatement due to fraud relating to revenue recognition."[9] PCAOB auditing standards identify specific examples of fraud risks, including: (a) "significant declines in customer demand and increasing business failures in either the industry or overall economy;" and (b) the need "to obtain additional debt or equity financing to stay competitive."[10]

19. In forming judgments about the risk of a material misstatement due to fraud, PCAOB auditing standards provide: "The auditor should consider management's selection and application of significant accounting principles, particularly those related to subjective measurements and complex transactions. In this respect, the auditor may have a greater concern about whether the accounting principles selected and policies adopted are being applied in an inappropriate manner to create a material misstatement of the financial statements."[11]

20. PCAOB auditing standards state that "the auditor's assessment of the risks of material misstatement due to fraud should be ongoing throughout the audit."[12] Certain conditions identified during the audit may bear upon the auditor's assessment of the risk of fraud, including transactions that "are improperly recorded as to . . .

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[7] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 326, *Evidential Matter*. This Order applies PCAOB auditing standards in effect at the time of the conduct described herein.

[8] AU § 110.02, *Responsibilities and Functions of the Independent Auditor*; see also AU § 316.01 (same).

[9] AU § 316.41.

[10] Id. § 316, Appendix A.2.

[11] Id. § 316.50.

[12] Id. § 316.68.

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accounting period."[13] PCAOB auditing standards state, as well, that the auditor "should evaluate whether analytical procedures that were performed as substantive tests or in the overall review stage of the audit . . . indicate a previously unrecognized risk of material misstatement due to fraud."[14] PCAOB standards also note that trends and relationships may indicate a risk of material misstatement due to fraud: "Unusual year-end revenue and income often are particularly relevant. These might include, for example . . . uncharacteristically large amounts of income being reported in the last week or two of the reporting period from unusual transactions."[15]

21. PCAOB standards state that: "In evaluating whether the financial statements are presented fairly, in all material respects, in conformity with generally accepted accounting principles, the auditor should consider the effects, both individually and in the aggregate, of misstatements that are not corrected by the entity."[16] Further, the "consideration and aggregation of misstatements should include the auditor's best estimate of the total misstatements in the account balances or classes of transactions that he or she has examined."[17] PCAOB standards further state that: "Qualitative considerations also influence the auditor in reaching a conclusion as to whether misstatements are material."[18]

22. Yoshida failed to comply with these rules and standards in connection with the audit of BJL's FY 2010 financial reporting package.

Yoshida Was Aware of Certain Risks of a Material Misstatement at the Time of the FY 2010 Audit.

23. Yoshida was aware of numerous risks of material misstatement, whether caused by error or fraud, at the time of the FY 2010 audit. Yoshida did not take sufficient steps, however, in response to these known fraud risks. First, Yoshida knew

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[13] Id.

[14] Id. § 316.69.

[15] Id. § 316.71.

[16] AU § 312.34, *Audit Risk and Materiality in Conducting an Audit.*

[17] Id.

[18] Id.; see also id. § 312.11 (discussing "interaction of quantitative and qualitative considerations in materiality judgments").

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that during the prior year, local management at the U.S. subsidiary of Baldwin had improperly accelerated revenue recognition by: (a) making shipments that were not supported by properly documented customer orders; and (b) recognizing revenue in a manner that did not conform with the terms of purchase orders.

24. Yoshida also knew that Baldwin was subject to bank debt covenants that required the company to meet sales targets in order to avoid being declared in default of its obligations under the terms of its loans. These bank covenants created an incentive for Baldwin and its subsidiaries, including BJL, to accelerate revenue recognition in order to ensure that Baldwin achieved its sales targets.

25. Yoshida also knew that demand for Baldwin's products had declined in FY 2010. This decline occurred in the context of a broader slowdown in the global economy. As Baldwin reported in its FY 2010 Form 10-K filing with the Commission:

> Since 2008, financial markets throughout the world have been experiencing disruption, including volatility in securities prices, diminished liquidity and credit availability, failure and potential failures of major financial institutions and unprecedented government support of financial institutions. These developments and the continuing economic downturn have and will adversely impact the Company's business and financial condition in a number of ways, including impacts beyond those typically associated with other recent downturns in the U.S. and foreign economies.

26. During audit planning, Yoshida and his engagement team recognized that revenue had a risk of material misstatement due to fraud. Yoshida understood that the President of BJL was powerful and could override internal controls. Further, the Controller of BJL was new. Yoshida expressly recognized the risk that the President of BJL could direct BJL's employees to improperly recognize revenue.

27. During audit planning, Yoshida specifically understood that sales cutoff was an area where the financial statements may be susceptible to material misstatement. He knew that BJL had changed its revenue recognition policy during the year under audit, and that this change in policy resulted in BJL accelerating its recognition of revenue from equipment sales. Yoshida understood that this change in revenue recognition policy could potentially cause material misstatements due to error in BJL's financial reporting package. Yoshida testified that he and his engagement team needed to "be very careful about the sales cutoff" because of: (a) the fraud risk that the President of BJL could force employees to accelerate sales recognition; and (b) the risk of errors in the timing of sales recognition due to the change in BJL's revenue recognition policy.

ORDER

Yoshida Failed Adequately to Test BJL's New Revenue Recognition Policy for Compliance with US GAAP.

28. In FY 2010, BJL changed its revenue recognition policy. Under the new policy, BJL would recognize revenue from equipment sales at the time that delivery of equipment occurred, and BJL would recognize revenue from the installation of equipment at the time that installation was completed. Previously, BJL's policy was to recognize revenue for both the sale and installation of equipment when installation was completed. Therefore, this change in policy had the effect of accelerating revenue recognition for equipment sales. Yoshida and his engagement team failed adequately to test the change in revenue recognition policy to determine whether BJL had appropriate evidence to support separating deliverables in multiple-element arrangements pursuant to US GAAP.

29. GT US instructed Yoshida to test BJL's new revenue recognition policy for compliance with US GAAP. On April 7, 2010, GT US emailed Yoshida supporting documents from BJL related to the change in revenue recognition policy, and instructed Yoshida that the attached documents "should be tested during interim for our FY 2010 audit." The documents that GT US sent to Yoshida included: (1) a client-prepared memorandum documenting BJL's new revenue recognition policy (the "Revenue Memo"); (2) a client-prepared spreadsheet calculating an hourly rate for the installation of BJL's equipment (the "Calculation Sheet"); and (3) four quotes from third-parties for the cost of installing BJL's equipment (the "Third-Party Quotes").

30. The US GAAP relevant to BJL's change in revenue recognition policy was Emerging Issues Task Force Issue No. 00-21, *Revenue Arrangements with Multiple Deliverables* ("EITF 00-21").[19] EITF 00-21 is used to determine whether an arrangement with multiple deliverables consists of more than one unit of accounting. If the arrangement consists of more than one unit of accounting, EITF 00-21 discusses how consideration for the arrangement should be allocated among the separate units of accounting. Because equipment will always be delivered prior to installation, there is a risk that a company will try to decrease the consideration allocated to the fair value of installation, in order to maximize the amount of revenue that the company can recognize upon delivery. EITF 00-21 requires, therefore, that the delivered item should

[19] The accounting guidance in EITF 00-21 was codified in the FASB's Accounting Standard Codification ("ASC") Topic 605-25, *Multiple-Element Arrangements*, which became effective for interim and annual periods ending after September 15, 2009.

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only be considered a separate unit of accounting if, among other things, there "is objective and reliable evidence of the fair value of the undelivered item(s)."[20]

31. Yoshida did not test management's assertions purportedly justifying BJL's change in revenue recognition policy that were outlined in the Revenue Memo. More specifically, the Revenue Memo contained BJL's estimate of the appropriate hourly rate for installing its equipment. Yoshida failed to test this estimate, despite the fact that GT US specifically instructed Yoshida to test the assertions in the Revenue Memo for compliance with US GAAP.

32. Yoshida and his engagement team, moreover, did not perform sufficient procedures to test whether BJL possessed objective and reliable evidence of the fair value of the installation element. More specifically, Yoshida did not adequately test the hourly labor rate that BJL used to estimate the fair value of installation. The Calculation Sheet took the Third-Party Quotes and made adjustments to deduct BJL-estimated amounts for outsourcing and travel expenses. This calculated adjustment resulted in a BJL-estimated total labor fee. BJL then took the BJL-estimated total labor fee and calculated an hourly rate using BJL management's own estimate of the number of hours that it would take BJL to install the equipment. BJL management used this hourly rate to estimate the cost of installation for multiple-element arrangements. Yoshida did not test either management's estimated fee adjustments, or management's estimate of the number of hours it would take BJL to install the equipment. Yoshida, therefore, did not gather sufficient competent evidential matter to determine whether BJL had objective and reliable evidence of the fair value of installation, as required by US GAAP.

Yoshida was Aware of Additional Red Flags in the Results of Audit Testing.

Sales Cutoff Tests

33. Yoshida also failed to take sufficient steps in light of audit evidence suggesting that BJL's financial reporting package may have been materially misstated due to error or fraud. Yoshida and his engagement team performed two procedures related to sales cutoff. The results of both tests contained red flags indicating that BJL's financial reporting package may have been materially misstated. Yoshida, however,

[20] EITF 00-21 ¶ 9(b).

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failed to exercise professional skepticism in assessing and evaluating the results of the cutoff tests.[21]

The Last/First Test

34. The first cutoff test that Yoshida and his engagement team performed involved selecting the last five sales from FY 2010 and first five sales from FY 2011, and testing whether each of these sales was recorded in the correct fiscal reporting period (the "Last/First" test). All sales, regardless of the amount or type of sale, were eligible for testing. The last five transactions of FY 2010 and the first five transactions of FY 2011 included sales of equipment as well as sales of consumable goods.

35. The Last/First test identified cutoff errors in four of the 10 sales selected for testing. In other words, for 40 percent of the selected transactions, BJL had recognized revenue in the wrong fiscal year. Three of the four sales were recognized as revenue in FY 2010, but should have been recognized as revenue in FY 2011. The fourth sale was recognized as revenue in FY 2011, but should have been recognized as revenue in FY 2010. And a fifth sale, for which BJL recognized revenue in FY 2010, could not be tested because BJL could not provide evidence to support the sale. Yoshida was aware of these cutoff errors at the time of the audit.

36. Yoshida did not consider whether to change the nature, timing, or extent of audit procedures in light of these cutoff errors. Yoshida considered neither the qualitative implications,[22] nor the quantitative implications,[23] of the forty-percent error

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[21] AU § 230.07 ("Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence. The auditor uses the knowledge, skill, and ability called for by the profession of public accounting to diligently perform, in good faith and with integrity, the gathering and objective evaluation of evidence.").

[22] See AU § 312.11 (noting that as "a result of the interaction of quantitative and qualitative considerations in materiality judgments, misstatements of relatively small amounts that come to the auditor's attention could have a material effect on the financial statements"); see also id. § 312.34 ("Qualitative considerations also influence the auditor in reaching a conclusion as to whether misstatements are material.").

[23] Id. § 312.34 (stating that "the auditor should consider the effects, both individually and in the aggregate, of misstatements that are not corrected by the entity. In evaluating the effects of misstatements, the auditor should include both qualitative and quantitative considerations").

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rate in the results of the Last/First test. For example, three of the four cutoff errors involved sales of "clothroll," a consumable product used in BJL's equipment. In FY 2010, sales of clothroll totaled approximately $14 million, or more than one-third of BJL's approximately $40 million in total sales.

The Material Sales Test

37. For the second sales cutoff test, the engagement team examined quantitatively material sales for the last month of the fiscal reporting period (the "Material Sales" test). The threshold for the Material Sales test was set at approximately $110,000. Only transactions above this threshold were eligible for testing. The transactions selected for testing involved sales of equipment.

38. As part of BJL's change in revenue recognition policy, BJL created a document entitled the Product Delivery Completion Statement (the "Acceptance Form"). The Acceptance Form was used by BJL management to document that delivery of equipment occurred, such that BJL could recognize revenue from the sale of equipment at the time that BJL's customers accepted the equipment.

39. In planning the Material Sales test, Yoshida determined that his engagement team could rely on the Acceptance Forms. Yoshida and his engagement team did not receive the Acceptance Forms directly from BJL's customers. Rather, BJL sales associates provided these forms to BJL's sales administrators. BJL then provided these forms to Yoshida and his engagement team.

40. The results of the Material Sales test showed that BJL had 13 transactions over the threshold amount at year-end, and that each of these transactions was recorded on the last day of FY 2010.[24] The results of this test further indicated that BJL had no transactions over the threshold amount in the first month of the following fiscal year. PCAOB standards state that uncharacteristically large amounts of income being reported in the last week or two of the reporting period, from unusual transactions, may be evidence of a risk of material misstatement due to fraud.[25]

41. Yoshida was aware of the results of the Material Sales test at the time of the FY 2010 audit; however, Yoshida did not consider the results to be evidence of a

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[24] The revenue recognized for these 13 transactions totaled approximately $4 million. These transactions constituted the majority of the improperly accelerated sales.

[25] AU § 316.71.

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risk of material misstatement due to fraud. He did not understand that late-entered transactions occurring at the end of a fiscal reporting period constituted a fraud risk. As a result, he failed to consider whether to change the nature, timing, or extent of audit procedures in consideration of the results of the Material Sales test. For example, Yoshida and his engagement team could have considered performing subsequent cash receipts testing to determine if BJL's customers paid for the equipment after the end of the fiscal year under audit. Yoshida and his engagement team, as well, could have considered obtaining third-party shipping documents supporting these sales.

Analytical Procedures

42. Yoshida also reviewed the results of analytical procedures that his engagement team performed. As a result of that review, Yoshida knew that BJL's sales had declined by 20 percent in FY 2010, while accounts receivable had increased by 11 percent. Yoshida took no steps to evaluate the relationship between these two trends. More specifically, Yoshida did not consider why sales increased toward the end of the year, in an amount sufficient to cause an 11 percent increase in accounts receivable, in the same year that total sales had decreased by 20 percent.

E. Yoshida Failed to Supervise Members of the GT Japan Engagement Team in Compliance with PCAOB Standards.

43. PCAOB standards required Yoshida to supervise the work of his assistants.[26] Supervision involves directing the efforts of assistants who are involved in accomplishing the objectives of the audit, keeping informed of significant problems encountered, reviewing work performed, and determining whether audit objectives were accomplished.[27] PCAOB standards require that the work performed by assistants be reviewed to determine whether the work was adequately performed.[28] Yoshida did not supervise his assistants in compliance with PCAOB standards.

44. During audit planning, Yoshida identified the fraud risk that BJL's President was powerful, its Controller was new, and BJL's President could override internal controls and direct BJL's employees to accelerate revenue recognition improperly. Also, Yoshida identified the risk of material misstatement due to error resulting from the fact that BJL had adopted a new, accelerated revenue recognition

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[26] AU § 311, *Planning and Supervision*.

[27] Id. § 311.11.

[28] Id. § 311.13.

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policy during FY 2010. Yoshida instructed the engagement team that they would need to be careful when performing sales cutoff testing.

45. Yoshida instructed his senior manager to follow the instructions in the IAM in order to test sales cutoff. Yoshida also reviewed and approved GT Japan's FY 2010 Revenue Audit Program, which instructed the engagement team to perform sales transaction testing as required by the IAM. The IAM, in turn, instructed Yoshida and the engagement team to obtain sales contracts in order to document material sales terms, including the date of sale. The IAM, as well, required Yoshida and his engagement team to trace sales transactions to purchase orders and delivery documentation.[29]

46. Yoshida understood that the work performed by his assistants needed to be reviewed in order to determine whether the work was adequately performed, and audit objectives were accomplished. Yoshida's review of the results of the Material Sales test, however, did not provide him with information sufficient to make these determinations. The Material Sales test work paper was not sufficiently detailed to show Yoshida if his assistants had reviewed sales terms, including sales dates. More specifically, the work papers contained no evidence that Yoshida's assistants had compared negotiated delivery dates, as indicated on purchase orders, with actual delivery dates, as purportedly indicated on the Acceptance Forms. Yoshida could not know from reviewing the Material Sales test work paper whether the identified risk of improperly recognized revenue was actually addressed by the engagement team's audit testing.[30] In fact, for four of the 13 Material Sales transactions, the customers had requested delivery to occur during FY 2011, yet BJL purportedly accelerated delivery to its customers, and recognized revenue from these sales, on the last day of FY 2010.

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[29] In planning and performing the audit, PCAOB standards required Yoshida to understand the business arrangements of BJL and its customers. Id. §§ 311.06-.07. Auditors typically obtain and review purchase orders and sales agreements in order to determine that the sales recorded in the books and records of an audit client are consistent with the terms of the underlying contracts.

[30] See id. § 311.11 ("Supervision involves directing the efforts of assistants who are involved in accomplishing the objectives of the audit and determining whether those objectives were accomplished."); id. § 311.13 ("The work performed by each assistant should be reviewed to determine whether it was adequately performed . . .").

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F. Yoshida Failed to Comply with PCAOB Standards Related to Technical Training and Proficiency.

47. Due professional care requires the auditor to observe the standards of field work and reporting.[31] More specifically, due professional care requires that the engagement partner "should know, at a minimum, the relevant professional accounting and auditing standards and should be knowledgeable about the client."[32] Yoshida did not perform his audit work in compliance with these professional standards.

48. Yoshida knew at the time of the audit of BJL's FY 2010 financial reporting package that this would be his first audit engagement to involve evaluating the separability of deliverables in multiple-element arrangements, and the allocation of consideration among individual accounting units pursuant to EITF 00-21. Yoshida knew that he had never participated in an audit involving the application of EITF 00-21, whether as a staff or as a partner. Yoshida failed, however, to develop the necessary knowledge about EITF 00-21. Likewise, Yoshida failed to seek out additional training, and he failed to perform a sufficient review of the relevant professional guidance, in order to enable him to perform his audit work in accordance with professional standards.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Akiyo Yoshida's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Akiyo Yoshida is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Akiyo Yoshida is suspended for one (1) year from the date of this Order from being an associated person of a registered public accounting firm, as

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[31] AU § 230.02.

[32] Id. § 230.06; see also AU § 210.01, *Training and Proficiency of the Independent Auditor* ("audit is to be performed by a person or persons having adequate technical training and proficiency as an auditor").

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that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[33]

C. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for one (1) year following the termination of the suspension ordered in paragraph B, Akiyo Yoshida's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Yoshida shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's Auditing Standard No. 10, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's Auditing Standard No. 7, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's Interim Auditing Standard AU Section 543, *Part of Audit Performed by Other Independent Auditors*; and

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Akiyo Yoshida is required to complete, within one (1) year from the date of the issuance of this Order, forty (40) hours of continuing professional education ("CPE") in subjects that are directly related to the audits of issuer financial statements under PCAOB standards (such hours shall be

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[33] See Act § 105(c)(7)(B) ("It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission.").

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in addition to, and shall not be counted in, the CPE that he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 17, 2014

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of Morrill & Associates, LLC, Douglas W. Morrill, CPA, and Grant L. Hardy, CPA,

Respondents.

PCAOB Release No. 105-2015-001

January 12, 2015

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Morrill & Associates, LLC (the "Firm"), revoking the Firm's registration, and imposing a civil money penalty in the amount of $20,000 upon the Firm;[1] censuring Douglas W. Morrill, CPA ("Morrill"), barring him from being an associated person of a registered public accounting firm, and making him jointly and severally liable for the Firm's civil monetary penalty;[2] and censuring Grant L. Hardy, CPA ("Hardy") and suspending him from being an associated person of a registered public accounting firm for a period of one year from the date of this Order. The Board is imposing these sanctions on the basis of its findings that: (a) Morrill and the Firm violated PCAOB rules and auditing standards in connection with the audits of four issuer clients; (b) Morrill and the Firm violated Section 10A(j) of the Securities Exchange Act of 1934 ("Exchange Act"), Exchange Act Rule 10A-2, and PCAOB rules and auditing standards in connection with the Firm's audits of one issuer client; (c) Hardy violated PCAOB rules and auditing standards in connection with his engagement quality reviews ("EQRs") of the Firm's audits of three issuer clients; and (d) the Firm violated PCAOB quality control standards and Morrill directly and substantially contributed to the Firm's violation of PCAOB quality control standards.

[1] The Firm may reapply for registration after three (3) years from the date of this Order.

[2] Morrill may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

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I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against the Firm, Morrill, and Hardy (collectively "Respondents").

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions (the "Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. <u>Respondents</u>

1. Morrill & Associates, LLC, is, and at all relevant times was, a sole

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[3] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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proprietorship organized and licensed under the laws of the state of Utah (License no. 5168488-2603), and headquartered in Clinton, Utah. The Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules since November 16, 2010.[5] At all relevant times, the Firm was the independent auditor for the issuers identified herein.

2. Douglas W. Morrill, 44, of West Haven, Utah, is the sole owner and managing partner of Morrill & Associates, LLC, and a certified public accountant licensed by the Utah Division of Occupational and Professional Licensing (License no. 3082647-2601). Morrill was the auditor with final responsibility for, and authorized the issuance of, the Firm's audits of the financial statements of The American Energy Group, Ltd. ("AEG"), COPsync, Inc. ("COPsync"), ForeverGreen Worldwide Corp. ("ForeverGreen"), and Fuelstream, Inc. ("Fuelstream"), identified below. At all relevant times, Morrill was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. Grant L. Hardy, 61, of Taylorsville, Utah, is a certified public accountant licensed by the Utah Division of Occupational and Professional Licensing (License no. 141081-2601), and a partner at a PCAOB registered firm other than Morrill & Associates, LLC. Hardy, a partner outside the Firm, served as the engagement quality reviewer and provided his concurring approval of issuance for the Firm's audit reports on COPsync and ForeverGreen's December 31, 2010 financial statements and AEG's June 30, 2011 financial statements. At all relevant times, Hardy was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

4. This matter concerns Morrill and the Firm's violations of PCAOB rules and auditing standards in connection with the issuance of audit reports on the financial statements of four issuers over a two year period. As detailed below, Morrill and the Firm failed repeatedly, among other things, to obtain sufficient competent audit evidence, exercise due professional care, and exercise professional skepticism in connection with these audits.

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[5] The Firm was previously registered with the PCAOB under the name of Bouwhuis, Morrill & Company, LLC from October 2003 until March 2009, at which time it withdrew its registration. The Firm reapplied for registration in October 2010, and the application was accepted by the Board on November 16, 2010.

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5. Morrill and the Firm also violated Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, and PCAOB rules and standards that require a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period. Morrill and the Firm were not independent with respect to the 2009 and 2010 audits of Fuelstream because Morrill resumed the role of lead audit partner within the five year cooling off period after having already served as the lead audit partner for the maximum five consecutive year period.[6]

6. Hardy violated PCAOB Auditing Standard No. 7, *Engagement Quality Review* ("AS 7") by providing his concurring approval of issuance without performing with due professional care the EQRs required by this standard for the Firm's audits of COPsync and ForeverGreen's December 31, 2010 financial statements and AEG's June 30, 2011 financial statements.

7. Finally, the Firm failed to comply with PCAOB quality control standards in connection with the audits described herein, when it did not have procedures providing reasonable assurance that: the Firm and its personnel were independent from their audit clients;[7] the work performed by the engagement personnel met applicable professional standards, regulatory requirements, and the firm's standards of quality;[8] and the policies and procedures established by the firm for the elements of quality control described above were suitably designed and were being effectively applied.[9] The Firm also violated quality control standards by failing to communicate its quality control policies and procedures applicable to an EQR to Hardy[10] and failing to establish monitoring procedures sufficient to enable the Firm to obtain reasonable assurance that

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[6] See Section 10A(j) of the Exchange Act; Exchange Act Rule 10A-2, *Auditor Independence*, 17 C.F.R. §240.10A-2; PCAOB Rule 3520, *Auditor Independence*; and AU § 220, *Independence*.

[7] QC §§ 20.07 and 20.09-.10, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[8] QC §§ 20.07 and 20.17-.19.

[9] QC §§ 20.07 and 20.20.

[10] QC § 20.23.

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its system of quality control was effective.[11] Morrill took, or omitted to take, actions during the audits that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of PCAOB quality control standards, in contravention of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.[12]

C. Respondents' Violations of PCAOB Rules and Auditing Standards, Independence Standards, and the Exchange Act

Morrill and the Firm Violated PCAOB Rules and Standards in Connection with the Audits of COPsync, Fuelstream, ForeverGreen, and AEG

8. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[13] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[14] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements.[15]

9. Additionally, PCAOB audit documentation standards provide that the documentation for an audit must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement: (a) to understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and

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[11] QC §§ 30.02-.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[12] All references to PCAOB auditing and quality control standards in this Order are to the versions of those standards in effect for the audits described herein.

[13] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[14] See AU § 508.07, *Reports on Audited Financial Statements.*

[15] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AU § 326, *Evidential Matter*.

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conclusions reached, and (b) to determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review.[16] Moreover, AS 3 requires an auditor to prepare an engagement completion document that identifies all "significant findings or issues," such as matters that could result in a modification of the audit report and audit adjustments[17] and assemble for retention a complete and final set of audit documentation as of a date not more than 45 days after the report release date, defined in AS 3 as the "documentation completion date."[18]

10. As detailed below, Morrill and the Firm failed to comply with the aforementioned rules and standards, among others, in connection with the audits.

Reaudits of COPsync and Fuelstream's December 31, 2009 Financial Statements

11. COPsync is a Delaware corporation headquartered in Canyon Lake, Texas. COPsync's public filings disclose that it sells the COPsync™ service, which is a real-time data collection and information sharing solution for law enforcement agencies. Its common stock was registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. At all relevant times, COPsync was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

12. Fuelstream is a Delaware corporation headquartered in Fort Lauderdale, Florida. Fuelstream's public filings disclose that prior to April 2010, the Company operated under the name of "SportsNuts, Inc." and had been primarily engaged in sports marketing and management. Following its reorganization in April 2010, Fuelstream has operated as an in-wing and on-location supplier and distributor of aviation fuel to corporate, commercial, military, and privately-owned aircraft. Its common stock is quoted on the OTC Pink marketplace. At all relevant times, Fuelstream was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

13. COPsync and Fuelstream's 2009 financial statements were originally audited by Chisholm, Bierwolf, Nilson & Morrill, LLC ("CBNM"), where Morrill was an

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[16] Auditing Standard No. 3 ("AS 3") ¶ 6, *Audit Documentation*.

[17] AS 3 ¶¶ 12, 13. PCAOB standards define "significant findings or issues" as "substantive matters that are important to the procedures performed, evidence obtained, or conclusions reached…." Id. ¶ 12.

[18] AS 3 ¶ 15.

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audit partner. On April 8, 2011, the Board revoked the registration of CBNM, and barred two of the firm's partners, Todd D. Chisholm, CPA, and Troy F. Nilson, CPA, from being associated persons of a registered public accounting firm.[19] As a result of the revocation of CBNM's registration by the Board, COPsync and Fuelstream could no longer include CBNM audit reports in future public filings, and their 2009 financial statements had to be reaudited by another registered firm to be included in their 2010 Form 10-Ks.

14. In March 2011, the Firm became COPsync and Fuelstream's external auditors and was engaged to perform an audit of their financial statements for the years ended December 31, 2009 and December 31, 2010. The Firm issued an audit report dated April 15, 2011, expressing an unqualified opinion on COPsync's 2009 and 2010 financial statements that was included in COPsync's Form 10-K filed with the Commission on the same day. The Firm issued an audit report dated April 14, 2011, expressing an unqualified opinion on Fuelstream's 2009 and 2010 financial statements that was included in Fuelstream's Form 10-K filed with the Commission on April 15, 2011. Morrill served as the auditor with final responsibility on the COPsync and Fuelstream engagements and authorized the issuance of all relevant audit reports.

15. PCAOB standards require that "[s]ufficient competent evidential matter is to be obtained through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an opinion regarding the financial statements under audit."[20] Where an auditor is asked to audit and report on financial statements that have been previously audited and reported on, the auditor is considered a successor auditor.[21] PCAOB standards permit a successor auditor, as part of a reaudit engagement, to "consider the information obtained from inquiries of the predecessor auditor and review the predecessor auditor's report and working papers in planning the reaudit."[22] However, the PCAOB standards make clear that "the information obtained from those inquiries and any review of the predecessor auditor's report and working papers is not sufficient to afford a basis for expressing an opinion."[23] The nature, timing, and extent

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[19] See *Chisholm, Bierwolf, Nilson and Morrill, LLC, Todd D. Chisholm, CPA and Troy F. Nilson, CPA*, PCAOB Release No. 105-2011-003 (April 8, 2011).

[20] AU § 326.01, *Evidential Matter*.

[21] AU § 315.14, *Communications Between Predecessor and Successor Auditors.*

[22] AU § 315.15.

[23] AU § 315.15.

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of the audit work performed and the conclusions reached in the reaudit are solely the responsibility of the successor auditor performing the reaudit.[24]

16. Morrill and the Firm failed to comply with these standards. Morrill had no involvement with CBNM's 2009 audits of COPsync and Fuelstream, but obtained the predecessor auditor's workpapers for its 2009 audits through his prior association with CBNM. In violation of PCAOB standards, Morrill and the Firm failed to perform audit procedures or obtain sufficient competent evidential matter for the 2009 COPsync and Fuelstream reaudits. Although Morrill obtained updated trial balances for both issuers, Morrill and the Firm improperly relied on the predecessor auditor's substantive audit procedures and audit evidence as the basis for expressing the Firm's opinion on the reaudited 2009 financial statements that were filed with COPsync and Fuelstream's 2010 Form 10-Ks. Consequently, Morrill improperly authorized the issuance of the Firm's audit reports for COPsync and Fuelstream's 2009 financial statements, which incorrectly stated that the Firm had conducted its audits in accordance with PCAOB standards.[25]

Audit of COPsync's December 31, 2010 Financial Statements

17. Concurrent with the 2009 COPsync reaudit, Morrill and the Firm performed the audit of COPsync's December 31, 2010 financial statements. During the 2010 COPsync audit, Morrill and the Firm failed to perform sufficient audit procedures concerning revenue and deferred revenue. For 2010, total revenue was $2.4 million, while total deferred revenue was $1.1 million and accounted for 48% of COPsync's total liabilities. COPsync's Form 10-K for the year ended December 31, 2010 disclosed that its sales arrangements include Multiple-Element Arrangements, "which typically include computer hardware, hardware installation, license fees and other miscellaneous revenues related to training and interface development." COPsync also disclosed that, to the extent that the secondary deliverables are other than perfunctory, it recognized revenue on each deliverable, if separable, or on the completion of all deliverables, if not separable, based on the allocation of the deliverables' fair value. Furthermore, COPsync disclosed that its licensing fees are recognized on a monthly basis over the life of the licensing agreement when all revenue recognition criteria have been met.

18. Morrill identified revenue as a significant audit area and as a risk of fraud involving improper revenue recognition, and planned to perform extended procedures,

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[24] AU § 315.15.

[25] AU § 508.07.

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as part of a substantive audit approach, in response to those risks. Other than obtaining COPsync's 2010 detailed sales ledger by revenue type and performing limited sales cut-off procedures at year-end, Morrill and the Firm failed to perform any other procedures related to revenue. Further, Morrill and the Firm failed to perform any procedures to test COPsync's deferred revenue. As a consequence, Morrill and the Firm failed to obtain sufficient competent evidential matter regarding COPsync's revenue and deferred revenue.

19. Morrill and the Firm also failed to perform sufficient audit procedures with respect to COPsync's capitalized software development costs. COPsync's capitalized software development costs were $1.7 million for the fiscal year ended December 31, 2010, and accounted for 75% of COPsync's total assets. Despite the significance of capitalized software development costs to COPsync's financial statements, Morrill and the Firm only obtained and reviewed a schedule from COPsync's management reflecting quarterly and cumulative capitalized software development costs and amortization expenses from inception to December 31, 2010. Morrill and the Firm failed to perform any other procedures concerning COPsync's capitalized software development costs and, as a result, failed to obtain sufficient competent evidential matter with respect to COPsync's capitalized software development costs.

Audit of ForeverGreen's December 31, 2010 Financial Statements

20. ForeverGreen is a Nevada corporation headquartered in Orem, Utah. ForeverGreen's public filings disclose that, through a wholly-owned subsidiary, it is engaged in the research, development, marketing and sales of whole foods, nutritional supplements, personal care products and essential oil. Its common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. At all relevant times, ForeverGreen was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

21. The Firm issued an audit report dated May 12, 2011, expressing an unqualified opinion on ForeverGreen's financial statements for the year ended December 31, 2010, that was included in ForeverGreen's Form 10-K filed with the Commission on May 16, 2011. Morrill served as the auditor with final responsibility on the ForeverGreen engagement and authorized the issuance of the audit report.

22. Morrill and the Firm failed to perform sufficient audit procedures concerning the goodwill on ForeverGreen's December 31, 2010 financial statements. ForeverGreen's goodwill on its December 31, 2010 financial statements was $7 million and accounted for 78% of its total assets during that period. Morrill identified other assets, which included goodwill, as a significant audit area while planning the 2010 ForeverGreen audit. As part of the audit, Morrill obtained and reviewed a schedule of

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management's annual goodwill impairment assessment that concluded goodwill was not impaired. Morrill and the Firm failed to perform any other audit procedures to evaluate whether ForeverGreen's goodwill was properly valued and, as a result, failed to obtain sufficient competent evidential matter with respect to ForeverGreen's goodwill.

23. In addition, PCAOB standards require an auditor to state whether a company's financial statements are presented in conformity with U.S. Generally Accepted Accounting Principles ("GAAP") and to identify circumstances in which such principles have not been consistently observed.[26] Morrill failed to perform procedures to identify whether ForeverGreen's goodwill impairment testing was in conformity with GAAP during the 2010 audit.

24. On April 4, 2012, in a Form 8-K, ForeverGreen announced non-reliance on its financial statements for the years ended December 31, 2009 and December 31, 2010, based on the Firm's determination, following a PCAOB inspection, that ForeverGreen's goodwill impairment test was not performed in accordance with GAAP.[27] On September 28, 2012, ForeverGreen filed a Form 10-K/A with the Commission that amended and restated ForeverGreen's financial statements and related disclosures for the year ended December 31, 2010, impairing goodwill from $7 million down to zero. The Firm issued an audit report in connection with ForeverGreen's Form 10-K/A, dated June 3, 2011, except for Note 13, which was dated May 16, 2012.[28]

25. In addition, Morrill identified revenue as a significant audit area and as a risk of fraud involving improper revenue recognition while planning the 2010 ForeverGreen audit. In response to this risk, Morrill and the Firm planned to perform extended procedures as part of a substantive audit approach. For the year ended December 31, 2010, ForeverGreen reported revenue of $10.6 million. Despite the identified fraud risk and significance of revenue to ForeverGreen's financial statements,

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[26] See AU § 110.01, *Responsibilities and Functions of the Independent Auditor*; AU § 411, *The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles*.

[27] See Financial Accounting Standards Board, Accounting Standard Codification 350-20-35, *Intangibles – Goodwill and Other*.

[28] The Firm was dismissed as ForeverGreen's external auditor on August 1, 2011, and the audit report on ForeverGreen's December 31, 2011 financial statements included in ForeverGreen's September 29, 2012 Form 10-K/A was issued by the successor firm.

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Morrill and the Firm failed to perform any audit procedures to test ForeverGreen's revenue during the 2010 audit. As a consequence, Morrill and the Firm failed to obtain sufficient competent evidential matter with respect to ForeverGreen's revenue.

Audit of AEG's June 30, 2011 Financial Statements

26. AEG is a Nevada corporation headquartered in Westport, Connecticut. AEG's public filings disclose that it is an independent oil and natural gas company, and that it now maintains and manages certain royalties and convertible working interests in oil and gas leases after it emerged from bankruptcy in 2004. Its common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. At all relevant times, AEG was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

27. The Firm issued an audit report dated October 11, 2011, expressing an unqualified opinion on AEG's financial statements for the year ended June 30, 2011, that was included in AEG's Form 10-K filed with the Commission on October 13, 2011. Morrill served as the auditor with final responsibility on the AEG engagement and authorized the issuance of the audit report.

28. Morrill and the Firm failed to perform sufficient audit procedures to test AEG's investment in an oil and gas working interest that AEG disclosed in its Form 10-K as being acquired from a related party. AEG's investment in an oil and gas working interest was valued at approximately $1.6 million and accounted for 82% of AEG's total assets for the year ended June 30, 2011. In planning AEG's 2011 audit and assessing audit risk, Morrill identified other assets, which included AEG's investment in the oil and gas working interest, as a significant audit area.

29. During the AEG audit, Morrill obtained a memorandum prepared by management that relied primarily on excerpts and representations from the website of the operator of the acquired oil and gas working interests to support that the value of AEG's investment was not impaired. Beyond reviewing the memorandum and making inquiries of management, Morrill and the Firm failed to perform any other procedures to corroborate management's representations or otherwise obtain sufficient competent evidential matter that AEG's investment in the oil and gas working interest was appropriately valued as of June 30, 2011.

Audit Documentation Failure

30. In addition to the audit deficiencies identified above, Morrill and the Firm also failed to comply with AS 3 in connection with the audits described herein. For the

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Firm's 2009 COPsync and Fuelstream reaudits, Morrill failed to complete an engagement completion document that identified the significant findings or issues.[29]

31. Further, in connection with the 2010 COPsync and ForeverGreen audits and the June 30, 2011 AEG audit, the Firm's audit documentation did not indicate who performed the work and the date such work was completed, as well as the person who reviewed the work and date of such review.[30]

32. Finally, Morrill and the Firm failed to comply with AS 3 in connection with the 2010 COPsync audit by failing to assemble a complete and final set of audit documentation by the documentation completion date.[31]

Morrill and the Firm Failed to Comply with
Audit Partner Rotation Requirements

33. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[32] "[A] registered public accounting firm or associated person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws."[33]

34. Section 10A(j) of the Exchange Act provides, "[i]t shall be unlawful for a registered public accounting firm to provide audit services to an issuer if the lead (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, has performed audit services for that issuer in each of the 5 previous fiscal years of that issuer."

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29 AS 3 ¶¶12-13.

30 AS 3 ¶6.

31 AS 3 ¶¶15-16.

32 See PCAOB Rule 3520; see also AU § 220.

33 PCAOB Rule 3520, Note 1.

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35. Exchange Act Rule 10A-2 provides that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the partner rotation requirements of Commission Regulation S-X.

36. Rule 2-01 of Commission Regulation S-X provides that an accountant is not independent of an audit client when an audit partner performs the services of a lead or concurring audit partner for the same issuer for more than five consecutive years and within the five consecutive year period following the performance of services for the maximum period permitted.[34]

37. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from omitting to take an action knowing, or recklessly not knowing, that the omission would directly and substantially contribute to violations by that firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.[35]

38. While a partner at Bouwhuis, Morrill & Company, LLC, Morrill served five consecutive years as the lead audit partner for the audits of Fuelstream's financial statements for the years ended December 31, 2003 through December 31, 2007.[36] The 2007 Fuelstream audit was Morrill's fifth consecutive year serving as the lead audit partner and, as a consequence, Morrill was prohibited from serving as Fuelstream's lead audit partner for the five consecutive years thereafter. For the fiscal years ended December 31, 2008 and December 31, 2009, Fuelstream was audited by CBNM and Morrill did not participate in the audits.

39. On March 31, 2011, after the Firm changed its name to Morrill & Associates, LLC, the Firm was reappointed as Fuelstream's auditor to audit Fuelstream's December 31, 2009 and December 31, 2010 financial statements and

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[34] See Rule 2-01 of Regulation S-X, 17 C.F.R. §§ 210.2-01. At all relevant times, the Firm had five or more audit clients that were issuers and did not qualify for the small firm exemption. Id. at § 210.2-01(c)(6)(ii).

[35] See PCAOB Rule 3502.

[36] Throughout this five year period, Bouwhuis, Morrill & Company, LLC had more than five public issuer clients and was subject to the audit partner rotation requirements of the Exchange Act and its related rules. 17 C.F.R. §§ 210.2-01(c)(6)(ii).

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Morrill resumed his role as lead audit partner. On April 14, 2011, Morrill authorized the issuance of the Firm's audit report on Fuelstream's financial statements for the fiscal years ended December 31, 2009 and December 31, 2010, that was included in Fuelstream's Form 10-K filed with the Commission on April 15, 2011.

40. By resuming his role as Fuelstream's lead audit partner within the five consecutive year period following the performance of services for the maximum period permitted, Morrill failed to comply with Exchange Act Rule 10A-2 and PCAOB rules and standards, and the Firm failed to comply with Section 10A(j) of the Exchange Act, with Morrill directly and substantially contributed to the Firm's violations of Section 10A(j) of the Exchange Act.

Hardy Failed to Comply with
Engagement Quality Review Requirements

41. PCAOB Auditing Standard No. 7, provides that an EQR and concurring approval of issuance are required for all audits and interim reviews for fiscal years beginning on or after December 15, 2009.[37] The Firm retained Hardy, a partner at another PCAOB registered firm, as the engagement quality reviewer for its audits of COPsync and ForeverGreen's December 31, 2010 financial statements, and AEG's June 30, 2011 financial statements.

42. Under AS 7, the engagement quality reviewer may provide concurring approval of issuance for an audit report only if, after performing with due professional care the review required by AS 7, he or she is not aware of a significant engagement deficiency.[38] AS 7 states that a significant engagement deficiency in an audit exists when: "(1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client."[39]

43. An engagement quality reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the

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[37] AS 7 ¶1.

[38] AS 7 ¶12.

[39] AS 7 ¶12, Note.

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overall conclusion on the engagement and in preparing the engagement report.[40] In performing an EQR for an audit, the engagement quality reviewer should, among other things, evaluate the engagement team's assessment of, and audit responses to, significant risks, including fraud risks, identified by the engagement team or other significant risks identified by the engagement quality reviewer.[41] The engagement quality reviewer should also evaluate whether the engagement documentation that he or she reviewed indicates that the engagement team responded appropriately to significant risks and whether the engagement documentation that he or she reviewed supports the conclusions reached by the engagement team with respect to matters reviewed.[42]

44. For the 2010 COPsync audit, Hardy failed to evaluate the significant judgments made, and the related conclusions reached, by the engagement team with respect to revenue, deferred revenue, and capitalized software development costs. Although Hardy specifically requested workpapers for revenue and capitalized software development costs from Morrill during his EQR, Hardy provided his concurring approval of issuance without ever obtaining those workpapers and without ever evaluating whether the engagement team had obtained sufficient competent evidential matter and whether appropriate conclusions were reached and documented for those audit areas. Further, Hardy failed to obtain and evaluate any audit engagement documentation with respect to COPsync's deferred revenue.

45. For the 2010 ForeverGreen audit, Hardy failed to evaluate the significant judgments made, and the related conclusions reached, by the engagement team with respect to revenue and goodwill impairment. Hardy failed to obtain and evaluate any audit engagement documentation with respect to ForeverGreen's revenue. In addition, although Hardy received and reviewed audit documentation of ForeverGreen's goodwill impairment assessment during the 2010 audit, Hardy failed to properly evaluate whether the engagement documentation that he reviewed supported the conclusions reached by the engagement team. The audit documentation reviewed by Hardy showed that the engagement team did not perform any audit procedures to test whether management's assertion for the valuation of goodwill was reasonable and that its goodwill impairment testing was in conformity with GAAP.

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[40] AS 7 ¶9.

[41] AS 7 ¶10.

[42] AS 7 ¶11.

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46. Further, Hardy failed to evaluate the significant judgments made, and the related conclusions reached, by the engagement team during the June 30, 2011 AEG audit with respect to AEG's investment in an oil and gas working interest. While Hardy obtained a workpaper from Morrill reflecting a memorandum prepared by AEG, Hardy failed to properly evaluate whether the engagement documentation that he reviewed supported the conclusions reached by the engagement team. The audit documentation reviewed by Hardy showed that there was no evidence of any supporting audit procedures performed by the audit engagement team regarding the valuation of AEG's investment in the oil and gas working interest.

47. As noted above, Morrill and the Firm failed to obtain sufficient competent evidential matter for a number of audit areas during the Firm's audits of COPsync and ForeverGreen's December 31, 2010 financial statements and AEG's June 30, 2011 financial statements. In failing to perform an EQR sufficient to discover these significant engagement deficiencies, Hardy provided his concurring approvals of issuance for these audits without performing his EQRs with due professional care, and his EQRs violated AS 7.

D. Morrill and the Firm Violated PCAOB Rules and Standards Related to Quality Control

48. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[43] PCAOB quality control standards require that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[44] PCAOB quality control standards state that policies and procedures should be established to provide the firm with reasonable assurance that "personnel maintain independence . . . in all required circumstances" and "that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[45] PCAOB quality control standards make clear that the latter requirement also applies to engagement quality reviews.[46] Additionally, PCAOB quality control standards provide that policies and

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[43] PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards.*

[44] QC § 20.02.

[45] QC §§ 20.07, 20.09-.10, and 20.17.

[46] QC § 20.18 ("These policies and procedures also should address engagement quality reviews pursuant to PCAOB Auditing Standard No. 7, *Engagement Quality Review*.").

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procedures "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied," and that "its system of quality control is effective."[47] Finally, under PCAOB standards, quality control policies and procedures should be communicated to a firm's personnel in a manner that provides reasonable assurance that they are understood and complied with.[48]

49. PCAOB rules prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation of Board standards by that firm.[49]

50. The Firm failed to have procedures providing reasonable assurance that the work performed by the engagement personnel, including the engagement quality reviewer, met applicable professional standards, regulatory requirements, and the firm's standards of quality.[50] As described above, Firm personnel, including the engagement quality reviewer, failed to perform procedures necessary to comply with PCAOB standards and regulatory requirements on multiple instances during the course of the audits described herein. The Firm also failed to communicate its quality control policies and procedures applicable to an EQR to Hardy.[51]

51. The Firm failed to have procedures providing reasonable assurance that the Firm and its personnel were independent from their audit clients and did not follow the policies in place during the audits. For example, Morrill and the Firm accepted and performed the Fuelstream engagement in March 2011, despite the Firm's policy that "the engagement and concurring partners shall rotate off the audit engagement after serving for five years (previously or prospectively) and shall remain off the engagement for a period of five additional years."

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47 QC § 20.20; see also QC § 30.03.

48 See QC § 20.23.

49 PCAOB Rule 3502.

50 QC §§ 20.07 and 20.17-.19.

51 QC § 20.23.

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52. Further, the Firm's system of quality control also failed to provide reasonable assurance that engagement personnel complied with PCAOB audit documentation requirements, as set forth in AS 3. As noted above, as a result, the Firm's audits violated AS 3 in multiple respects.

53. Overall, the Firm's monitoring procedures, taken as a whole, did not enable the Firm to obtain reasonable assurance that its system of quality control was effective.[52] For example, the Firm did not take appropriate steps to monitor whether its associated persons were, in fact, complying with policies and procedures related to audit partner rotation requirements and engagement performance, neither of which were effective.

54. Morrill, as the Firm's owner and sole audit partner, had responsibility for the development, maintenance, communication, and monitoring of the Firm's quality control policies and procedures. In connection with the audits described herein, Morrill took, or omitted to take, actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of PCAOB quality control standards, in contravention of PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Morrill & Associates, LLC, Douglas W. Morrill, and Grant L. Hardy are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Douglas W. Morrill is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[53]

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[52] See QC §§ 30.02-.03.

[53] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Morrill. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain

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C. After three (3) years from the date of this Order, Douglas W. Morrill may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Grant L. Hardy is suspended for one (1) year from the date of this Order from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[54]

E. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration Morrill & Associates, LLC, is revoked;

F. After three (3) years from the date of the Order, Morrill & Associates, LLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed jointly and severally upon Morrill & Associates, LLC and Douglas W. Morrill. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Morrill & Associates, LLC or Douglas W. Morrill shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Morrill & Associates, LLC as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made

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associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[54] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Hardy.

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pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

January 12, 2015

1666 K Street, N.W.
Washington, DC 20006
Telephone: (202) 207-9100
Facsimile: (202) 862-0757
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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Madsen & Associates CPAs, Inc., and Ted A. Madsen, CPA,* *Respondents.*	PCAOB Release No. 105-2015-002 January 15, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Madsen & Associates CPAs, Inc. ("Firm"), a registered public accounting firm, and revoking the Firm's registration;[1] and censuring Ted A. Madsen, CPA ("Madsen") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and/or Madsen (collectively, "Respondents") repeatedly violated PCAOB rules, auditing standards and quality control standards, violated Section 10A(a) of the Securities Exchange Act of 1934, and failed to timely disclose certain reportable events to the Board on PCAOB Form 3.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Madsen may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. Madsen & Associates CPAs, Inc. is, and at all relevant times was, a corporation organized under Utah law, and headquartered in Salt Lake City, Utah. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and is licensed by the Utah Board of Accountancy (license no. 956535-2603). At all relevant times, the Firm was the external auditor for each of the issuers identified below.

2. Ted A. Madsen, CPA, age 60, is, and at all relevant times was, a certified public accountant licensed by the Utah Board of Accountancy (license no. 132743-2601). At all relevant times, Madsen owned a controlling interest in the Firm and was the Firm's quality control partner. Madsen is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[3] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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B. Summary

3. This matter concerns Respondents' failures to comply with PCAOB rules and auditing standards in connection with the audit of the financial statements of Sino Agro Food, Inc. ("Sino Agro") for the year ended December 31, 2011, and the audit of the financial statements of REDtone Asia, Inc. ("REDtone") for the year ended May 31, 2011.

4. In the case of each audit, Respondents hired Hong Kong-based engagement team members who performed most of the audit work. Madsen violated PCAOB standards by failing to properly supervise the work of those engagement team members and to review their work to determine its proper performance.

5. Despite identifying possible manipulation of revenue as "[a] high priority" for the Sino Agro audit, Respondents failed to identify and assess, or failed to ensure that the engagement team had identified and assessed, the risks of material misstatement of revenue at the assertion level as required by PCAOB standards. Moreover, with respect to three long-term contracts that Sino Agro accounted for using the percentage-of-completion method and that generated thirty percent of the issuer's annual revenue, Respondents and the engagement team failed to assess the reasonableness of the estimates underlying management's percentage-of-completion calculations, and failed to audit total costs incurred and management's estimates of total costs to completion. Further, despite evidence in the work papers suggesting related-party transactions not disclosed in Sino Agro's financial statements, Respondents and the engagement team failed to perform adequate procedures to identify and test the valuation of related-party transactions and to test whether Sino Agro's related-party disclosures were complete and accurate. Respondents and the engagement team also failed to consider whether a possible undisclosed transaction between Sino Agro and its chief executive officer constituted an illegal act, and as a result, Respondents violated Section 10A(a) of the Securities Exchange Act of 1934 ("Exchange Act") by failing to include audit procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the financial statements.

6. Despite identifying overstatement of revenue as an audit and fraud risk for the REDtone audit, Respondents failed to perform, or failed to ensure that the engagement team had performed, audit procedures sufficient to provide reasonable assurance that the issuer's reported revenues were fairly stated. Moreover, Respondents and the engagement team failed entirely to test REDtone's reported accounts receivable balance.

7. The Firm also failed to comply with PCAOB quality control standards in connection with both audits, and Madsen took or omitted to take actions knowing, or

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recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of PCAOB quality control standards. Finally, the Firm failed timely to disclose certain reportable events to the Board on Form 3 as required by PCAOB rules.

C. Respondents Violated PCAOB Rules and Auditing Standards

8. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6]

9. For audits of fiscal years ("FY") beginning before December 15, 2010, those standards require, among other things, that the auditor obtain sufficient competent evidence to afford a reasonable basis for an opinion regarding the financial statements,[7] and that the efforts of assistants who perform work on the audit are properly supervised and that their work is reviewed to determine that it was adequately performed.[8] For audits of fiscal years beginning on or after December 15, 2010, those standards require, among other things, that the auditor plan and perform the audit to obtain appropriate audit evidence that is sufficient to support the opinion expressed in the auditor's report;[9] those standards also make the engagement partner responsible for proper supervision of engagement team members, including that their work be reviewed to evaluate whether it was properly performed and documented.[10]

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[5] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*. This Order applies PCAOB auditing standards in effect at the time of the conduct described herein.

[6] See AU § 508.07, Reports on Audited Financial Statements.

[7] See AU § 326, *Evidential Matter*.

[8] See AU §§ 311.01 and 311.11-.14, *Planning and Supervision*.

[9] See Auditing Standard No. 15, *Audit Evidence* ("A.S. 15").

[10] See Auditing Standard No. 10, *Supervision of the Audit Engagement* ("A.S. 10").

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10. PCAOB standards further require that an auditor exercise due professional care and professional skepticism in performing the audit.[11] In addition, PCAOB standards require the auditor to obtain satisfaction concerning the purpose, nature, and extent of related party transactions through the performance of certain procedures that extend beyond management inquiry.[12] Those standards also require the auditor to evaluate the information available concerning related party transactions in order to satisfy the auditor that they have been adequately disclosed in the financial statements.[13] PCAOB standards also require the auditor to obtain and evaluate sufficient appropriate evidential matter to support significant accounting estimates, and to evaluate the reasonableness of accounting estimates made by management.[14] Moreover, PCAOB standards require the auditor to identify and assess the risks of material misstatement at both the financial statement level and the assertion level.[15]

Audit of Sino Agro's FY 2011 Financial Statements

11. At all relevant times, Sino Agro was a Nevada corporation with its principal executive offices in Guangzhou, People's Republic of China ("PRC"). Sino Agro's public filings disclosed that it was an integrated developer, producer and distributor of organic food and agricultural products in the PRC.[16] At all relevant times, Sino Agro's common stock was registered under Section 12(g) of the Exchange Act and was quoted on the Pink OTC Markets.[17] At all relevant times, Sino Agro was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

12. On April 10, 2012, Madsen, as the engagement partner, authorized the Firm's issuance of an audit report expressing an unqualified opinion on Sino Agro's financial statements for the year ended December 31, 2011. The report was included in

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[11] See AU § 150.02, Generally Accepted Auditing Standards; AU § 230, Due Professional Care in the Performance of Work.

[12] See AU § 334.09, *Related Parties*.

[13] Id. at § 334.11.

[14] See AU § 342, Auditing Accounting Estimates.

[15] See Auditing Standard No. 12, Identifying and Assessing Risks of Material Misstatement ("A.S. 12"), at ¶ 59.

[16] Sino Agro Food, Inc., Form 10-K for the year ended December 31, 2011 (April 12, 2012).

[17] Since January 5, 2012, Sino Agro's common stock has been quoted on the OTC Bulletin Board.

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Sino Agro's Form 10-K filed with the Securities and Exchange Commission ("Commission" or "SEC") on April 12, 2012.

13. As the engagement partner on the FY 2011 Sino Agro audit, Madsen was responsible for the engagement and its performance, including compliance with PCAOB standards.[18] Respondents hired Hong Kong-based engagement team members to perform most of the audit procedures. Madsen was responsible for properly supervising the work of those engagement team members, including reviewing their work to evaluate whether it was performed and documented; whether the objectives of the procedures were achieved; and whether the results of the work supported the conclusions reached.[19] Madsen failed to properly supervise the work of engagement team members who performed procedures in the audit areas discussed below, and failed properly to review that work.

14. The work papers documented that "revenue recognition and manipulation of revenue/expenses is [a] high priority for [the] audit," but Respondents failed to identify and assess, or failed to ensure that the engagement team had identified and assessed, the risks of material misstatement of revenue at the assertion level as required by A.S. 12. Sino Agro reported total consolidated revenue of $51.8 million in 2011, thirty percent of which ($15.8 million) was generated from three long-term contracts entered into that year to provide consulting and construction services to related joint party ventures in connection with the construction of fish farms and hatcheries.[20] Sino Agro disclosed that revenues from these and other long-term contracts were accounted for under the percentage-of-completion method, in accordance with Financial Accounting Standards Board Accounting Standards Codification Topic 605, *Revenue Recognition*.[21] Sino Agro's disclosures explained that under the percentage-of-completion method, "[t]he percentage of costs incurred determines the amount of revenue to be recognized… For fixed-price contracts, the Company uses the ratio of costs incurred to date on the contract … to management's estimate of the contract's total costs, to determine the percentage of completion on each contract."[22]

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[18] See A.S. 10, at ¶ 3.

[19] Id., at ¶ 5.

[20] Sino Agro Food, Inc., Form 10-K for the year ended December 31, 2011 (filed April 12, 2012).

[21] Id.

[22] Id.

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15. Respondents failed to obtain, or failed to ensure that the engagement team had obtained, sufficient audit evidence regarding the reasonableness of the estimates underlying management's percentage-of-completion calculations.[23] Further, the engagement team failed to audit the total costs incurred to date (through December 31, 2011) on the contracts, or Sino Agro's estimates of the total costs to completion.

16. Respondents failed to perform, or failed to ensure that the engagement team had performed, adequate procedures to determine the existence of related parties, to identify related-party transactions, and to test the valuation of identified related-party transactions. Moreover, Respondents failed to perform, or failed to ensure that the engagement team had performed, procedures to determine whether all significant related-party transactions and balances had been properly disclosed in Sino Agro's financial statements, and whether Sino Agro's related-party disclosures were complete and accurate.[24] Indeed, a management-prepared schedule in the work papers indicated that Sino Agro and a related party had entered into a prawn hatchery and nursery contract valued at $8.08 million. That contract was not disclosed in Sino Agro's public filings, and there is no explanation in the work papers of why such disclosure was not made.

17. Other information in the work papers also conflicts with Sino Agro's related-party disclosures in the footnotes to its financial statements. Specifically, the work papers reflected that at the end of 2011, Sino Agro's chairman and chief executive officer owed an "other receivable" in the amount of ¥2.48 million (or approximately $350,000) to a Sino Agro subsidiary. The work papers provided no explanation of why that amount due from the chairman and chief executive officer was not disclosed in the notes to Sino Agro's financial statements, even though a lesser amount due from him was disclosed. Finally, Respondents failed to consider, or failed to ensure that the engagement team had considered, whether the undisclosed transaction between Sino Agro and its chairman and chief executive officer might constitute an illegal act. As a result, Respondents violated Section 10A(a) of the Exchange Act by failing to include in the audit, procedures designed to provide reasonable assurance of detecting illegal

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[23] See AU § 342.

[24] Section 10A of the Exchange Act requires that "each audit … of the financial statements of an issuer by a registered public accounting firm shall include, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission— [ ] (2) procedures designed to identify related party transactions that are material to the financial statements or otherwise require disclosure therein…"

ORDER

acts that would have a direct and material effect on the determination of financial statement amounts.[25]

Audit of REDtone's FY 2011 Financial Statements

18. At all relevant times, REDtone was a Nevada corporation with its principal executive offices in Hong Kong. REDtone's public filings disclosed that it was in "the business of offering discounted call services…and paperless reload services for prepaid mobile air-time reload for end users in Shanghai [PRC] covering all three major telecommunications operators, namely China Mobile, China Unicom, and China Telecom," each of which was a PRC state-run entity.[26] At all relevant times, REDtone's common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all relevant times, REDtone was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

19. On August 26, 2011, Madsen, as the engagement partner, authorized the Firm's issuance of an audit report expressing an unqualified opinion on REDtone's financial statements for the year ended May 31, 2011. The report was included in REDtone's Form 10-K/A filed with the Commission on October 28, 2011.[27]

20. Respondents hired Hong Kong-based assistants to perform most of the audit procedures. Madsen was the auditor with final responsibility for the FY 2011 REDtone audit and supervised the work of those assistants. Madsen failed to properly supervise the work of assistants who performed procedures in the audit areas discussed below, and failed to review that work to ensure that it was adequately performed.[28]

21. In FY 2011, REDtone reported total consolidated revenue of $5.4 million, 84% of which was generated by two subsidiaries that marketed and distributed call services in the PRC through arrangements with state-run telecommunication entities.[29]

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[25] See 15 U.S.C. § 78j-1(a)(1).

[26] REDtone Asia, Inc., Form 10-K/A for the year ended May 31, 2011 (October 28, 2011).

[27] In its Form 10-K/A filed on October 28, 2011, REDtone indicated that the Firm's audit report was inadvertently omitted from REDtone's Form 10-K for the year ended May 31, 2011, which was filed with the Commission on August 31, 2011.

[28] See AU §§ 311, at ¶¶ .01 and .11-.14.

[29] REDtone Asia, Inc., Form 10-K/A for the year ended May 31, 2011 (October 28, 2011).

ORDER

Respondents and the engagement team identified overstatement of revenue as an audit and fraud risk. Respondents failed to perform, or failed to ensure that the engagement team had performed, audit procedures sufficient to provide reasonable assurance that REDtone's FY 2011 revenues were fairly stated. The only procedures performed by the engagement team were walk-throughs of a single telephone call transaction for two subsidiaries and, for a small sample of transactions involving the same subsidiaries, a comparison of revenue amounts recorded in REDtone's general ledger with amounts reflected in sales reports generated by REDtone's information system. Regarding the latter testing, there was no evidence that test selections were made from a complete population of sales transactions. This limited testing failed to address the occurrence of REDtone's revenues and addressed accuracy only to the extent that REDtone's general ledger postings agreed to its own internal sales records.

22. In 2011, REDtone reported accounts receivable totaling $645,000 (or approximately 5% of the company's total assets of $12.6 million),[30] which were material to REDtone's FY 2011 financial statements. Because REDtone's receivable balance consisted primarily of receivables from two state-run entities, Respondents and the engagement team concluded that confirmation testing would be ineffective. While the audit plan included alternative procedures to test the receivable balance by tracing receivables to subsequent cash receipts, no such testing or any other testing of accounts receivable was performed.

D. The Firm Violated PCAOB Rules and Quality Control Standards And Madsen Contributed to Those Violations

23. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[31] which, in turn, require that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[32] Under PCAOB quality control standards, a firm should establish policies and procedures that "provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[33] The standards also provide that policies and procedures "should be established to provide the firm with

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30 Id.

31 PCAOB Rule 3100 and PCAOB Rule 3400T, *Interim Quality Control Standards*.

32 See QC § 20.02, System of Quality Control for a CPA Firm's Accounting and Auditing Practice.

33 See QC § 20.17.

ORDER

reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied," and that "its system of quality control is effective."[34] Those procedures should encompass "all phases of the design and execution of the engagement," including "planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement."[35]

24. The Firm failed to comply with these PCAOB quality control standards in connection with the FY 2011 Sino Agro and REDtone audits. Specifically, at all relevant times, the Firm failed to put in place policies and procedures to ensure that engagement personnel performed the audit procedures necessary to comply with all PCAOB auditing standards. As a result, in multiple instances, engagement personnel failed to complete necessary audit work before the Firm released its audit opinions for the FY 2011 Sino Agro and REDtone audits.

25. As evidenced by the multiple audit violations in each of the audits discussed above, the Firm's system of quality controls and quality control procedures did not provide the Firm with reasonable assurance that the work performed by engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality, and did not provide the Firm with reasonable assurance that the policies and procedures established by the Firm were effectively applied.

26. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation of Board standards by that firm.[36] Madsen, the managing member of the Firm, was principally responsible for designing, implementing, and monitoring the Firm's system of quality control. Accordingly, Madsen had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. All of the Firm's conduct described above constitutes acts or omissions to act by Madsen for which he was responsible. Madsen knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's quality control violations described above. As a result, he violated PCAOB Rule 3502.

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[34] See QC § 20.20; see also QC § 30.03, Monitoring a CPA Firm's Accounting and Auditing Practice.

[35] See QC § 20.18.

[36] PCAOB Rule 3502, Responsibility Not to Knowingly or Recklessly Contribute to Violations.

ORDER

E. The Firm Failed to Timely Disclose Certain Reportable Events to the Board

27. Promulgated pursuant to Section 102(d) of the Act, PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[37]

28. By December 31, 2009, Madsen was aware that the Commission had sued L. Rex Andersen, CPA ("Andersen"), who then was partner of the Firm performing issuer audits, in a civil fraud action in federal district court relating to his work concerning an issuer audit that predated his association with the Firm.[38] On or about May 17, 2010, Madsen became aware, from reading a Commission release, that a final judgment and permanent injunction had been entered against Andersen in the aforementioned civil action.[39] On or about June 10, 2010, Madsen became aware, again from reading a Commission release, that Andersen had been named a respondent in public administrative proceedings pursuant to Rule 102(e)(3) of the Commission's Rules of Practice.[40] Although each of those three events constituted a reportable event, the Firm failed to file Forms 3 reporting the events to the Board.[41]

29. The Firm also failed timely to disclose that it had been named a respondent in an administrative disciplinary proceeding initiated by the Texas State Board of Public Accountancy ("Texas Board") in October 2011, or that the proceeding had been concluded on January 19, 2012. Madsen was aware of each of these reportable events at the times they occurred. However, the Firm did not file a Form 3

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[37] PCAOB Rule 2203, *Special Reports*.

[38] Andersen was a defendant in *SEC v. Exotics.com, Inc.*, Civ. Act. No. 2:05-cv-00531-PMP-GWF (D. Nev. filed Apr. 25, 2005).

[39] L. Rex Andersen, CPA, Permanently Enjoined For Role in Penny Stock and Accounting Fraud, SEC Litigation Rel. No. 21519 (May 6, 2010).

[40] *L. Rex Andersen, CPA*, Exchange Act Rel. No. 62262 (Order Instituting Proceedings and Imposing Temporary Suspension, June 10, 2010).

[41] See PCAOB Form 3 (Special Report), at Item 2.8 (requires disclosure of certain legal proceedings involving a partner, shareholder, principal, owner or audit manager of a firm); Item 2.10 (requires disclosure that certain legal proceedings involving a partner, shareholder, principal, owner or audit manager of a firm have concluded).

ORDER

reporting the events relating to the Texas Board's proceeding until June 26, 2012, more than thirty days after the events' occurrences.[42]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Madsen & Associates CPAs, Inc. and Ted A. Madsen, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Ted A. Madsen, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[43]

C. After two (2) years from the date of this Order, Ted A. Madsen, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Madsen & Associates CPAs, Inc. is revoked; and

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[42] See id., at Item 2.7 (requires disclosure of certain legal proceedings against a firm brought by a governmental entity or in an administrative or disciplinary proceeding other than a PCAOB disciplinary proceeding); Item 2.10 (requires disclosure that certain legal proceedings against a firm brought by a governmental entity or in an administrative or disciplinary proceeding other than a PCAOB disciplinary proceeding have concluded).

[43] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Madsen. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

E. After two (2) years from the date of this Order, Madsen & Associates CPAs, Inc. may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

January 15, 2015

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of R.A. Bianchi & Associates, An Accountancy Corporation,* *Respondent.*	PCAOB Release No. 105-2015-003 January 22, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring R.A. Bianchi & Associates, An Accountancy Corporation ("Respondent" or "Bianchi") and revoking Respondent's registration. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in 2013 and 2014 and failure to pay an annual fee in 2013 and 2014.

I.

On September 10, 2014, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Bianchi did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer, the Board finds[1] that:[2]

A. Respondent

1. Bianchi is a corporation located in Woodland Hills, California. Bianchi is licensed by the California Board of Accountancy to engage in the practice of public accounting (License No. COR 6798), but such license is in "delinquent" status. Bianchi registered with the Board on May 8, 2012, pursuant to Section 102 of the Act and Board rules.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Bianchi failed to timely file an annual report for 2013 and 2014.

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Bianchi failed to pay its annual fee for 2013 and 2014.

C. Subsequent Events

4. The Board instituted these proceedings on September 10, 2014.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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5. On November 25, 2014, Bianchi filed its annual reports for 2013 and 2014.

6. To date, Bianchi has not paid its annual fees for 2013 and 2014.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Bianchi is censured; and

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Bianchi is revoked.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

January 22, 2015

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Brown and Company CPAs PC,* *Respondent.*	PCAOB Release No. 105-2015-004 February 3, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Brown and Company CPAs PC ("Respondent" or "Brown and Company") and revoking Respondent's registration. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in 2013 and 2014 and failure to pay an annual fee in 2011, 2012, 2013, and 2014.

I.

On September 10, 2014, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Brown and Company was deemed to have answered, but did not indicate the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer, the Board finds[1] that:[2]

A. Respondent

1. Brown and Company is a partnership located in Woodbury, New Jersey. Brown and Company was licensed by the New Jersey State Board of Public Accountancy to engage in the practice of public accounting (License No. 20CB00633800). Brown and Company registered with the Board on March 29, 2010, pursuant to Section 102 of the Act and Board rules.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Brown and Company failed to timely file an annual report for 2013 and 2014.

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Brown and Company failed to pay its annual fee for 2011, 2012, 2013, and 2014.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

C. Subsequent Events

4. The Board instituted these proceedings on September 10, 2014.

5. On December 12, 2014, Brown and Company filed its annual reports for 2013 and 2014.

6. To date, Brown and Company has not paid its annual fees for 2011, 2012, 2013, and 2014.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Brown and Company is censured; and

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Brown and Company is revoked.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 3, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Dustin M. Lewis, CPA, and Eric S. Bullinger, CPA,* *Respondents.*	PCAOB Release No. 105-2015-005 April 1, 2015

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is (1) censuring Dustin M. Lewis, CPA ("Lewis"), barring him from being an associated person of a registered public accounting firm, and imposing upon him a civil money penalty in the amount of $10,000;[1] and (2) censuring Eric S. Bullinger, CPA ("Bullinger") and barring him from being an associated person of a registered public accounting firm.[2]

The Board is imposing these sanctions on the basis of its findings that in connection with multiple audits, Lewis and Bullinger repeatedly violated PCAOB rules and auditing standards and Exchange Act Rule 10A-2 concerning auditor independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Lewis and Bullinger (collectively "Respondents").

[1] Lewis may file a petition for Board consent to associate with a registered public accounting firm after two (2) year from the date of this Order.

[2] Bullinger may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Dustin M. Lewis, age 40, of Henderson, Nevada, is a certified public accountant licensed by the Nevada State Board of Accountancy (License No. CPA-3205). At all relevant times, Lewis was a partner in the Las Vegas, Nevada office of L.L. Bradford & Company LLC (the "Firm" or "L.L. Bradford"), and was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Lewis is no longer employed by L.L. Bradford and is currently self-employed.

[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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2. Eric S. Bullinger, age 44, of Worland, Wyoming, is a certified public accountant licensed under the laws of Wyoming (License No. 2741).[5] At all relevant times, Bullinger was a partner in the Las Vegas, Nevada office of L.L. Bradford, and was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Bullinger separated from L.L. Bradford in January 2013. Bullinger is currently employed at an entity that is not a registered public accounting firm.

B. Summary

1. This matter relates to repeated violations of Exchange Act Rule 10A-2 and PCAOB rules and standards that require a registered public accounting firm and its associated persons to be independent of the firm's audit clients throughout the audit and professional engagement periods. Lewis was not independent with respect to five issuer audit clients because Lewis served as either lead partner or concurring partner on five issuer audits for a combined period of more than five consecutive years.[6] Bullinger was not independent with respect to six issuer audit clients because: (1) Bullinger served as lead partner on four issuer audits for more than five consecutive years; and (2) Bullinger served as either lead partner or concurring partner on two issuer audits for a combined period of more than five consecutive years.[7]

2. This matter also concerns Bullinger's failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to two issuer audit clients because Bullinger served as engagement quality reviewer immediately after serving as the engagement partner without satisfying the mandatory two year "cooling-off" period.[8]

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[5] During the relevant period, Bullinger was a certified public accountant licensed under the laws of Nevada (License No. 3735). Bullinger voluntarily surrendered his Nevada license effective December 31, 2014.

[6] See Exchange Act Rule 10A-2, *Auditor Independence*; PCAOB Rule 3520, *Auditor Independence*; and AU §§ 220.01-02, *Independence*.

[7] See id.

[8] See AS 7 ¶ 8; see also PCAOB Release 2009-004, *Auditing Standard No. 7 – Engagement Quality Review and Conforming Amendment to the Board's Interim Quality Control Standards*.

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3. In addition, this matter concerns Lewis's violation of AS 7 with respect to the engagement quality review he performed for L.L. Bradford's audit and review of an issuer audit client.

C. Lewis and Bullinger Violated PCAOB and Exchange Act Rules and PCAOB Auditing Standards

Lewis and Bullinger Failed to Comply with Audit Partner Rotation Requirements and Bullinger Violated the Mandatory "Cooling-Off" Period

4. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[9] PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[10] A registered public accounting firm or associated person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Securities and Exchange Commission ("Commission") under the federal securities laws.[11]

5. Exchange Act Rule 10A-2 provides that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the partner rotation requirements of Commission Regulation S-X.

6. Rule 2-01 of Commission Regulation S-X provides that an accountant is not independent of an audit client when an audit partner performs the services of lead or concurring audit partner for the same issuer for more than five consecutive years and within the five consecutive year period following the performance of services for the

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[9] PCAOB Rules 3100, *Compliance with Auditing and Related Professional Standards*, and 3200T, *Interim Auditing Standards*.

[10] PCAOB Rule 3520; AU §§ 220.01-02.

[11] PCAOB Rule 3520, Note 1.

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maximum period permitted.[12] The partner rotation requirements set forth in Rule 2-01 were promulgated in 2003.

7. AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[13] Further, paragraph 8 of AS 7 provides: "The person who served as the engagement partner during either of the two audits preceding the audit subject to the engagement quality review may not be the engagement quality reviewer."

8. As described below, Bullinger and Lewis failed to comply with Exchange Act Rule 10A-2 and PCAOB rules and standards.

Audits of All American SportPark, Inc.'s Financial Statements

9. At all relevant times, All American SportPark, Inc. ("AASP") was a Nevada corporation with its headquarters in Las Vegas, Nevada. AASP's public filings disclosed that it was a smaller reporting company as defined by Rule 12b-2 of the Exchange Act and operated a golf facility in Las Vegas, Nevada. Its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all relevant times, AASP was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

10. L.L. Bradford was engaged as All American SportPark's external auditor in May 2006. The Firm issued six unqualified audit reports on AASP's financial statements for the years ended December 31, 2006 through December 31, 2011. Each of those six audit reports was included in a Form 10-K or 10-KSB that AASP filed with the Commission.

11. Lewis served as the lead partner on the audit of AASP for 2006. Thereafter, Lewis served as concurring partner/engagement quality reviewer on the audits of AASP between 2007 and 2010. After serving as lead or concurring partner for the aforementioned five year period, Lewis continued to serve as the engagement quality reviewer on the audit of AASP's financial statements for the year ended December 31,

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[12] Rule 2-01 of Regulation S-X, 17 C.F.R. §§ 210.2-01(c)(6)(i)(A)(1) and (c)(6)(i)(B)(1). At all relevant times, L.L. Bradford had five or more issuer audit clients and did not qualify for the small firm exemption. Id. at § 210.2-01(c)(6)(ii).

[13] AS 7 ¶ 1.

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2011 and on the review of ASAP's March 31, 2012 financial statements, in violation of Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220.

12. Bullinger served as lead partner on the audits of AASP between 2007 and 2011. After serving for the five year period, Bullinger continued to serve as lead partner on the review of AASP's March 31, 2012 quarterly financial statements in violation of Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220.

Audits of Brownie's Marine Group, Inc.'s Financial Statements

13. At all relevant times, Brownie's Marine Group, Inc. ("Brownie's") was a Nevada corporation with its headquarters in Fort Lauderdale, Florida. Brownie's public filings disclosed that it was a smaller reporting company as defined by Rule 12b-2 of the Exchange Act and was engaged in the design, testing, manufacturing, and distribution of recreational hookah diving, yacht based scuba air compressor and nitrox generation systems, and scuba and water safety products. Its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all relevant times, Brownie's was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

14. L.L. Bradford was engaged as Brownie's external auditor in April 2004. The Firm issued eight unqualified audit reports on Brownie's financial statements for the years ended December 31, 2004 through December 31, 2011. Each of those eight audit reports was included in a Form 10-K or 10-KSB that Brownie's filed with the Commission.

15. Lewis served as lead partner on the audits of Brownie's financial statements for three consecutive fiscal years, between 2004 and 2006. Lewis thereafter served as concurring partner on the Firm's next two audits of Brownie's financial statements between 2007 and 2008. After serving as lead or concurring partner for the aforementioned five year period, Lewis continued to serve as the concurring partner/engagement quality reviewer on the audits of Brownie's financial statements for the years ended December 31, 2009 and December 31, 2010, in violation of Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220.

16. Bullinger served as lead partner on the audits of Brownie's financial statements between 2007 and 2011. After serving as lead partner for the aforementioned five year period, Bullinger then served as engagement quality reviewer on the reviews of Brownie's March 31, 2012, June 30, 2012, and September 30, 2012 quarterly financial statements, in violation of Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220. Because Bullinger served as the engagement quality reviewer

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immediately after serving as lead partner on Brownie's audits, Bullinger also violated AS 7.[14]

Audits of Bravo Enterprises Ltd.'s Financial Statements

17. At all relevant times, Bravo Enterprises Ltd. (formerly known as Organa Gardens International and Shotgun Energy Corp.) ("Bravo") was a Nevada corporation with its headquarters in Patchogue, New York. Bravo's public filings disclosed that it was a smaller reporting company as defined by Rule 12b-2 of the Exchange Act and engaged in the manufacturing, distribution, and marketing of water harvesting equipment. Its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all relevant times, Bravo was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

18. L.L. Bradford was engaged as Bravo's external auditor in December 2006. The Firm issued six unqualified audit reports on Bravo's financial statements for the years ended December 31, 2006 through December 31, 2011. Each of those six audit reports was included in a Form 10-K or 10-KSB that Bravo filed with the Commission.

19. Lewis served as the lead partner on the audit of Bravo's financial statements for 2006 and as the concurring partner/engagement quality reviewer on the audits of Bravo's financial statements between 2007 and 2010. After serving as lead partner or concurring partner/engagement quality reviewer for the aforementioned five year period, Lewis continued to serve as the engagement quality reviewer on the audit of Bravo's financial statements for the year ended December 31, 2011, in violation of Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220.

20. Bullinger served as lead partner on the audits of Bravo's financial statements between 2007 and 2011. After serving for the five year period, Bullinger then continued to serve as lead partner on the review of Bravo's March 31, 2012 quarterly financial statements, in violation of Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220.

Audits of Terralene Fuels Corporation's Financial Statements

21. At all relevant times, Terralene Fuels Corporation (formerly known as Golden Spirit Enterprises Ltd.) ("Terralene") was a Delaware corporation with its headquarters in Patchogue, New York. Terralene's public filings disclosed that it was a

[14] See AS 7 ¶ 8.

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smaller reporting company and engaged in the development of alternative fuels. Its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. On May 14, 2013, Terralene filed a Form 15 to deregister its common stock. At all relevant times, Terralene was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

22. L.L. Bradford was engaged as Terralene's external auditor in December 2006. The Firm issued six unqualified audit reports on Terralene's financial statements for the years ended December 31, 2006 through December 31, 2011. Each of those six audit reports was included in a Form 10-K or 10-KSB that Terralene filed with the Commission.

23. Lewis served as lead partner on the audit of Terralene's 2006 financial statements and as the concurring partner/engagement quality reviewer on the audits of Terralene's financial statements between 2007 and 2010. After serving as lead partner or concurring partner/engagement quality reviewer for the aforementioned five year period, Lewis continued to serve as the engagement quality reviewer on the audit of Terralene's financial statements for the year ended December 31, 2011, in violation of Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220.

24. Bullinger served as lead partner on the audits of Terralene's financial statements between 2007 and 2011. After serving for the five year period, Bullinger then served as engagement quality reviewer on the review of Terralene's March 31, 2012 and June 30, 2012 quarterly financial statements, in violation of Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220. Because Bullinger served as the engagement quality reviewer immediately after serving as lead partner on Terralene's audits, Bullinger also violated AS 7. [15]

Audits of Solar Energy Initiatives, Inc.'s Financial Statements

25. At all relevant times, Solar Energy Initiatives, Inc. ("SEI") was a Delaware corporation with its headquarters in Cary, NC. SEI's public filings disclosed that it was a smaller reporting company and it had no present operations other than seeking new business activities. Its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. On January 8, 2014, SEI filed a Form 15 to deregister its common stock. At all relevant times, SEI was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

[15] See AS 7 ¶ 8.

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26. L.L. Bradford was engaged as SEI's external auditor in August 2007. The Firm issued five unqualified audit reports on SEI's financial statements for the years ended July 31, 2007 through July 31, 2011. Each of those five audit reports was included in a Form SB-2 or Form 10-K that SEI filed with the Commission.

27. Bullinger served as lead partner and Lewis served as the concurring partner/engagement quality reviewer on the audits of SEI for the fiscal years 2007 through 2011. After serving on the audit for five fiscal year periods, Bullinger then continued to serve as lead partner and Lewis as engagement quality reviewer on the review of SEI's October 31, 2011, January 31, 2012, and April 30, 2012 quarterly financial statements, in violation of Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220.

Audits of U-Swirl Inc.'s Financial Statements

28. At all relevant times, U-Swirl, Inc. ("U-Swirl") was a Nevada corporation with its headquarters in Henderson, Nevada. U-Swirl's public filings disclosed that it was a smaller reporting company and engaged in the operation and franchising of frozen yogurt cafes. Its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all relevant times, U-Swirl was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

29. L.L. Bradford was engaged as U-Swirl's external auditor in November 2007. The Firm issued five unqualified audit reports on U-Swirl's financial statements for the years ended December 31, 2007 through December 31, 2011. Each of those five audit reports was included in a Form S-1/A or Form 10-K that U-Swirl filed with the Commission.

30. Bullinger served as lead partner on the audits of U-Swirl for the fiscal years 2007 through 2011. After serving on the audit of five fiscal year periods, Bullinger then continued to serve as lead partner on the review of U-Swirl's March 31, 2012 quarterly financial statements, in violation of Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220.

Bullinger's Violations Continued After Notice from PCAOB Inspectors

31. In connection with a June 2012 inspection of L.L. Bradford, the PCAOB inspection staff brought to Respondents' attention apparent failures by Respondents to comply with independence requirements related to partner rotation for certain issuer audit clients. In the Firm's response to Inspections, which was prepared by Bullinger, the Firm acknowledged that it was not independent as defined by the Commission and indicated that, effective immediately, neither Bullinger nor Lewis was the lead or

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engagement quality review partner on the issuers identified by PCAOB inspections staff. Contrary to that representation, Bullinger continued as the engagement quality reviewer on the reviews of Brownie's June 30, 2012 and September 30, 2012 interim financial statements and the review of Terralene's June 30, 2012 interim financial statements, even after learning that he had violated the audit partner rotation requirements with respect to those issuers.

Lewis Violated PCAOB Rules and Auditing Standards in Connection with the Audit of the 2011 Financial Statements of WebXU

32. WebXU, Inc. ("WebXU") was, at all relevant times, a Delaware corporation headquartered in Los Angeles, California. WebXU's public filings disclosed that it was a media company engaged in developing high-value branded websites to service consumers for products and services. During the relevant period, its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board.[16] At all relevant times, WebXU was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

33. L.L. Bradford became the auditor for WebXU on December 5, 2011. L.L. Bradford audited WebXU's financial statements for the year ended December 31, 2011, and issued an audit report containing an unqualified opinion dated April 9, 2012, which was included in WebXU's Form 10-K filed with the Commission on April 9, 2012. The audit report stated that, in L.L. Bradford's opinion, WebXU's financial statements presented fairly, in all material respects, the issuer's financial position in conformity with U.S. generally accepted accounting principles ("GAAP") and that L.L. Bradford's audit was performed in accordance with PCAOB standards. Lewis served as the engagement quality reviewer on the 2011 audit of WebXU and provided concurring approval for the issuance of the Firm's audit report.

34. PCAOB auditing standards require [a]n engagement quality review and concurring approval of issuance . . . for each audit engagement and for each

[16] On June 5, 2014, the Commission temporarily suspended trading in WebXU's securities due to "questions that have been raised about the accuracy and adequacy of publicly disseminated information concerning, among other things, the company's finances." SEC, Exchange Act Release No. 72323. On December 18, 2014, the Commission revoked the registration of WebXU's securities due to the issuer's failure to file periodic reports with the Commission since its December 31, 2012 Form 10-K. SEC, Exchange Act Release No. 73869.

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engagement to review interim financial information."[17] Under PCAOB standards, the engagement quality reviewer for an audit should, among other things, (1) "evaluate the engagement team's assessment of, and audit responses to . . . [s]ignificant risks identified by the engagement team . . . and . . . [o]ther significant risks identified by the engagement quality reviewer;" and (2) "evaluate whether the engagement documentation that he or she reviewed . . . [s]upports the conclusions reached by the engagement team with respect to the matters reviewed."[18]

35. Lewis violated PCAOB standards as the engagement quality reviewer for the 2011 WebXU audit in numerous respects. First, he failed to properly evaluate the audit engagement team's assessment of and audit responses to significant risks.[19] During audit planning, the engagement team failed to identify and assess the risks of material misstatement at the financial statement and assertion level. The engagement team's assessment of risk was limited to assessing inherent risk, control risk, and audit risk. The risks of material misstatement were not properly assessed. Furthermore, the engagement team's risk assessment was performed at a level of aggregation above that permitted by PCAOB standards. For example, the engagement team assessed risk on all assets collectively. A similar approach was taken with liabilities. As a result, cash carried the same risk assessment as goodwill (identified in the financial statements as "Investment in Lot6"). Accordingly, the engagement team failed to recognize or document significant risks at a financial statement and assertion level, yet Lewis failed to identify that deficiency.[20]

36. Second, in violation of AS 7, Lewis failed to properly evaluate the significant judgments made by the audit engagement team.[21] In particular, Lewis failed to properly evaluate (a) the engagement team's consideration of WebXU's recent significant activities, including its acquisition of Lot6 Media LLC ("Lot6"), an affiliate

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[17] AS 7 ¶ 1.

[18] AS 7 ¶¶ 10-11.

[19] See id.

[20] See id.; see also Auditing Standard No. 12, *Identifying and Assessing the Risks of Material Misstatement* ¶ 59 (the engagement team should identify and assess the risks of material misstatement at the financial statement level and the assertion level).

[21] See AS 7 ¶¶ 9-10.

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marketing company, and (b) the related financial reporting issues and risks.[22] At December 31, 2011, the goodwill associated with Lot6 was the largest item on WebXU's balance sheet and constituted nearly two-thirds of total reported assets. However, the audit engagement team failed to identify in its planning memorandum the goodwill associated with the acquisition of Lot6 as a significant accounting issue and failed to set forth an audit approach to ensure that the goodwill recorded at acquisition was properly valued. In his engagement quality review, Lewis failed to identify that the engagement team had not properly considered the financial reporting issues and risks associated with the Lot6 acquisition.

37. Third, Lewis failed to properly evaluate whether the engagement documentation that he reviewed regarding the Lot6 acquisition and WebXU's reported revenue supported the conclusions reached by the engagement team. With respect to the acquisition of Lot6, the engagement team failed to evaluate the qualifications and competence of a specialist retained to value the acquisition. The engagement team also failed to perform sufficient procedures to test the valuation of purchase consideration for the Lot6 acquisition. Specifically, the engagement team failed to evaluate the reasonableness of the significant assumptions used by the issuer and its specialist to determine the fair value of shares and notes payable issued in connection with the acquisition. Finally, the engagement team failed to test data provided to the specialist by the issuer and properly evaluate whether the specialist's findings supported the related financial statement assertions.

38. With respect to revenue, the documentation that Lewis reviewed showed that the engagement team had failed to: (1) test the completeness of the population from which the selected revenue transactions were chosen by; (2) obtain, understand, and evaluate customer contracts to determine whether the issuer's recognition of revenue was in accordance with GAAP; and (3) perform cutoff procedures on Lot6 revenues to test whether revenue was recognized in the correct period.

39. Lewis provided his concurring approval of issuance of the Firm's audit report notwithstanding the significant deficiencies apparent from the documentation he reviewed regarding the engagement team's evaluation of the Lot6 acquisition and its testing of revenue.[23] In light of the significant engagement deficiencies, Lewis failed to

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[22] See AS 7 ¶ 10.

[23] See AS 7 ¶ 12.

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exercise due professional care in the performance of his engagement quality review responsibilities.[24]

Lewis Violated PCAOB Auditing Standards in Connection with the Review of the June 30, 2012 Financial Statements of WebXU

40. When an interim review is performed, PCAOB standards require that the engagement quality reviewer "evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement" and "[e]valuate the significant judgments made about . . . the materiality and disposition of corrected and uncorrected identified misstatements," among other things.[25] In addition, "the engagement quality reviewer should evaluate whether the engagement documentation . . . supports the conclusions reached by the engagement team with respect to the matters reviewed."[26] An engagement quality review should also "evaluate whether appropriate matters have been communicated, or identified for communication, to the audit committee, management, and other parties, such as regulatory bodies."[27]

41. The engagement quality reviewer "may provide concurring approval of issuance only if, after performing with due professional care the review required by this standard, he or she is not aware of a significant engagement deficiency."[28]

42. Lewis served as the engagement quality reviewer for L.L. Bradford's review of WebXU's June 30, 2012 financial statements. As detailed below, Lewis failed to comply with PCAOB standards in connection with that review.

43. On August 21, 2012, WebXU filed its Form 10-Q with the Commission for the quarter ended June 30, 2012. Included in the Form 10-Q was an explanatory note that stated that the auditors had failed to complete the required field work and review of WebXU's filing due to technical problems with the auditor's email system. The engagement team, aware that WebXU had filed before the completion of its review,

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[24] See id.

[25] AS 7 ¶¶ 14-15.

[26] AS 7 ¶ 16.

[27] AS 7 ¶ 15.f.

[28] AS 7 ¶ 17.

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internally discussed whether WebXU would need to file an amended Form 10-Q once the review was complete, but took no further action and continued its review.

44. On September 25, 2012, more than a month after WebXU filed its Form 10-Q, the engagement team signed the Completion Document and the Supervision, Review, and Approval Form indicating that the Firm had completed the quarterly review. The next day, the engagement partner, sent an email to WebXU stating: "Just so everyone is on the same page here, we are still analyzing the goodwill impairment for the quarter ended 6/30/2012 . . . In other words, the quarter is still not final. In the event that the adjustment to the impairment write-down is deemed material, a restatement of the financials and an amended 10Q will need to be filed."

45. As part of its review procedures, the engagement team identified a likely misstatement of goodwill impairment of more than $2 million, an amount that was material to the financial statements, but the team understood that it needed to do more work to conclude. The engagement team did not complete its additional inquiries and procedures prior to signing off on the quarterly review. According to other email communications among the engagement partner, Lewis, and the engagement manager, the engagement team was still assessing in October 2012 whether the second quarter impairment charge taken by WebXU was misstated. Although the engagement team was aware of the potential impact of the likely misstatement, the amount of the likely misstatement was not discussed with management or the audit committee. The engagement team never completed its additional inquiries and review procedures related to goodwill impairment. By failing to complete procedures "necessary to achieve the objective of a review of financial information, . . . the review [was] incomplete."[29]

46. Lewis violated PCAOB standards because as engagement quality reviewer he failed to properly evaluate (a) the significant judgments made about the materiality and disposition of the likely misstatement of goodwill at June 30, 2012; (b) whether the engagement documentation related to goodwill supported the conclusions reached by the engagement team; and (c) whether appropriate matters, including the engagement team's inability to complete the review and the likely misstatement of goodwill had been communicated to the audit committee, management, or regulatory bodies.[30] Lewis further violated PCAOB standards by providing his concurring approval

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[29] See AU § 722.28, *Interim Financial Information*.

[30] See AS 7 ¶¶ 14-17. Under PCAOB standards, an engagement team conducting a review of interim financial information should inform management of an inability to complete the review and of any material modification that should be made to the financial information for it to be in conformity with GAAP. If management does not

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of issuance despite his knowledge of a significant engagement deficiency related to the engagement team's failure to complete its interim review procedures related to the likely misstatement of goodwill.[31]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Dustin M. Lewis and Eric S. Bullinger are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Dustin M. Lewis is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[32]

C. After two (2) years from the date of this Order, Dustin M. Lewis may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Eric S. Bullinger is barred from being an associated person of a registered

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respond appropriately, those matters should be communicated to the issuer's audit committee. AU §§ 722.28-30.

[31] See AS 7 ¶ 17.

[32] As a consequence of the bars imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Lewis and Bullinger. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

E. After one (1) year from the date of this Order, Eric S. Bullinger may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 payable by Dustin M. Lewis is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Dustin M. Lewis shall pay this civil money penalty within 10 days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Services money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies the payor as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 1, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter Hazel-Leilani De Los Reyes Bradford, CPA,* *Respondent.*	PCAOB Release No. 105-2015-006 April 1, 2015

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Hazel-Leilani De Los Reyes Bradford, CPA ("Bradford" or "Respondent"), barring her from being an associated person of a registered public accounting firm, and imposing upon her a civil money penalty in the amount of $25,000.[1] The Board is imposing these sanctions on the basis of its findings that Bradford directly and substantially contributed to a registered public accounting firm's violations of PCAOB quality control standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction

[1] Bradford may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondents

1. Hazel-Leilani De Los Reyes Bradford, age 46, of Henderson, Nevada, is a certified public accountant licensed by the Nevada State Board of Accountancy (License No. CPA-2438). At all relevant times, Bradford was a partner in the Las Vegas, Nevada office of L.L. Bradford & Company LLC ("L.L. Bradford" or the "Firm") and was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). At all relevant times, Bradford owned a majority stake in L.L. Bradford and was the partner responsible for the design, implementation, and maintenance of the Firm's quality control policies and procedures.

B. Registered Firm

2. L.L. Bradford is a company organized under the laws of the State of Nevada, and is headquartered in Las Vegas, Nevada. L.L. Bradford registered with the Board on October 22, 2003, pursuant to Section 102 of the Act and PCAOB rules. L.L. Bradford is licensed to practice public accountancy by the Nevada State Board of Accountancy (License No. LLC-0113) and, at all relevant times, was the external auditor for each of the issuers identified below.

C. Summary

3. This matter relates to Respondent's direct and substantial contribution to L.L. Bradford's violations of PCAOB quality control standards. Specifically, this matter

[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

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concerns Bradford's pervasive failures to properly carry out her responsibility to establish, implement, and monitor L.L. Bradford's quality control policies and procedures. Bradford's quality control related failures contributed to L.L. Bradford's violations of (i) Section 10A(j) of the Securities Exchange Act of 1934 ("Exchange Act"), Exchange Act Rule 10A-2, and PCAOB rules and standards that require a registered public accounting firm and its associated persons to be independent of the firm's audit clients throughout the audit and professional engagement periods and to comply with partner rotation requirements; (ii) the two-year "cooling-off" requirement set forth in Auditing Standard No. 7, *Engagement Quality Review*, which prohibits a person from serving as engagement quality reviewer immediately after serving as the engagement partner on an issuer audit;[4] (iii) Section 10A(g) of the Exchange Act and Exchange Act Rule 10A-2, as well as PCAOB independence rules and standards, prohibiting the provision of certain non-audit services to an issuer audit client at any point during the audit and professional engagement period; and (iv) PCAOB rules and auditing standards.

4. At all relevant times, Bradford was responsible for the development, implementation, and monitoring of L.L. Bradford's quality control policies and procedures. Despite those responsibilities, Bradford took, or omitted to take, action knowing, or recklessly not knowing, that her acts and/or omissions would directly and substantially contribute to L.L. Bradford's violation of PCAOB quality control standards, in contravention of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

D. Background

5. L.L. Bradford was formed in 1994 as a sole proprietorship, and Bradford joined the firm as a partner the following year. In 2012, the time period during which the majority of the violations occurred, L.L. Bradford had nineteen issuer audit clients and three personnel authorized to sign audit reports on behalf of the Firm. Bradford had limited public audit experience and inadequate knowledge of PCAOB standards and relevant Commission rules and regulations. Nonetheless, she assumed the responsibility for designing, implementing, and monitoring the Firm's quality control policies and procedures, did an inadequate job of making herself aware of such requirements, and ultimately failed to design and maintain a system of quality control that provided the Firm with reasonable assurance its personnel complied with applicable

[4] See Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), ¶ 8; see also PCAOB Release 2009-004, *Auditing Standard No. 7 – Engagement Quality Review and Conforming Amendment to the Board's Interim Quality Control Standards*.

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professional standards and the Firm's standards of quality. As described below, Bradford repeatedly failed to perform her quality control responsibilities.

E. Bradford Violated PCAOB Rules by Directly and Substantially Contributing to L.L. Bradford's Quality Control Violations

6. PCAOB Rules require that a registered accounting firm and its associated persons comply with the Board's quality control standards.[5] PCAOB quality control standards require that a registered public accounting firm "have a system of quality control for its accounting and auditing practice."[6] The design and maintenance of a firm's quality control policies and procedures "should be assigned to an appropriate individual" with consideration given to the "proficiency" of the individual, the "authority to be delegated," and "the extent of supervision to be provided."[7]

7. Among other things, a firm's quality control policies and procedures should provide reasonable assurance that personnel maintain independence in fact and appearance.[8]

8. PCAOB quality control standards also provide that policies and procedures "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied."[9] Firms are required to establish monitoring procedures to "enable the firm to obtain reasonable assurance that its system of quality control is effective."[10] Such monitoring procedures include, among other things, inspection procedures, post-issuance reviews of selected

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[5] PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards*, and 3400T, *Interim Quality Control Standards*.

[6] Quality Control ("QC") § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice.*

[7] QC § 20.22.

[8] QC § 20.09.

[9] QC § 20.20; see also QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[10] QC § 30.03.

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engagements, and analysis and assessment of the results of independence confirmations.[11]

9. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to violations by that firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Securities and Exchange Commission ("Commission") issued under the Act, or professional standards.[12]

10. As detailed below, the Firm failed to comply, and Bradford directly and substantially contributed to the Firm's failure to comply, with PCAOB rules and quality control standards.

Independence, Integrity, and Objectivity

11. The Firm failed to adopt and implement appropriate quality control policies and procedures governing the Firm's independence with respect to its issuer audit clients. Specifically, the Firm's 2011 quality control policies and procedures, which Bradford was responsible for preparing, included incorrect guidance with respect to audit partner rotation requirements, were silent as to engagement quality reviewer rotation requirements, and did not reflect the practices of the Firm during the relevant time period.

12. With respect to audit partner rotation requirements, Bradford assumed the responsibility for the Firm's, and its associated persons', compliance with audit partner rotation requirements.[13] Significantly, the Firm and Bradford failed to design and implement a process to track and monitor audit partner assignments and rotation

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[11] See id.

[12] See PCAOB Rule 3502.

[13] The Firm's quality control policies and procedures stated that the managing partner assigned audit partners to audit engagements and was responsible for ensuring compliance with audit partner rotation requirements; however that statement was inaccurate. The Firm's audit partner assignments were determined by a group of the Firm's partners, and the responsibility for compliance with audit partner rotation requirements was delegated to Bradford, the Firm's quality control partner.

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compliance. Indeed, Bradford failed to take any affirmative steps to track and monitor audit partner rotation requirements. These failures contributed to the Firm's violations of partner rotation requirements with respect to six issuer audit clients. Specifically, the Firm violated partner rotation requirements with respect to its audits of six issuer clients because Firm partners served as the lead partner and/or concurring partner/engagement quality reviewer for more than the permitted five year period set forth in Section 10A(j) of the Exchange Act and Regulation S-X.[14]

13. The Firm and Bradford also failed to design and implement a process for monitoring the Firm's compliance with AS 7, paragraph 8, which requires a two year "cooling-off" period before a partner who served as lead partner can assume the role of engagement quality reviewer. The Firm's quality control policies and procedures did not address the cooling-off requirement. In fact, the Firm and Bradford were not aware of the requirements set forth in AS 7 until members of the Firm attended training in 2014 conducted by a third-party. These failures contributed to the Firm's violations of AS 7 with respect to two issuer audits.[15]

14. In addition, the Firm and Bradford failed to design and implement a process for confirming the Firm's independence with respect to potential new issuer audit clients prior to accepting the clients. The Firm and Bradford failed to design and implement any such process despite their awareness that at least two senior personnel at L.L. Bradford provided non-audit services to issuers outside of their work for L.L. Bradford. Indeed, despite this awareness, the Firm and Bradford failed to obtain from at least one of the senior personnel a list of the issuers for whom he was providing non-audit services or otherwise apprise itself of the non-audit services he was providing. That failure, combined with the failure to implement a process to confirm the Firm's independence with respect to new issuer audit clients, contributed to the Firm's violation

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[14] See *Dustin M. Lewis and Eric S. Bullinger*, PCAOB Release No. 105-2015-005. See also Section 10A(j) of the Exchange Act; Exchange Act Rule 10A-2. Exchange Act Rule 10A-2 provides that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the partner rotation requirements of Commission Regulation S-X. Rule 2-01 of Commission Regulation S-X provides that an accountant is not independent of an audit client when an audit partner performs the services of lead or concurring audit partner for the same issuer for more than five consecutive years and within the five consecutive year period following the performance of services for the maximum period permitted.

[15] See *Dustin M. Lewis and Eric S. Bullinger*, PCAOB Release No. 105-2015-005.

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of independence requirements during the audit of another issuer client. Specifically, the Firm was not independent of that issuer audit client because one of the senior personnel noted above, an audit principal at L.L. Bradford, had provided bookkeeping and financial statement preparation services for the issuer during the relevant audit period.[16]

15. The Firm and Bradford also failed to implement policies and procedures to provide reasonable assurance that Firm personnel maintained independence.[17] Specifically, despite a requirement to obtain annual independence confirmations in the Firm's quality control policies and procedures, Bradford failed to obtain and/or retain independence confirmations from Firm personnel for 2013.

Monitoring

16. The Firm also failed to appropriately implement the required quality control monitoring procedures. As noted above, Bradford assumed the role of quality control partner at the Firm despite the fact her prior audit experience was largely limited to a small number of non-public companies, and she lacked the relevant experience, knowledge, and proficiency necessary to carry out the monitoring function.[18] Moreover, Bradford failed to take sufficient steps to develop the requisite proficiency after becoming the Firm's quality control partner. In August 2013, Bradford conducted an internal quality control inspection of the audits and reviews conducted on certain of the Firm's issuer clients. Because Bradford did not have the necessary experience, knowledge, and proficiency, she failed during her quality control inspection to identify multiple audit deficiencies and failures to comply with the Firm's own policies and procedures. For example, with respect to her inspection of one interim review for an issuer client, Bradford did not identify the engagement team's failure to properly communicate with the issuer's management and the audit committee regarding the Firm's inability to complete

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[16] See Section 10A(g) of the Exchange Act; Exchange Act Rule 10A-2. Exchange Act Rule 10A-2 states that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the prohibited non-audit services provisions of Commission Regulation S-X. Rule 2-01 of Regulation S-X provides that an accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides certain non-audit services to an audit client, including bookkeeping services such as "[p]reparing the audit client's financial statements that are filed with the Commission."

[17] See QC § 20.09.

[18] See QC § 20.22.

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the interim review. With respect to her inspection of the interim review of another issuer client, Bradford failed to identify erroneous disclosure determinations. Bradford's monitoring procedures also did not identify a pervasive failure by the Firm's personnel to use the standard audit and review work papers required by the Firm's quality control policies and procedures or to use the up-to-date version of such work papers and forms.

Bradford's Role

17. In Bradford's role as the Firm's quality control partner, she had primary responsibility for the design, implementation, maintenance, communication, and monitoring of the Firm's quality control policies and procedures. Bradford assumed this role despite her lack of public company audit experience and her inadequate knowledge of PCAOB standards and relevant Commission rules and regulations, and then failed to take steps to develop the requisite knowledge. Furthermore, the Firm and Bradford failed to put into place and/or perform procedures to (i) properly update the Firm's quality control policies and procedures; (ii) track and monitor compliance with audit partner rotation requirements; (iii) track and monitor compliance with the engagement partner cooling-off requirements set forth in AS 7; (iv) track and monitor the provision of non-audit services by firm personnel outside the scope of their L.L. Bradford employment; (v) confirm the independence of Firm personnel prior to acceptance of an issuer audit engagement; and (vi) obtain and/or retain annual independence confirmations for Firm personnel for 2013.

18. All of the Firm's conduct described above in paragraphs 11-16 was either conduct of Bradford's or omissions to act for which Bradford was responsible. With respect to all such acts and omissions, Bradford knew, or was reckless in not knowing, that her acts and omissions would directly and substantially contribute to the Firm's quality control violations enumerated above.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Hazel-Leilani De Los Reyes Bradford is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Hazel-Leilani De Los Reyes Bradford is barred from being an associated

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person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);

C. After two (2) years from the date of this Order, Hazel-Leilani De Los Reyes Bradford may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 payable by Hazel-Leilani de Los Reyes Bradford is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Hazel-Leilani de Los Reyes Bradford shall pay the $25,000 civil money penalty, within 10 days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Services money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies the payor as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 1, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Gordon Brad Beckstead, CPA*, *Respondent.*	PCAOB Release No. 105-2015-007 April 1, 2015

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is (1) censuring Gordon Brad Beckstead, CPA ("Beckstead" or "Respondent"); (2) suspending him from being an associated person of a registered public accounting firm for a period of one year from the date of this Order; (3) limiting his activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for an additional period of one year following the expiration of his suspension; and (4) requiring that he complete forty (40) additional hours of continuing professional education in subjects that are directly related to the audits of issuer financial statements under PCAOB standards. The Board is imposing these sanctions on the basis of its findings concerning Beckstead's violations of PCAOB rules and auditing standards in connection with an audit and an interim review of the financial statements of one issuer audit client during 2011 and 2012.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Beckstead.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Beckstead has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Beckstead and the subject matter of these proceedings, which is admitted,

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Beckstead consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. Gordon Brad Beckstead, CPA, age 50, of Henderson, Nevada, is a certified public accountant licensed by the Nevada State Board of Accountancy (License No. CPA-2701). At all relevant times, Beckstead was an audit principal in the Las Vegas, Nevada office of L.L. Bradford & Company, LLC ("L.L. Bradford"). Beckstead was the engagement partner on L.L. Bradford's audit of the financial statements of WebXU, Inc. ("WebXU") for the year ended December 31, 2011 ("2011 WebXU Audit") and review of WebXU's financial statements for the period ended June 30, 2012 ("2012 WebXU Review"). Beckstead is no longer employed by L.L. Bradford. He is the sole proprietor of Beckstead & Company, which was registered with the Board from June 19, 2013 until the Board granted Beckstead & Company's request to withdraw its registration on February 6, 2015. At all relevant times, Beckstead was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Beckstead's failures to appropriately plan and perform the 2011 WebXU Audit. Specifically, during audit planning, Beckstead failed to properly assess the risk of material misstatement with respect to WebXU's 2011 financial statements. As a result, Beckstead failed to properly identify significant risks in

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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connection with the 2011 WebXU Audit. Beckstead also failed to properly establish an overall strategy for the audit and develop an audit plan that included planned risk assessment procedures and planned responses to the risk of material misstatement. In addition, Beckstead failed to perform audit procedures that addressed the risks of material misstatement.

3. In connection with the WebXU 2011 Audit, Beckstead violated PCAOB standards in multiple other respects as well. Among other things, Beckstead failed to evaluate the qualifications and competence of a specialist that WebXU retained to value a significant acquisition. He also failed to evaluate the reasonableness of the significant assumptions used by the issuer and its specialist to determine the fair value of purchase consideration for that acquisition. Beckstead also failed to test data WebXU provided to the specialist and properly evaluate whether the specialist's findings supported the related financial statement assertions. Beckstead further violated PCAOB standards by failing to evaluate the adequacy of WebXU's disclosure of the terms of the acquisition. In addition, Beckstead also failed to perform, or ensure that the engagement team performed, sufficient audit procedures to test WebXU's reported revenue.

4. This matter also concerns Beckstead's failure to comply with PCAOB rules and auditing standards in connection with the 2012 WebXU Review. Specifically, Beckstead failed to properly communicate with management and the audit committee regarding the engagement team's inability to complete the review.

C. Beckstead Violated PCAOB Rules and Auditing Standards in Connection with the 2011 WebXU Audit

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[3] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[4] Among other things, PCAOB standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient

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[3] PCAOB Rules 3100, *Compliance with Auditing and Related Professional Standards*, and 3200T, *Interim Auditing Standards*.

[4] See AU § 508.07, *Reports on Audited Financial Statements.*

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appropriate evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[5]

6. PCAOB auditing standards also require that an audit be properly planned, that auditors identify and assess the risks of material misstatement at the financial statement level and the assertion level, and that auditors design and perform audit procedures in a manner that addresses the risks of material misstatement for each relevant assertion of each significant account and disclosure.[6]

7. When an auditor relies on the work of a specialist, PCAOB standards require the auditor to "consider the . . . qualifications of the specialist in determining that the specialist possesses the necessary skill or knowledge in the particular field" and conduct "appropriate tests of data provided to the specialist."[7]

8. PCAOB standards further require that the auditor test an issuer's fair value measurements and disclosures. In doing so, the auditor should evaluate whether (1) "[m]anagement's assumptions are reasonable and reflect, or are not inconsistent with, market information," (2) "[t]he fair value measurement was determined using an appropriate model," and (3) "[m]anagement used relevant information that was reasonably available at the time."[8]

9. PCAOB standards also require that the auditor evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework. In doing so, "the auditor should evaluate

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[5] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; and Auditing Standard No. 15, *Audit Evidence* ("AS 15").

[6] See Auditing Standard No. 9, *Audit Planning* ("AS 9"), ¶ 4; Auditing Standard No. 12, *Identifying and Assessing the Risks of Material Misstatement* ("AS 12"), ¶ 59; Auditing Standard No. 13, *The Auditor's Response to the Risks of Material Misstatement* ("AS 13"), ¶ 8; and AS 15 ¶¶ 4-6.

[7] AU §§ 336.08-.09, .12, *Using the Work of a Specialist*.

[8] AU § 328.26, *Auditing Fair Value Measurements and Disclosures*. For purposes of AU § 328, management's assumptions include assumptions developed by a specialist engaged or employed by management. See AU § 328.05 n.2.

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whether the financial statements contain the information essential for a fair presentation of the financial statements."[9]

10. As detailed below, Beckstead failed to comply with these PCAOB standards in connection with the audit of the December 31, 2011 financial statements of WebXU, Inc.

11. WebXU was, at all relevant times, a Delaware corporation headquartered in Los Angeles, California. WebXU's public filings disclosed that it was a media company engaged in developing high-value branded websites to service consumers for products and services. During the relevant period, its common stock was registered under Section 12(g) of the Securities Exchange Act of 1934 and was quoted on the OTC Bulletin Board.[10] At all relevant times, WebXU was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

12. L.L. Bradford became the auditor for WebXU on December 5, 2011. L.L. Bradford audited WebXU's financial statements for the year ended December 31, 2011, and issued an audit report containing an unqualified opinion dated April 9, 2012, which was included in WebXU's Form 10-K filed with the Commission on April 9, 2012. The audit report stated that, in L.L. Bradford's opinion, WebXU's financial statements presented fairly, in all material respects, the issuer's financial position in conformity with U.S. generally accepted accounting principles ("GAAP") and that L.L. Bradford's audit was performed in accordance with PCAOB standards. Beckstead served as the engagement partner on the 2011 audit of WebXU and authorized the issuance of L.L. Bradford's audit report.

13. Beckstead failed to comply with PCAOB standards in connection with the 2011 audit of WebXU. During audit planning, Beckstead failed to identify and assess the risks of material misstatement at the financial statement and assertion level. Beckstead's assessment of risk was limited to assessing inherent risk, control risk, and

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[9] Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), ¶¶ 30-31.

[10] On June 5, 2014, the Commission temporarily suspended trading in WebXU's securities due to "questions that have been raised about the accuracy and adequacy of publicly disseminated information concerning, among other things, the company's finances." SEC, Exchange Act Release No. 72323. On December 18, 2014, the Commission revoked the registration of WebXU's securities due to the issuer's failure to file periodic reports with the Commission since its December 31, 2012 Form 10-K. SEC, Exchange Act Release No. 73869.

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audit risk. The risks of material misstatement were not properly assessed. Furthermore, Beckstead's risk assessment was performed at a level of aggregation above that permitted by PCAOB standards.[11] For example, Beckstead assessed risk on all assets collectively. A similar approach was taken with liabilities. As a result, cash carried the same risk assessment as goodwill (identified in the financial statements as "Investment in Lot6").

14. Because Beckstead failed to properly assess the risks of material misstatement and failed to identify significant risks at the financial statement and assertion level, he also failed to properly establish an overall strategy for the engagement and develop an audit plan that included planned risk assessment procedures and planned responses to the risks of material misstatement. In addition, Beckstead failed to perform audit procedures that addressed the risks of material misstatement.[12]

15. Beckstead also failed to perform appropriate procedures with respect to a significant acquisition WebXU made in 2011. In November 2011, WebXU acquired Lot6 Media LLC ("Lot6"), an affiliate marketing company. Under the terms of the share exchange agreement, purchase consideration included 1,000,000 shares of WebXU common stock, a $5,000,000 note payable, a $1,861,532 working capital note payable, and contingent consideration in the form of an earn-out agreement. In the event WebXU failed to repay or timely repay the notes payable, the share exchange agreement included a penalty provision that required WebXU to issue additional shares to the seller, as well as a right of rescission clause, which gave the seller the right to terminate the acquisition in the event of non-payment. At December 31, 2011, the goodwill WebXU recorded in connection with the acquisition of Lot6 was the largest item on WebXU's balance sheet and constituted nearly two-thirds of total reported assets. By September 30, 2012, less than a year after the acquisition and less than six months after the Firm issued its audit opinion on the December 31, 2011 financial statements, WebXU wrote off the full value of the Lot6 goodwill.

16. As a result of the acquisition of Lot6, Beckstead understood that WebXU retained a specialist to value the assets and liabilities acquired, including any goodwill, as well as the purchase consideration given. Beckstead failed to exercise due professional care and professional skepticism and failed to comply with PCAOB standards on the use of specialists when he failed to evaluate the qualifications and

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[11] See AS 12 ¶ 59.

[12] See AS 9 ¶¶ 4-5; AS 12 ¶ 59; AS 13 ¶¶ 3, 8; and AS 15 ¶¶ 4-6.

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competence of the specialist retained.[13] The work papers contained no evaluation of the specialist. Further, Beckstead acknowledged that he was aware the specialist had no experience valuing affiliate marketing companies, and though he knew the specialist had done other valuations, he did not know how many, or her qualifications for doing valuations in general.

17. In violation of PCAOB standards, Beckstead and the engagement team also failed to perform sufficient procedures to test the valuation of purchase consideration.[14] Specifically, Beckstead and the engagement team failed to evaluate the reasonableness of the significant assumptions used by the issuer and its specialist to determine the fair value of shares and notes payable issued in connection with the acquisition.[15] In particular, neither Beckstead nor anyone else on the engagement team properly evaluated the reasonableness of the share price used to value the restricted common stock given as consideration. Beckstead and the engagement team also failed to test the imputed interest rate applied to the notes payable issued as part of the purchase consideration.

18. Finally, Beckstead and the engagement team failed to test data provided to the specialist by the issuer and properly evaluate whether the specialist's findings supported the related financial statement assertions.[16] Beckstead and the engagement team failed to test the data utilized by the valuation specialist to assess the probability of triggering the earn-out targets included as part of purchase consideration. Specifically, there is no indication as to how, if at all, Beckstead or the engagement team tested the Lot6 historical growth rates utilized by the specialist. The valuation report included historical information for 2009 and 2010, as well as each of the quarters in 2011; however, Beckstead acknowledged that the engagement team did not perform procedures to test the financial information for the year ended December 31, 2009, and there are no work papers indicating that L.L. Bradford audited the financial information for the year ended 2011 or the quarters therein.

19. In violation of PCAOB standards, Beckstead also failed to evaluate the adequacy of WebXU's disclosure of the terms of the Lot6 acquisition in the financial

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[13] See AU § 150.02; AU § 230; AU §§ 336.08-09.

[14] See AU §§ 328.05 n.2, 328.23.

[15] See AU § 328.28.

[16] See AU § 336.12.

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statements.[17] The share exchange agreement with Lot6 included: (a) a right of rescission clause in the event WebXU failed to timely repay notes payable issued in connection with the acquisition and (b) penalties for late or non-payment of the notes payable. At the time the financial statements and audit opinion were issued, Beckstead was aware that WebXU had triggered the penalties clause because WebXU failed to make any payments on the notes payable and that WebXU was actively considering whether to service the notes payable or walk away from the transaction. WebXU did not disclose in its 2011 financial statements or the notes thereto the right of rescission or the penalty provision. Despite the significance of Lot6 to WebXU's financial condition, Beckstead failed to evaluate the need for WebXU to disclose those terms of the Lot6 acquisition, in violation of PCAOB standards.[18]

20. Beckstead also failed to perform, or direct the engagement team to perform, sufficient audit procedures to test WebXU's reported revenue.[19] Specifically, Beckstead and the engagement team failed to evaluate whether revenues recognized by Lot6 satisfied the relevant revenue recognition criteria. As of December 31, 2011, Lot6 had been a subsidiary of WebXU for less than two months but contributed 32% of WebXU's total reported revenues for the year. Despite the significance of Lot6 revenue, Beckstead and the engagement team failed to: (1) test the completeness of the population from which the selected revenue transactions were chosen by, for example, failing to reconcile the population to the issuer's general ledger; (2) obtain, understand, and evaluate customer contracts to determine whether the issuer's recognition of revenue was in accordance with GAAP; and (3) perform cutoff procedures on Lot6 revenues to test whether revenue was recognized in the correct period.

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[17] See AS 14 ¶¶ 30-31.

[18] See id.

[19] See AS 15 ¶¶ 4-6. PCAOB standards explain that an auditor "should presume that there is a fraud risk involving improper revenue recognition and evaluate which types of revenue, revenue transactions, or assertions may give rise to such risks." AS 12 ¶ 68. PCAOB standards further provide that, "[f]or significant risks, the auditor should perform substantive procedures, including tests of details, that are specifically responsive to the assessed risks." AS 13 ¶ 11.

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D. Beckstead Violated PCAOB Standards in Connection with the 2012 WebXU Review

21. In performing a review of interim financial information, if an accountant becomes aware of information that causes the accountant to believe that the interim financial information may not be in conformity with GAAP, PCAOB standards require that the accountant "make additional inquiries or perform other procedures . . . to provide a basis for communicating whether he or she is aware of any material modifications that should be made to the interim financial information."[20] If an accountant is unable to perform procedures he or she considers necessary to achieve the objective of a review, the review is incomplete.[21] The inability to complete the review, as well as any material modification that should be made to the financial information for it to be in conformity with GAAP, should be communicated to management, and if management does not respond appropriately, those matters should be communicated to the issuer's audit committee.[22] The accountant is also required to communicate certain other items to the audit committee, including issues relating to sensitive accounting estimates and adjustments that could have a significant effect on the financial statements.[23]

22. As detailed below, Beckstead failed to comply with these PCAOB standards in connection with the review of the June 30, 2012 financial statements of WebXU.

23. On August 21, 2012, WebXU filed its Form 10-Q with the Commission. Included in the Form 10-Q was an explanatory note that stated that the auditors had failed to complete the required field work and review of WebXU's filing due to technical problems with the auditor's email system. Beckstead, aware that WebXU had filed before the completion of its review, discussed with the engagement quality reviewer for the audit whether WebXU would need to file an amended Form 10-Q once the review was complete, but took no further action and continued the review.

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[20] AU § 722.22*, Interim Financial Information*.

[21] AU § 722.28.

[22] AU §§ 722.28-.30.

[23] AU § 722.34.

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24. On September 25, 2012, more than a month after WebXU filed its Form 10-Q, Beckstead and other members of the engagement team signed the Completion Document and the Supervision, Review, and Approval Form indicating that L.L. Bradford had completed the quarterly review. The next day, Beckstead sent an email to WebXU stating: "Just so everyone is on the same page here, we are still analyzing the goodwill impairment for the quarter ended 6/30/2012 . . . In other words, the quarter is still not final. In the event that the adjustment to the impairment write-down is deemed material, a restatement of the financials and an amended 10Q will need to be filed."

25. As part of its review procedures, the engagement team identified a likely misstatement of goodwill impairment of more than $2 million, an amount that was material to the financial statements, but the team understood that it needed to do more work to conclude. The engagement team did not complete its additional inquiries and procedures prior to signing off on the quarterly review. According to other email communications among Beckstead, the engagement quality reviewer, and the engagement manager, the engagement team was still assessing in October 2012 whether the second quarter impairment charge taken by WebXU was misstated. Although Beckstead was aware of the potential impact of the likely misstatement, the amount of the likely misstatement was not discussed with management or the audit committee. Beckstead and the engagement team never completed their additional inquiries and review procedures related to goodwill impairment.

26. By failing to complete procedures "necessary to achieve the objective of a review of financial information, . . . the review [was] incomplete."[24] Because Beckstead failed to make the appropriate communications to management and the audit committee regarding L.L. Bradford's inability to complete the review, he violated PCAOB standards.[25]

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[24] See AU § 722.28.

[25] Id.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Gordon Brad Beckstead is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Gordon Brad Beckstead is suspended for one (1) year from the date of this Order from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[26]

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(3), for one (1) year following the termination of the suspension ordered in paragraph B, Gordon Brad Beckstead's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Beckstead shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's Auditing Standard No. 10, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's Auditing Standard No. 7, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); or (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public

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[26] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Beckstead. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; and

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Gordon Brad Beckstead is required to complete, within one (1) year from the date of the issuance of this Order, forty (40) hours of continuing professional education ("CPE") in subjects that are directly related to the audits of issuer financial statements under PCAOB standards (such hours shall be in addition to, and shall not be counted in, the CPE he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 1, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Suzanne M. Herring*, *Respondent.*	PCAOB Release No. 105-2015-008 April 1, 2015

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Suzanne M. Herring ("Respondent" or "Herring"), barring her from being an associated person of a registered public accounting firm, and imposing on her a civil money penalty in the amount of $5,000.[1] The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB rules and auditing standards, as well as Section 10A(g) of the Securities Exchange Act of 1934 ("Exchange Act") and Exchange Act Rule 10A-2 concerning auditor independence, in connection with the audits of two issuers.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over her and the subject matter of these proceedings, which is admitted, Respondent

[1] Herring may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. Suzanne M. Herring, age 49 of Las Vegas, Nevada, is a principal with the registered public accounting firm, L.L. Bradford & Company, LLC ("L.L. Bradford"), a position she has held since January 2013. From February 2008 until January 2013, Herring worked as an audit staff person for another registered public accounting firm, Samyn & Martin, LLC ("Samyn & Martin"). At all relevant times, Herring was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Herring's violations of PCAOB rules and auditing standards that require a registered public accounting firm and its associated persons to be independent of the firm's issuer audit clients throughout the relevant audit and professional engagement periods, as well as Herring's violations of Section 10A(g) of the Exchange Act and Exchange Act Rule 10A-2 concerning auditor independence. When Herring was an associated person of Samyn & Martin, she was not independent with respect to two of Samyn & Martin's issuer audit clients because she: (1) provided bookkeeping and financial statement preparation work for one of those issuers, Decision Diagnostics Corp. ("Decision Diagnostics"), during the audit period for which she served on the audit engagement team; and (2) provided derivative accounting and valuation

[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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services for the other issuer, American Petro-Hunter, Inc. ("APH"), during the audit and professional engagement period for which she was a member of the audit engagement team.[4]

3. This matter also concerns Herring's violation of the PCAOB rule that prohibits an associated person from directly and substantially contributing to a registered public accounting firm's violation of, among other things, relevant independence requirements.[5] Specifically, when Herring joined L.L. Bradford in January 2013, she solicited Decision Diagnostics to engage L.L. Bradford as its external auditor. In connection with the retention of L.L. Bradford to audit Decision Diagnostics' December 31, 2012 financial statements, Herring, on behalf of L.L. Bradford, established the terms of the engagement. In addition, Herring served as a senior member of L.L. Bradford's engagement team for the audit, was responsible for decision-making on significant auditing matters, and was the engagement team member who maintained contact with Decision Diagnostics' management during the audit. At the time Herring took those actions, she was aware that another audit principal at L.L. Bradford had provided prohibited bookkeeping and financial statement preparation services to Decision Diagnostics during the audit period. As a result of the L.L. Bradford audit principal providing those prohibited non-audit services, L.L. Bradford was not independent of Decision Diagnostics during the audit of the company's December 31, 2012 financial statements. Through her actions, Herring directly and substantially contributed to L.L. Bradford's violation of applicable independence requirements, in violation of PCAOB Rule 3502.

C. Respondent Violated PCAOB Rules and Auditing Standards and the Exchange Act

4. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[6] A registered public accounting firm or associated person's independence obligation with respect to an audit client that is an

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[4] See Section 10A(g) of the Exchange Act; Exchange Act Rule 10A-2, *Auditor Independence*; PCAOB Rule 3520, *Auditor Independence*; and AU §§ 220.01-02, *Independence*.

[5] See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations.*

[6] See PCAOB Rule 3520; see also AU §§ 220.01-02.

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issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Securities and Exchange Commission ("Commission") under the federal securities laws.[7]

5. Section 10A(g) of the Exchange Act provides that it shall be unlawful for a registered public accounting firm that performs an audit for an issuer "to provide to that issuer, contemporaneously with the audit, any non-audit service, including . . . [b]ookkeeping or other services related to the accounting records or financial statements of the audit client" and "[a]ppraisal or valuation services."

6. Exchange Act Rule 10A-2 states that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the prohibited non-audit services provisions of Commission Regulation S-X. Rule 2-01 of Regulation S-X provides that an accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides certain non-audit services for an audit client, including bookkeeping and financial statement preparation services and appraisal or valuation services.[8]

7. As described below, Herring failed to comply with PCAOB rules and auditing standards, the Exchange Act, and Exchange Act rules in connection with Samyn & Martin's audits of Decision Diagnostics 2011 financial statements and APH's 2012 financial statements.

Samyn & Martin's Audit of Decision Diagnostics' 2011 Financial Statements

8. Prior to 2011, Herring was engaged to provide bookkeeping and financial statement preparation services for Decision Diagnostics.[9] In that capacity, Herring

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[7] See PCAOB Rule 3520, Note 1.

[8] 17 C.F.R. §§ 210.2-01(b), (c)(4)(i), (c)(4)(iii).

[9] At all relevant times, Decision Diagnostics (prior to February 9, 2012, known as instaCare Corp.) was a Nevada corporation headquartered in Westlake Village, California. Decision Diagnostics' public filings disclose that it is a nationwide prescription and non-prescription diagnostic and home testing products distributor. Its common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. At all relevant times, Decision Diagnostics was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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prepared journal entries, maintained Decision Diagnostics' accounting records, advised the issuer on generally accepted accounting principles ("GAAP"), and prepared the issuer's financial statements and Forms 10-Q and 10-K that were filed with the Commission. Contemporaneously, Herring worked as a staff person for Samyn & Martin on more than ten audits unrelated to Decision Diagnostics.

9. On August 5, 2011, Decision Diagnostics engaged Samyn & Martin as the issuer's auditor for the year ended December 31, 2011. When Decision Diagnostics engaged Samyn & Martin, Herring ceased providing bookkeeping and financial statement preparation services for Decision Diagnostics and joined the 2011 audit engagement team for Samyn & Martin. During Samyn & Martin's audit of Decision Diagnostics' fiscal year 2011 financial statements, Herring audited accounting records that she had previously prepared and that reflected accounting principles she had recommended. In addition, the December 31, 2011 Decision Diagnostics' financial statements that Herring assisted in auditing were based, at least in part, on the quarterly financial statements that she had previously prepared.

10. Herring violated PCAOB rules and auditing standards, the Exchange Act, and Exchange Act rules because she provided prohibited non-audit services to Decision Diagnostics during the audit period with respect to which she served on the Decision Diagnostics' audit engagement team.[10]

Samyn & Martin's Audit of APH's 2012 Financial Statements

11. Beginning in March 2012, Herring provided accounting and valuation services to APH related to a derivative liability that APH recorded.[11] As of the end of the third quarter of 2012, the derivative liability was the largest liability on APH's balance sheet, representing more than 68% of APH's total reported liabilities. As part of Herring's services for APH, she calculated the value of the derivative liability and related amounts, prepared source data and documents that supported the amounts reflected in

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[10] See Section 10A(g) of the Exchange Act; Exchange Act Rule 10A-2; PCAOB Rule 3520; and AU §§ 220.01-02.

[11] At all relevant times, APH was a Nevada corporation headquartered in Scottsdale, Arizona. APH's public filings disclose that it is an oil and gas exploration and production company. Its common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. At all relevant times, APH was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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the accounting records and financial statements of APH, prepared the journal entries for APH to record in its accounting records, and assisted in the preparation of APH's financial statements and notes thereto.

12. At the time Herring performed those non-audit services for APH, she was also an audit staff person for Samyn & Martin, APH's external auditor. Notwithstanding her performance of accounting and valuation services for APH during 2012, Herring also assisted with Samyn & Martin's quarterly review of APH's September 30, 2012 financial statements. Furthermore, Herring was aware that Samyn & Martin relied upon her accounting and valuation work in performing its quarterly review. Herring continued to provide derivative accounting and valuation services to APH throughout 2012 and into 2013.

13. Herring violated PCAOB rules and auditing standards, the Exchange Act, and Exchange Act rules because she provided prohibited non-audit services to APH contemporaneous with her service on the audit engagement team for APH.[12]

D. Respondent Directly and Substantially Contributed to L.L. Bradford's Violation of PCAOB Rules and the Exchange Act

14. PCAOB rules prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to violations by that firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.[13] As described below, L.L. Bradford failed to comply with Section 10A(g) of the Exchange Act, Exchange Act Rule 10A-2 and PCAOB rules, and Herring directly and substantially contributed to those violations.

15. Shortly after Herring stopped providing bookkeeping and financial statement preparation services to Decision Diagnostics in August 2011, an audit principal at L.L. Bradford ("L.L. Bradford Principal"), succeeded her and provided bookkeeping and financial statement preparation services for Decision Diagnostics through at least December 2012. As part of those services, the L.L. Bradford Principal

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[12] See Section 10A(g) of the Exchange Act; Exchange Act Rule 10A-2; PCAOB Rule 3520; and AU §§ 220.01-02.

[13] PCAOB Rule 3502.

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prepared the first, second, and third quarter 2012 financial statements and Forms 10-Q for Decision Diagnostics.

16. L.L. Bradford was engaged as Decision Diagnostics' external auditor on February 11, 2013 to audit the company's financial statements for the year ended December 31, 2012 (the "2012 Audit"). Herring was on the Decision Diagnostics audit at Samyn & Martin and, when she joined L.L. Bradford, Herring solicited Decision Diagnostics to engage L.L. Bradford as its external auditor. Herring established the terms of 2012 audit engagement with Decision Diagnostics, prepared the engagement letter, and prepared another letter provided to Decision Diagnostics prior to retention concerning independence, as required by PCAOB Rule 3526, *Communication with Audit Committees Concerning Independence*.[14] Herring served as a senior member of the L.L. Bradford audit engagement team for the 2012 Audit and was the primary client contact for L.L. Bradford. In fact, the engagement letter between L.L. Bradford and Decision Diagnostics (erroneously) identified Herring as the engagement partner on the 2012 Audit. At the time L.L. Bradford accepted Decision Diagnostics as an audit client, Herring was aware of the timing and the nature of the services that the L.L. Bradford Principal had provided for Decision Diagnostics during fiscal year 2012. Herring was uniquely aware of the nature and timing of the L.L. Bradford Principal's services because she had provided the same services to Decision Diagnostics and had transitioned her duties to the L.L. Bradford Principal.

17. During the 2012 Audit, L.L. Bradford performed audit procedures on the underlying accounting records of the issuer that were prepared by the L.L. Bradford Principal and that reflected the accounting principles recommended by him. In addition, the December 31, 2012 financial statements that L.L. Bradford audited were based, at least in part, on the quarterly financial statements prepared by the L.L. Bradford Principal. L.L. Bradford issued an unqualified audit report on Decision Diagnostics' financial statements for the year ended December 31, 2012, which was included in the Form 10-K the issuer filed with the Commission on April 16, 2013.

18. As a result of the bookkeeping and financial statement preparation services provided by the L.L. Bradford Principal, L.L. Bradford was not independent of Decision Diagnostics during the fiscal year 2012 audit period, in violation of Section 10A(g) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220. Given her knowledge of the services performed by the L.L. Bradford Principal, her relationship with the issuer, her role in bringing the Decision Diagnostic audit to L.L. Bradford, and her senior role on the Decision Diagnostics engagement team, Herring

[14] *See* paragraphs 19-20, *infra*.

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violated PCAOB Rule 3502 by directly and substantially contributing to the Firm's violation of relevant independence requirements. Specifically, Herring took action knowing, or recklessly not knowing, that her actions would directly and substantially contribute to L.L. Bradford's violations.

19. PCAOB Rule 3526 requires that a registered public accounting firm describe, in writing, to the audit committee of a potential audit client, all relationships between the firm or any affiliates of the firm and the potential audit client that may reasonably be thought to bear on independence. The firm is also required to discuss with the audit committee the potential effects of such relationships should the firm be appointed as the potential audit client's auditor and to document the substance of such discussion.

20. On January 21, 2013, contemporaneous with accepting the Decision Diagnostics engagement, Herring prepared and L.L. Bradford issued a letter to Decision Diagnostics pursuant to PCAOB Rule 3526. In violation of Rule 3526, however, that letter failed to disclose the bookkeeping and financial statement preparation services provided by the L.L. Bradford Principal. Also in violation of Rule 3526, L.L. Bradford failed to discuss with the Decision Diagnostics audit committee the potential impact of those services on L.L. Bradford's independence. Herring violated PCAOB Rule 3502 by taking action, knowing, or recklessly not knowing, that her preparation of the Rule 3526 letter would directly and substantially contribute to L.L. Bradford's violations.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Herring's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Suzanne M. Herring is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Suzanne M. Herring is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[15]

[15] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Herring. Section 105(c)(7)(B) provides: "It shall be

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ORDER

C. After two (2) years from the date of this Order, Suzanne M. Herring may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $5,000 is imposed upon Suzanne M. Herring. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Suzanne M. Herring shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies Suzanne M. Herring as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 1, 2015

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unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Ronald R. Chadwick, P.C. and Ronald R. Chadwick, CPA,* Respondents.	PCAOB Release No. 105-2015-009 April 28, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Ronald R. Chadwick, P.C. (the "Firm"), and Ronald R. Chadwick, CPA ("Chadwick"), revoking the registration of the Firm,[1] and barring Chadwick from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the Firm and Chadwick (collectively, "Respondents") on the basis of its findings that Respondents violated PCAOB rules and auditing standards in connection with the audits of the financial statements of five (5) issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party,

[1] The Firm may reapply for registration after three (3) years from the date of this Order.

[2] Chadwick may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

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and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. Ronald R. Chadwick, P.C. is a registered public accounting firm located in Aurora, Colorado. The Firm is licensed by the state of Colorado (License No. FRM.0006687). Chadwick is the sole proprietor of the Firm. The Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB Rules since 2003.

2. Ronald R. Chadwick, CPA, 59, is a resident of Aurora, Colorado. Chadwick is a certified public accountant licensed by the state of Colorado (License No. CPA.0014681). He was the engagement partner for the Firm's audits of the financial statements of the five (5) issuers discussed below and authorized the issuance of the Firm's audit reports on those financial statements. Chadwick is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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B. Summary

3. This matter concerns Respondents' numerous and repeated violations of PCAOB rules and standards in connection with the issuance of audit reports on the financial statements of five (5) issuers in 2011 or 2012 (collectively, the "Audits").[5]

4. Further, Respondents, among other things, repeatedly: (1) failed to plan and perform audit work sufficiently; (2) failed to exercise sufficient due professional care and professional skepticism in connection with the Audits; (3) failed to identify and assess the risk of fraud in planning several of the Audits; (4) failed to properly identify and assess audit risk, including the risk of material misstatement; (5) failed to appropriately evaluate the results of the Audits to determine whether the audit evidence obtained was sufficient and appropriate; (6) failed to obtain sufficient and appropriate audit evidence in support of the Firm's audit opinions; and (7) improperly authorized the issuance of the Firm's audit reports which incorrectly stated that the Firm had conducted those Audits in accordance with PCAOB standards.

5. Finally, in connection with two of the Audits, Respondents violated PCAOB standards by adding information to the audit work papers after the documentation completion date without indicating the date such information was added, the name of the person who added it, and the reason for adding such information months after the documentation completion date.

C. Respondents Violated PCAOB Rules and Auditing Standards In Connection with the Audits

6. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] Under PCAOB auditing standards, an auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed that opinion on the

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[5] Specifically, the Audits consist of Respondents' audits of: (1) Hinto Energy, Inc. ("Hinto") for fiscal year ended December 31, 2011; (2) Medina International Holdings, Inc. ("Medina") for fiscal year ended April 30, 2012; (3) maniaTV, Inc. ("maniaTV") for fiscal year ended December 31, 2012; (4) RD&G Holdings Corporation ("RD&G") for fiscal year ended December 31, 2012; and (5) TransBiotec, Inc. ("TransBiotec") for fiscal year ended December 31, 2012.

[6] See PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards*; 3200T, *Interim Auditing Standards*.

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basis of an audit performed in accordance with PCAOB standards.[7] Those standards state that "[t]he objective of the auditor is to conduct the audit of financial statements in a manner that reduces audit risk to an appropriately low level."[8] Auditors are required to "plan the audit so that the audit is conducted effectively,"[9] exercise due professional care and professional skepticism,[10] and "obtain appropriate audit evidence that is sufficient to support the opinion expressed in the auditor's report."[11]

7. Further, PCAOB standards require an auditor to "perform risk assessment procedures that are sufficient to provide a reasonable basis for identifying and assessing the risks of material misstatement, whether due to error or fraud, and designing further audit procedures."[12] In order to address the risks of material misstatement, the auditor must design and implement audit responses that address those risks that were identified and assessed.[13] PCAOB standards also provide that "'[t]he auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud.'"[14] PCAOB standards also provide that "[t]he

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[7] See AU § 508.07, *Reports on Audited Financial Statements*. All references to PCAOB standards in this Order are to the versions of those standards in effect for the Audits.

[8] Auditing Standard No. 8, *Audit Risk* ("AS 8"), ¶ 2.

[9] Auditing Standard No. 9, *Audit Planning* ("AS 9"), ¶ 2.

[10] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*.

[11] Auditing Standard No. 15, *Audit Evidence* ("AS 15"), ¶ 3.

[12] Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"), ¶ 4.

[13] See Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"), ¶ 3.

[14] AU § 316.01, *Consideration of Fraud in a Financial Statement Audit* (quoting AU § 110.02, *Responsibilities and Functions of the Independent Auditor*). PCAOB standards explain that "[t]wo types of misstatements are relevant to the auditor's consideration of fraud—misstatements arising from fraudulent financial reporting and misstatements arising from misappropriation of assets." AU § 316.06.

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auditor's assessment of the risks of material misstatement, including fraud risks, should continue throughout the audit. When the auditor obtains audit evidence during the course of the audit that contradicts the audit evidence on which the auditor originally based his or her risk assessment, the auditor should revise the risk assessment and modify planned audit procedures or perform additional procedures in response to the revised risk assessments."[15]

8. Under PCAOB standards "[t]he auditor neither assumes that management is dishonest nor assumes unquestioned honesty. In exercising professional skepticism, the auditor should not be satisfied with less than persuasive evidence because of a belief that management is honest."[16] Further, "[i]n forming an opinion on whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework, the auditor should take into account all relevant audit evidence, regardless of whether it appears to corroborate or to contradict the assertions in the financial statements."[17] Although management representations "are part of the evidential matter the independent auditor obtains, … they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[18] Moreover, if a management representation "is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made. Based on the circumstances, the auditor should consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified."[19]

9. In the case of "significant transactions that are outside the normal course of business for the entity [under audit], or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment," the auditor "should gain an understanding of the business rationale for such transactions and whether that rationale (or the lack thereof) suggests that the transactions may have been entered into to engage in fraudulent financial reporting or conceal misappropriation of

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15 AS 12 ¶ 74.

16 AU § 230.09.

17 Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), ¶ 3.

18 AU § 333.02, *Management Representations*.

19 AU § 333.04.

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assets."[20] PCAOB standards further provide that, "[i]n understanding the business rationale for the transactions, the auditor should consider [among other things] … "[w]hether the transactions involve previously unidentified related parties …," and "[w]hether management is placing more emphasis on the need for a particular accounting treatment than on the underlying economics of the transaction."[21]

10. PCAOB standards also require an auditor to obtain satisfaction concerning the purpose, nature, and extent of material transactions involving related parties, through the performance of procedures that extend beyond inquiry of management.[22] In addition, PCAOB standards require the auditor to evaluate the information available concerning material related party transactions in order to satisfy the auditor that they have been adequately disclosed in the financial statements.[23]

11. Additionally, PCAOB standards provide that information may be added to the audit documentation after the deadline for assembling a complete and final set of audit documentation (the "documentation completion date"); however, any information added must indicate: (a) the date the information was added; (b) the name of the person who prepared the additional documentation; and (c) the reason for adding it.[24]

12. As detailed below, Respondents failed to comply with the aforementioned rules and standards , among others, in connection with the Audits.

Violations Relating to the Audit of Hinto's 2011 Financial Statements

13. Hinto was, at all relevant times, a Wyoming corporation with its principal office located in Arvada, Colorado. Hinto's public filings disclose that it is a company that engages in the acquisition, exploration, and development of oil and gas prospects in the Rocky Mountain region. In 2011, Hinto was required to file reports under Section 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act"). Hinto's common

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[20] AU § 316.66.

[21] AU § 316.67; see also AU § 334.06, *Related Parties.*

[22] See AU § 334.09.

[23] AU § 334.11.

[24] Auditing Standard No. 3, *Audit Documentation* ("AS 3"), ¶ 16; see id. ¶ 15 (defining documentation completion date as "a date not more than 45 days after the report release date").

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stock is quoted Over The Counter ("OTC") on the pink sheets under the ticker symbol "HENI." At all relevant times, Hinto was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

14. The Firm audited Hinto's financial statements for the year ended December 31, 2011, and issued an audit report containing an unqualified opinion dated March 30, 2012, which included going concern explanatory language regarding those financial statements (the "Hinto Audit"). The audit report was included in a Form 10-K filed by Hinto with the U.S. Securities and Exchange Commission (the "Commission") on April 13, 2012.

15. Respondents failed to plan and perform the Hinto Audit to obtain reasonable assurance about whether Hinto's financial statements were free of material misstatement, whether caused by error or fraud.[25] In addition, Respondents failed to exercise due professional care and professional skepticism in connection with the Audit.[26] Specifically, despite several red flags, Respondents failed to obtain an understanding of the business rationale for a series of significant unusual transactions involving a party related to Hinto,[27] and failed to evaluate whether those related party transactions were adequately disclosed in the financial statements.[28]

16. Hinto's periodic filings and Respondents' work papers indicate that, during the fourth quarter of 2011, Hinto raised approximately $710,000 in cash proceeds from the sale of Hinto stock in a private placement and from the issuance of a convertible note payable (the "Convertible Note").[29] Respondents' work papers indicate that, during that same quarter, Hinto (a) advanced approximately one-third of those cash proceeds, $239,000, to its majority shareholder; (b) recorded the advance as an "inter-company receivable;" and then (c) fully impaired the "inter-company receivable." The impairment represented approximately 69% of Hinto's net loss for the year ended December 31, 2011.

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[25] See AU § 316.01.

[26] See, e.g., AU § 230.

[27] See AU § 316.66.

[28] See AU § 334.11; see also AS 14 ¶¶ 30-31; AS 15 ¶ 4.

[29] See Hinto 2011 Form 10-K (filed April 13, 2012), at F-5, see also Hinto September 30, 2011 Form 10-Q (filed October 31, 2011), at F-4.

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17. During the Hinto Audit, Respondents performed a review of bank statements and inquiries of management.[30] But they failed to obtain a sufficient understanding of the business rationale for Hinto's cash advances to its majority shareholder, a related party.[31] They also failed to obtain sufficient appropriate audit evidence concerning Hinto's decision to impair almost immediately the related-party receivable arising from the cash advances.

18. In addition, Respondents failed to obtain sufficient appropriate audit evidence concerning the entity to which some of the cash was actually paid. Specifically, although Respondents' work papers list Hinto's majority shareholder as the recipient of the entire $239,000 in cash, the work papers also indicate that $100,000 of that amount was actually paid to another party. However, Respondents failed to gain an understanding of who that other party was and its relationship with Hinto and its majority shareholder.[32]

19. Furthermore, Respondents failed to perform procedures to provide a basis to evaluate whether Hinto's related party transactions were adequately disclosed in the financial statements as required by U.S. generally accepted accounting principles ("GAAP").[33] For example, the only place that Hinto disclosed the cash advances and subsequent impairment in its financial statements were in two financial statement line items: "impairment of intercompany receivable" on the statements of operations; and "increase in advances to parent company" on the statement of cash flows.

20. Finally, during the Hinto Audit, Respondents also failed to obtain sufficient appropriate audit evidence to support Hinto's accounting for the Convertible Note it had issued in the fourth quarter.[34] According to Respondents' work papers, the

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[30] See AU §§ 333.02, .04; AU §§ 334.09-.10; see also AS 13 ¶ 39 (inquiry alone does not provide sufficient appropriate evidence to support a conclusion about a relevant assertion).

[31] See AU §§ 316.66-67; AU §§ 334.09a, .11.

[32] See AU § 316.66; AU § 334.09; AS 15 ¶ 4.

[33] See AU § 334.11; AS 14 ¶ 30-31; see also FASB ASC Subtopic 850-10-50, *Related Party Transactions* (disclosures of material related party transactions shall include such other information deemed necessary to an understanding of the effects of the transactions on the financial statements).

[34] The Convertible Note represented approximately 87% of Hinto's total reported liabilities at December 31, 2011.

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Convertible Note contained a feature that allowed the note to be converted to Hinto's common stock at $1 per share. Respondents relied on a management representation that the conversion feature was not "in-the-money" and required no separate valuation. According to Chadwick, Hinto management represented that, for purposes of determining whether the note's conversion feature was beneficial, it was appropriate to value Hinto's common stock at $0.50 per share based on recent cash sales in private placements. Without performing any other procedures, Respondents inappropriately accepted management's representation that Hinto's common stock should be valued at $0.50 per share.[35] They did so despite Chadwick's understanding that private placement sales can occur at a discount, and notwithstanding contradictory audit evidence,[36] including: (1) Hinto's publicly available $1.50 per share price, which was documented in Respondents' audit work papers; and (2) Hinto's disclosed high/low share price, which ranged from $1.75 per share to $1.50 per share for the quarter ended December 31, 2011, a valuation that was at least 50 percent higher per share than the valuation Respondents indicated management had used.[37]

Violations Relating to the Audit of Medina's Fiscal Year 2012 Financial Statements

21. Medina was, at all relevant times, a Colorado corporation with its principal offices located in Corona, California. According to Medina's fiscal year 2012 Form 10-K, the company's business plan focuses on rescue, emergency, defense and recreational watercraft manufacturing through its wholly owned subsidiary, Harbor Guard Boats, Inc. Medina's common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board under the ticker symbol "MIHI." At all relevant times, Medina was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

22. The Firm audited Medina's financial statements for the fiscal year ended April 30, 2012, and issued an audit report containing an unqualified opinion dated July 26, 2012, which included going concern explanatory language regarding those financial statements (the "Medina Audit"). The audit report was included in a Form 10-K filed by Medina with the Commission on August 14, 2012.

23. For the Medina Audit, Respondents failed to plan and perform audit procedures sufficient to identify and appropriately address departures from GAAP

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35 See AU §§ 333.02, .04; see also AS 13 ¶ 39.

36 See AS 14 ¶ 3; AS 15 ¶ 29.

37 See Hinto 2011 Form 10-K, at 19 (Item 5).

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concerning discontinued operations.[38] Respondents also failed to identify and appropriately assess the risks of material misstatement.[39] Respondents further failed to appropriately evaluate several significant unusual transactions and whether Medina had appropriately disclosed all material related party transactions. All of those failures related to a significant acquisition that Medina disclosed it had entered into during fiscal year 2012, but then dissolved prior to the end of the fiscal year.

24. Specifically, in its fiscal year 2012 Form 10-K, Medina disclosed that, on June 28, 2011, the company had entered into a Contribution and Exchange Agreement (the "Acquisition") with WinTec Protective Systems, Inc., ("WinTec"), whereby Medina acquired "51% of the issued and outstanding common stock of WinTec, making WinTec a subsidiary of the company."[40] Medina consolidated the results of operations and financial position of WinTec in its interim financial statements, during each of the quarterly periods ending July 30, 2011, October 31, 2011, and January 31, 2012.[41]

25. However, at Medina's fiscal year-end (April 30, 2012), Medina did not consolidate WinTec's results and financial position. Instead, Medina disclosed in its 2012 Form 10-K that, on March 28, 2012, it had entered into a Settlement Agreement and Mutual Release ("Release") with WinTec and another entity.[42] According to Medina's disclosure, all "agreements entered into in 2011 [were] terminated and cancelled effective immediately…. As a result of the termination, WinTec is no longer a subsidiary of the Company."[43] Respondents understood that as a result of the Release, Medina derecognized WinTec's operating results, assets and liabilities from its consolidated financial statements.

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[38] See AS 12 ¶¶ 12-13; AS 14 ¶¶ 30-31.

[39] See, e.g., AS 12 ¶¶ 4, 67.

[40] Medina 2012 Form 10-K (filed August 14, 2012), at 2.

[41] See Medina Form 10-Q (Q1) (filed September 16, 2011), at F-8; Medina Form 10-Q (Q2) (filed December 8, 2011), at F-8; and Medina Form 10-Q (Q3) (filed March 19, 2012), at F-8.

[42] Medina 2012 Form 10-K, at 3.

[43] Id.

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26. PCAOB standards required Respondents to evaluate whether Medina's financial statements were presented fairly, in all material respects, in conformity with GAAP.[44] Under GAAP, Medina should have (1) included the operating results of WinTec in its audited consolidated financial statements as discontinued operations for the year under audit;[45] (2) recognized a gain or loss as a result of derecognizing the acquired company;[46] and (3) included disclosures related to the Release and discontinued operations in the notes to its financial statements.[47] Medina's failure to do so constituted departures from GAAP, and Respondents should have identified and addressed those departures.[48]

27. Respondents also failed to exercise due professional care and professional skepticism and failed to obtain sufficient appropriate audit evidence in connection with the Medina Audit.[49] In particular, Respondents failed to obtain a sufficient understanding of the business rationale for the Release, which was a significant unusual transaction in that it involved the dissolution of a recently completed acquisition and included another entity that was not a party to the original acquisition agreement, a copy of which was included in Respondents' work papers.[50] During the Medina Audit, Respondents failed to take any steps to understand the other

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[44] See AS 14 ¶ 30.

[45] See FASB ASC Subtopic 205-20-45, *Presentation of Financial Statements*.

[46] See FASB ASC Subtopic 810-10-40, *Consolidation*.

[47] See FASB ASC Subtopic 205-20-50 and FASB ASC Topic 810.

[48] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Commission has considered or made any determination concerning the issuer's compliance with GAAP.

[49] See, e.g., AU § 230; AS 15 ¶ 4.

[50] See AU § 316.66-67; AU § 334.09-.10.

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entity's relationship to Medina or WinTec or the reason for that entity's inclusion in the Release. Respondents failed to do so, despite including in their work papers minutes from a meeting of Medina's Board of Directors indicating that Medina may have entered into the Release due to litigation threats made by the other entity.

28. Respondents also failed to appropriately evaluate other significant unusual transactions that Medina entered into during 2012. Specifically, subsequent to the WinTec Acquisition, Medina advanced approximately $237,000 in cash to WinTec and recorded the advances as "intercompany receivables."[51] At the time of the Release, Medina converted the entire intercompany receivable balance into a two-year note. Shortly thereafter, however, Medina reserved for the full amount of that note (based on an audit adjustment proposed by Respondents). Also upon Release, Medina executed a business consulting agreement with the president of WinTec in exchange for 500,000 shares of Medina's common stock.

29. Respondents failed to take steps to obtain a sufficient understanding of (1) the business rationale for Medina's consulting agreement with WinTec, and (2) the transactions surrounding the two-year note from WinTec before they proposed the audit adjustment that led to the write-off of the note.[52] Moreover, Respondents failed to evaluate whether Medina should have disclosed any or all of the transactions with WinTec as material related party transactions in its 2012 financial statements.[53]

Violations Relating to the Audit of maniaTV's 2012 Financial Statements

30. maniaTV is, and at all relevant times, was, a Colorado corporation with its principal offices in West Hollywood, California. maniaTV filed a Form S-1 registration statement for the offering of its common stock on December 5, 2012, and subsequently filed amended Forms S-1/A on January 23, 2013, April 5, 2013, and May

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[51] In its quarterly financial statements filed with the Commission, Medina disclosed that all intercompany balances were eliminated in consolidation. See, e.g., Medina Form 10-Q (Q3) (filed March 19, 2012), at F-8.

[52] See AU §§ 316.66-.67; AU § 334.09-.10.

[53] See AU § 334.11; AS 14 ¶¶ 30-31. See also FASB ASC Topic 850 (Financial statements shall include disclosures of material related party transactions. The disclosures shall include, among other things, the nature of the relationship(s) involved, a description of the transactions, and such other information deemed necessary to an understanding of the effects of the transactions on the financial statements.).

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9, 2013. The Firm issued its consent to include its audit reports in each of maniaTV's Forms S-1/A. maniaTV's registration statement became effective on May 13, 2013, which required the company to file reports under Section 15(d) of the Exchange Act. maniaTV is pending listing on the OTC Bulletin Board. According to its filings, maniaTV provides a library of shows for online and application-based viewing by consumers. At all relevant times, maniaTV was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

31. The Firm audited maniaTV's financial statements for the year ended December 31 2012, and issued an audit report containing an unqualified audit opinion on March 25, 2013 (the "maniaTV Audit"). The audit report was included in the above-described Form S-1 and Forms S-1/A maniaTV filed with the Commission.

32. Respondents failed to exercise due professional care and professional skepticism and failed to obtain sufficient appropriate audit evidence in connection with the maniaTV Audit.[54] In filings with the Commission, maniaTV disclosed that it generates revenue from online advertising agencies and advertising networks to provide advertising on the company's website, and recognizes revenue in accordance with contract terms.[55] maniaTV's reported revenue increased approximately 690% in 2012. Despite that increase and the requirement that auditors should presume that there is a fraud risk involving improper revenue recognition,[56] Respondents did not identify a risk of fraud associated with revenue recognition, nor did the audit work papers document any reasons why a fraud risk was not identified.[57]

33. Additionally, Respondents failed to plan and perform sufficient audit procedures with respect to revenue.[58] Specifically, despite Chadwick's understanding that maniaTV recognized revenue based on contract terms, Respondents did not obtain and review maniaTV's sales contracts. Because respondents did not test controls and performed limited substantive audit procedures for revenue, e.g., they vouched a selection of sales to invoices and cash receipts, they did not obtain sufficient appropriate audit evidence to conclude that (1) persuasive evidence of an

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54 See, e.g., AU § 230; AS 15 ¶ 4.

55 maniaTV Form S-1/A (filed May 9, 2013), at F-8.

56 See AS 12 ¶ 68.

57 See AU § 316.83.

58 See AS 8 ¶ 3; AS 9 ¶ 4; AS 15 ¶ 4.

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arrangement existed between maniaTV and any customers, (2) services had been rendered by maniaTV, and (3) the price of any contract was fixed or determinable. As a result, Respondents failed to appropriately evaluate whether maniaTV recognized revenue in accordance with GAAP.

Violations Relating to the Audit of RD&G's 2012 Financial Statements

34. RD&G is, and at all relevant times was, a Colorado corporation with its principal offices in Englewood, Colorado. RD&G filed a Form S-1 registration statement for the offering of its common stock on July 22, 2013, and subsequently filed amended Forms S-1/A on September 11, 2013, October 17, 2013, November 4, 2013, January 8, 2014, and February 10, 2014. The Commission has not yet declared RD&G's registration effective under the Securities Act of 1933, and RD&G has not withdrawn its registration request. RD&G is pending listing on the OTC Bulletin Board. According to its filings with the Commission, RD&G engages in screen-printing and embroidery services for the promotion products industry. At all relevant times, RD&G was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

35. The Firm audited RD&G's financial statements for the year ended December 31, 2012, and issued an audit report containing an unqualified audit opinion dated June 20, 2013, which included going concern explanatory language regarding those financial statements (the "RD&G Audit"). The Firm issued its consent to include its audit report in each of RD&G's Forms S-1/A.

36. Respondents failed to exercise due professional care and professional skepticism and failed to plan and perform the RD&G Audit in accordance with PCAOB standards.[59] As in the maniaTV Audit, Respondents failed in the RD&G Audit to identify a risk of fraud associated with revenue recognition[60] and failed to document any reasons why a fraud risk was not identified.[61]

37. Respondents also failed to obtain sufficient appropriate audit evidence with respect to accounts receivable.[62] Further, Respondents failed to evaluate

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59 See, e.g., AU § 230.

60 See AS 12 ¶ 68.

61 See AU § 316.83.

62 See AS 15 ¶ 4.

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conditions relating to the assessment of fraud risks.[63] As of December 31, 2012, accounts receivable represented approximately 33% of RD&G's reported total assets. In order to test accounts receivable, Respondents sent accounts receivable confirmation requests, but failed to maintain any records of how accounts were selected for confirmation or how many confirmation requests were sent. The work papers contain a limited number of confirmation responses, but the work papers provide no evidence that Respondents used an appropriate sampling approach for selecting the accounts to be confirmed.[64] Therefore, the responses failed to provide reasonable assurance as to the existence of the entire accounts receivable balance.

38. In addition, one of the confirmation responses received by Respondents was a negative response (the party stated that it did not know who RD&G was). Respondents failed to identify the negative confirmation response as a matter that might affect the assessment of fraud risks and, therefore, failed to evaluate sufficiently the results of the auditing procedures on the RD&G fraud risk assessments and failed to evaluate whether additional audit procedures needed to be performed.[65] Instead, Chadwick viewed the negative response as an "incomplete reply" and failed to re-evaluate the related risk assessments. He also undertook no additional audit procedures or steps with respect to RD&G's accounts receivable.[66]

Violations Relating to the Audit of TransBiotec's 2012 Financial Statements

39. TransBiotec was, at all relevant times, a Delaware corporation with its principal offices in Long Beach, California. According to its filings, TransBiotec is a development stage company in the process of developing an alcohol detection device

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[63] See AS 14 ¶ 28.

[64] PCAOB standards provide that "[s]ample items should be selected in such a way that the sample can be expected to be representative of the population. Therefore, all items in the population should have an opportunity to be selected." See AU § 350.24, *Audit Sampling*; see also AU §350.03.

[65] See AS 14 ¶ 28; see also AS 14, Appendix C, ¶ C1.b(6) (auditors should take into account conflicting or missing evidence, including unusual discrepancies between the company's records and confirmation responses).

[66] See AU § 330.33, *The Confirmation Process*; see also AS 13 ¶ 46; AS 14, ¶ 3 ("In forming an opinion…the auditor should take into account all relevant audit evidence, regardless of whether it appears to corroborate or to contradict the assertions in the financial statements."); AS 15 ¶ 29.

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called "SOBR." TransBiotec's common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board under the symbol "IMLE." At all relevant times, TransBiotec was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

40. The Firm audited TransBiotec's financial statements for the year ended December 31, 2012, and issued an audit report containing an unqualified opinion on April 25, 2013, which included going concern explanatory language regarding those financial statements ("TransBiotec Audit"). The audit report was included in a Form 10-K filed by TransBiotec with the Commission on May 9, 2013.

41. Respondents failed to exercise due professional care and professional skepticism and failed to plan and perform the TransBiotec Audit in accordance with PCAOB standards.[67] Specifically, Respondents failed to plan and perform sufficient procedures to properly evaluate TransBiotec's accounting for the issuance of equity instruments as consideration for services provided.[68] In particular, during the TransBiotec Audit, Respondents failed to obtain sufficient appropriate evidence to evaluate whether TransBiotec had recorded in the proper period expenses for services provided.[69]

42. TransBiotec reported in its 2012 financial statements that it issued approximately 3.8 million shares of common stock for services and recorded additional-paid-in-capital of approximately $2.3 million for those equity transactions. The expenses TransBiotec reported related to the issuance of stock as consideration for services during 2012 equaled approximately 65% of TransBiotec's net loss for 2012.

43. According to Respondents' work papers, 2.28 million of the 3.8 million shares of common stock that TransBiotec issued for services during 2012 related to an agreement that TransBiotec had entered with a consultant during the prior fiscal year (the "Consulting Agreement"). Respondents included in their 2012 work papers a copy of the Consulting Agreement, pursuant to which the consultant would be paid based on the achievement of certain milestones. One of the milestones was assisting TransBiotec with completing a reverse merger transaction, which TransBiotec, in fact,

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67 See, e.g., AU § 230.

68 See AS 8 ¶ 3; AS 9 ¶ 4.

69 See, e.g., AS 15 ¶ 4.

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completed during 2011.[70] Despite the completion of the reverse merger during 2011, Respondents' work papers indicate that all stock issuances pursuant to the Consulting Agreement occurred during 2012. Respondents undertook no procedures to evaluate whether (and when) each of the milestones under the Consulting Agreement was reached, and whether some or all of the expenses related to TransBiotec's stock issuances under the Consulting Agreement should have been recorded in the prior year.[71]

Violations Relating to Audit Documentation

44. Respondents also violated the PCAOB audit documentation standard, AS 3, in connection with the maniaTV and RD&G audits. Specifically, long after the documentation completion dates for both audits, Respondents added information to the work papers. Respondents added information about the sale of common shares to a work paper documenting the activity in maniaTV's stockholders' equity accounts. Regarding RD&G, Respondents added notations to the accounts receivable work papers indicating customer balances for which subsequent cash collections were reviewed. Respondents added that documentation to the maniaTV and RD&G work papers without indicating the date of the additions, the reason the additions were made, and the name of the individual who made the additions, in violation of AS 3.[72]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Ronald R. Chadwick, P.C., is hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Ronald R. Chadwick, P.C., is revoked;

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70 TransBiotec 2012 Form 10-K (filed May 9, 2013), at F-8 and F-15.

71 See, e.g., AS 13 ¶¶ 8-11; AS 15 ¶ 4.

72 AS 3 ¶ 16.

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C. After three (3) years from the date of this Order, Ronald R. Chadwick, P.C. may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Ronald Chadwick, CPA, is hereby censured;

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Ronald R. Chadwick, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[73] and

F. After three (3) years from the date of this Order, Ronald R. Chadwick, CPA, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 28, 2015

[73] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Chadwick. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of Mark Shelley CPA, Mark A. Shelley, CPA, and Allan J. Ricks,

Respondents.

PCAOB Release No. 105-2015-010

May 28, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Mark Shelley CPA ("Firm") and revoking the Firm's registration; censuring Mark A. Shelley, CPA ("Shelley") and barring Shelley from being an associated person of a registered public accounting firm; and censuring Allan J. Ricks ("Ricks") and barring Ricks from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings that: (a) Shelley and the Firm violated PCAOB rules and auditing standards in connection with the Firm's audits of an issuer client's financial statements; (b) the Firm violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder in connection with one of those audits; (c) Shelley directly and substantially contributed to the Firm's violations of the Exchange Act and Rule 10b-5 thereunder; and (d) Ricks violated PCAOB rules and auditing standards in connection with his engagement quality reviews ("EQRs") of the Firm's audits.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against the Firm, Shelley, and Ricks (collectively "Respondents").

[1] Ricks may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondents' Offers, the Board finds[3] that:

A. Respondents

1. Mark Shelley CPA, is, and at all relevant times was, a sole proprietorship organized and licensed under the laws of the state of Arizona (registration no. 4242), and located in Mesa, Arizona. The Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules since October 14, 2003.[4] The Firm has one

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[2] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[3] The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] The Firm was previously registered with the PCAOB under the name Shelley International CPA. See PCAOB Form 3 at 1, 10 (May 6, 2014) (reporting change of legal name from "Shelley International CPA" to "Mark Shelley CPA" effective July 1, 2014).

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issuer audit client (identified below) and no registered broker-dealer audit clients. At all relevant times, the Firm was the independent auditor for the issuer identified herein.[5]

2. Mark A. Shelley, CPA, 63, of Mesa, Arizona, is the sole owner of Mark Shelley CPA, and a certified public accountant ("CPA") licensed by the Arizona State Board of Accountancy (certificate no. 3115). Shelley had final responsibility for, and authorized the issuance of reports on, the Firm's audits of the financial statements of Unilava Corporation ("Unilava"), identified below, for the years ended December 31, 2012 and 2013. At all relevant times, Shelley was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. Allan J. Ricks, 62, of Mesa, Arizona, was a full-time employee of the Firm until December 2012, when he left the Firm and joined one of its non-issuer clients as the company's financial controller. Ricks thereafter continued to assist Shelley and the Firm with client work, including by performing EQRs of Unilava audits. Ricks served as the engagement quality reviewer, and provided his concurring approval of issuance, for the Firm's audits of Unilava's financial statements for the years ended December 31, 2012 and 2013. At all relevant times, Ricks was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

4. This matter concerns violations by Respondents of PCAOB rules and auditing standards in connection with the Firm's audits of Unilava's financial statements for 2012 and 2013 ("Unilava Audits").[6] As detailed below, Shelley and the Firm failed repeatedly, among other things, to obtain sufficient appropriate audit evidence, exercise due professional care, and exercise professional skepticism in connection with those audits.

5. The Firm also violated Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder, by issuing an audit report stating that the audit of Unilava's 2013 financial

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[5] The Firm issued the relevant audit reports while operating under the name Shelley International CPA, before it changed its name to Mark Shelley CPA effective July 1, 2014.

[6] All references to PCAOB auditing standards in this Order are to the versions of those standards in effect for the audits described herein.

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statements had been performed in accordance with PCAOB standards when it knew, or was reckless in not knowing, that the statement was false. Shelley took or omitted to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violations of Section 10(b) and Rule 10b-5, and thereby violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

6. The Firm also violated Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), by failing to have EQRs performed for those audits by an engagement quality reviewer possessing the level of knowledge and competence relating to accounting, auditing, and financial reporting required by that standard. Shelley took or omitted to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violations of AS 7, and thereby violated PCAOB Rule 3502.

7. Ricks violated AS 7 by providing his concurring approval of issuance without performing with due professional care the EQRs required by that standard for the Unilava Audits.

C. Shelley and the Firm Violated PCAOB Rules and Auditing Standards in Connection with the Audits

8. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[8] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain appropriate audit evidence that is sufficient to provide a reasonable basis for the opinion expressed in the auditor's report.[9]

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[7] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[8] See AU § 508.07, *Reports on Audited Financial Statements.*

[9] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; Auditing Standard No. 13, *The Auditor's*

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9. As detailed below, Respondents failed to comply with the aforementioned rules and standards, among others, in connection with the Unilava Audits.

The 2012 Unilava Audit

10. Unilava is a Wyoming corporation headquartered in San Francisco, California. Unilava's public filings disclose that it provides communication services, products, and equipment that address the needs of small to medium enterprise businesses and consumers. Its common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Pink marketplace. At all relevant times, Unilava was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

11. In November 2012, the Firm became Unilava's external auditors. The Firm issued an audit report dated April 15, 2013, expressing an unqualified opinion with a going concern explanatory paragraph on Unilava's financial statements for the year ended December 31, 2012. The Firm's audit report was included in Unilava's Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission" or "SEC") on April 16, 2013. Shelley had final responsibility for the audit of Unilava's 2012 financial statements ("2012 Audit") and authorized issuance of the Firm's audit report.

12. Shelley and the Firm violated PCAOB rules and auditing standards in conducting the 2012 Audit. Among other things, Shelley and the Firm failed to plan the 2012 Audit by failing to develop an overall strategy for the audit that set the scope, timing, and direction of the audit,[10] or to develop and document an audit plan that included a description of the nature, timing, and extent of the risk assessment procedures, tests of controls, and substantive procedures.[11] Shelley and the Firm also failed to perform sufficient procedures necessary to identify, assess, and respond to the risks of material misstatement due to fraud, including performing journal entry testing.[12]

Responses to the Risks of Material Misstatement ("AS 13"); Auditing Standard No. 15, *Audit Evidence* ("AS 15").

[10] See Auditing Standard No. 9, *Audit Planning* ("AS 9"), ¶ 8.

[11] See id. ¶ 10.

[12] See AU § 316, *Consideration of Fraud in a Financial Statement Audit*; Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"); AS 13; Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14").

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13. In performing the 2012 Audit, Shelley and the Firm failed to exercise due professional care and obtain sufficient appropriate audit evidence concerning significant balances and transactions in Unilava's financial statements.[13] Unilava reported total revenue of $3.1 million during 2012. During the 2012 Audit, Shelley and the Firm failed to perform sufficient audit procedures concerning revenue. Specifically, Shelley and the Firm failed to identify the risks of material misstatement at the assertion level or to perform procedures to address those risks.[14] This included a failure to assess whether there was a fraud risk involving improper revenue recognition and evaluate which types of revenue, revenue transactions, or assertions may have given rise to a fraud risk.[15] In addition, Shelley and the Firm failed to perform substantive procedures, including tests of details, that were specifically responsive to that fraud risk.[16]

14. Other than tracing deposits from bank records to Unilava's general ledger for one month during the year and examining several revenue contracts, Shelley and the Firm did not perform any procedures relating to revenue. Shelley and the Firm failed to perform procedures sufficient to test the existence and valuation of revenue reported by the company throughout the year. Furthermore, Shelley and the Firm failed to evaluate whether Unilava's revenue recognition complied with generally accepted accounting principles in the United States ("US GAAP"). Shelley and the Firm accordingly failed to obtain sufficient appropriate audit evidence regarding Unilava's 2012 revenue.[17]

15. Shelley and the Firm also failed to perform sufficient audit procedures concerning the valuation of goodwill in Unilava's December 31, 2012 financial statements. Unilava reported goodwill of $767,873, which accounted for approximately 29 percent of its total reported assets as of December 31, 2012. Unilava disclosed in its 2012 Form 10-K that it annually reviews the carrying value of goodwill to determine whether an impairment, as measured by a change in fair market value, may exist.[18]

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[13] See AU § 230; AS 15.

[14] See AS 12; AS 13.

[15] See AS 12 ¶¶ 59, 68.

[16] See AS 13 ¶¶ 13, 36.

[17] See AS 13; AS 14; AS 15.

[18] According to US GAAP, goodwill shall be tested for impairment on an annual basis and between annual tests in certain circumstances. An entity may first

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Unilava also disclosed that there was substantial doubt about its ability to continue as a going concern due to various factors, including operating losses during 2012, as well as negative working capital and an accumulated deficit as of year-end. Furthermore, Unilava recorded a goodwill impairment charge in the previous year's financial statements. Shelley and the Firm failed to perform any audit procedures to evaluate whether Unilava's goodwill was properly valued including obtaining any impairment analyses prepared by Unilava and, therefore, failed to obtain sufficient appropriate audit evidence with respect to Unilava's goodwill.[19]

16. Unilava reported total long-lived assets, net of accumulated depreciation, of $1.5 million, accounting for approximately 57 percent of total reported assets as of December 31, 2012. Unilava disclosed in its 2012 Form 10-K that during a prior year it had acquired microwave towers, representing approximately 78 percent of total long-lived assets, in exchange for an ownership interest in one of its subsidiaries. In addition, Unilava disclosed that it had an arrangement with the seller of the towers, a related entity, whereby Unilava had the right to a specified number of towers and the ability to exchange towers with the related entity if a tower was sold or was not deemed suitable. The only procedures performed by Shelley and the Firm with respect to Unilava's long-lived assets consisted of reading the predecessor auditor's related work papers and searching an internet website to locate a number of the towers listed on an issuer-prepared depreciation schedule. The website searches did not provide any audit evidence with respect to ownership of, rights to, or valuation of the towers. Shelley and the Firm accordingly failed to obtain sufficient appropriate audit evidence.[20]

17. Finally, Shelley and the Firm failed to perform sufficient audit procedures to test the existence and valuation of accounts receivable. Unilava reported accounts receivable, net of an allowance for doubtful accounts, of $246,438—which accounted for approximately nine percent of total reported assets at the end of the year. To test the

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assess qualitative factors to determine whether it is necessary to perform a goodwill impairment test but has an unconditional option to bypass the qualitative assessment in any period and proceed to a two-step process for determining impairment. See Financial Accounting Standards Board's Accounting Standards Codification Subtopic 350, *Intangibles – Goodwill and Other.* Unilava disclosed in its 2012 financial statements that it used this two-step process to determine if goodwill was impaired.

[19] See AS 13; AS 14; AS 15.

[20] See AU § 315.12-.13, *Communications Between Predecessor and Successor Auditors*; AU § 334.11, *Related Parties*; AS 13; AS 14; AS 15.

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existence of accounts receivable, Shelley and the Firm sent confirmation request letters to customers with balances that, in aggregate, represented approximately 95 percent of year-end gross accounts receivable. Prior to the Firm's issuance of its audit report regarding Unilava's 2012 financial statements, Shelley and the Firm did not receive any responses to the confirmation request letters. Nor did Shelley and the Firm perform alternative procedures to test the accounts receivable balances for which confirmation responses were not received. Shelley and the Firm accordingly failed to perform sufficient procedures to test the existence of accounts receivable.[21] Additionally, Shelley and the Firm failed to perform any procedures relating to the valuation of Unilava's accounts receivable.[22]

18. Furthermore, on April 17, 2013, two days after the date of the Firm's audit report regarding Unilava's 2012 financial statements, the Firm received a response to one of its confirmation request letters. The response, sent by a Unilava customer, stated that the customer did not owe any amounts to Unilava. That customer had a reported accounts receivable balance of $172,499 (approximately 70 percent of total reported gross accounts receivable) as of December 31, 2012. Shelley and the Firm failed to perform sufficient audit procedures with respect to the information in that confirmation request response, including to determine whether the information was reliable, to discuss the matter with Unilava, or to evaluate whether the Firm's report would have been affected if the information had been known to Shelley and the Firm at the date of the Firm's report.[23]

The 2013 Unilava Audit

19. The Firm issued an audit report dated April 12, 2014, expressing an unqualified opinion with a going concern explanatory paragraph on Unilava's financial statements for the year ended December 31, 2013. The Firm's audit report was included in Unilava's Form 10-K filed with the Commission on April 14, 2014. The audit report stated that the audit was conducted in accordance with PCAOB standards and that Unilava's financial statements presented fairly, in all material respects, Unilava's financial position and the results of its operations in conformity with US GAAP. Shelley

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[21] See AU § 330.31-.32, *The Confirmation Process*; AS 13; AS 14; AS 15.

[22] See AS 13; AS 14; AS 15.

[23] See AU § 561, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*.

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had final responsibility for the audit of Unilava's 2013 financial statements ("2013 Audit") and authorized issuance of the Firm's audit report.

20. In performing the 2013 Audit, Shelley and the Firm again failed to exercise due professional care and obtain sufficient appropriate audit evidence.[24] During the 2013 Audit, Shelley and the Firm failed to plan the audit, performed few audit procedures overall, and performed no audit procedures relating to certain significant balances and transactions in Unilava's financial statements. Shelley and the Firm: (a) failed to plan the audit in accordance with PCAOB standards; (b) failed to perform sufficient procedures necessary to identify, assess, and respond to the risks of material misstatement due to fraud, including performing journal entry testing; (c) failed to perform any procedures relating to Unilava's reported revenue of $2.7 million; and (d) failed to perform any audit procedures relating to the existence and valuation of Unilava's significant reported assets including goodwill of $767,873 (approximately 30 percent of reported total assets), net long-lived assets of $1.4 million (approximately 55 percent of reported total assets), and net accounts receivable of $294,150 (approximately 11 percent of reported total assets).[25]

D. The Firm Violated Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder, and Shelley Violated PCAOB Rule 3502, in Connection with the 2013 Audit

21. Section 10(b) of the Exchange Act and Rule 10b-5 thereunder prohibit a person, in connection with the purchase or sale of a security, from making an untrue statement of a material fact or from omitting to state a material fact necessary to make statements made, in light of the circumstances under which they were made, not misleading.[26] To violate Section 10(b) or Rule 10b-5, a respondent must act with scienter,[27] which the Supreme Court has defined as "a mental state embracing intent to

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[24] See AU § 230; AS 15.

[25] See AS 9; AU § 316; AS 12; AS 13; AS 14; AS 15.

[26] See Section 10(b) of the Exchange Act; Exchange Act Rule 10b-5, *Employment of Manipulative and Deceptive Practices*, 17 C.F.R. § 240.10b-5(b).

[27] *Aaron v. SEC*, 446 U.S. 680, 695, 701-02 (1980).

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deceive, manipulate, or defraud."[28] Scienter encompasses knowing or intentional conduct, or recklessness.[29]

22. An auditor violates Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by issuing an audit report stating that the audit has been performed in accordance with PCAOB standards when it knows, or is reckless in not knowing, that the statement is false.[30] These statements are clearly material, as "[f]ew matters could be more important to investors than that of whether an issuer's financial statements, contained in its filings with the Commission, had, in fact, been subjected to an annual audit conducted in accordance with [PCAOB standards] in all material respects."[31]

23. As detailed above, Shelley and the Firm did not plan the audit, performed few audit procedures, and performed no audit procedures relating to certain significant balances and transactions to provide support for the Firm's unqualified opinion that Unilava's 2013 financial statements were fairly presented in accordance with US GAAP. The Firm nevertheless issued its audit report regarding Unilava's 2013 financial statements, and Shelley authorized the issuance of that audit report.

24. The Firm violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by issuing an audit report that falsely stated that the 2013 Audit had been conducted in accordance with PCAOB standards when the Firm knew, or was reckless in not knowing, that no planning, few audit procedures, and no audit procedures relating to certain significant balances and transactions had been performed prior to the issuance of the Firm's audit opinion.

25. Shelley knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder when he improperly authorized the issuance of the Firm's

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[28] *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 n.12 (1976).

[29] See, e.g., *IIT v. Cornfeld*, 619 F.2d 909, 923 (2d Cir. 1980).

[30] See *Lawrence H. Wolfe, CPA*, PCAOB Rel. No. 105-2012-005, at *5 (Sep. 7, 2012); *The Blackwing Group, LLC and Sara L. Jenkins, CPA*, PCAOB Rel. No. 105-2009-007, at *9-10 (Dec. 22, 2009); *Moore & Associates, Chartered*, PCAOB Rel. No. 105-2009-006, at *16 (Aug. 27, 2009); *Richard P. Scalzo, CPA*, Exchange Act Rel. No. 48328, 2003 SEC LEXIS 1915, at *1 (Aug. 13, 2003).

[31] *Scalzo*, 2003 SEC LEXIS 1915, at *52-53.

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audit report regarding Unilava's 2013 financial statements. Shelley accordingly violated PCAOB Rule 3502.

E. Respondents Violated PCAOB Rules and Auditing Standards in Connection with Engagement Quality Reviews

26. AS 7 provides that an EQR and concurring approval of issuance are required for any audit conducted pursuant to PCAOB standards.[32] Shelley and the Firm assigned Ricks to perform the EQRs for the 2012 and 2013 Audits.

27. AS 7 provides that the engagement quality reviewer must possess the level of knowledge and competence relating to accounting, auditing, and financial reporting required to serve as the engagement partner on the engagement under review.[33] At the time he provided his concurring approvals of issuance of the Firm's audit reports for the 2012 and 2013 Audits, Ricks was not a CPA, had issuer-audit experience consisting only of a few weeks' audit staff work for a single issuer client in a different industry than Unilava, had received no training in PCAOB auditing standards or SEC reporting requirements, and was not otherwise familiar with those standards and requirements. The Firm nonetheless assigned Ricks to perform the EQRs for the 2012 and 2013 Audits, even though Ricks lacked the required level of knowledge and competence relating to accounting, auditing, and financial reporting. The Firm accordingly violated AS 7.

28. Shelley knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7 when he assigned an engagement quality reviewer who did not possess the required level of knowledge and competence to perform the EQRs for the 2012 and 2013 audits. Shelley accordingly violated PCAOB Rule 3502.

29. Moreover, under AS 7, the engagement quality reviewer may provide concurring approval of issuance for an audit report only if, after performing with due professional care the review required by AS 7, he or she is not aware of a significant engagement deficiency.[34] AS 7 states that a significant engagement deficiency in an audit exists when: "(1) the engagement team failed to obtain sufficient appropriate

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[32] AS 7 ¶ 1.

[33] AS 7 ¶ 5.

[34] AS 7 ¶ 12.

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evidence in accordance with the standards of the PCAOB, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client."[35]

30. An engagement quality reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[36] In performing an EQR for an audit, the engagement quality reviewer should, among other things, evaluate the engagement team's assessment of, and audit responses to, significant risks, including fraud risks, identified by the engagement team or other significant risks identified by the engagement quality reviewer.[37] The engagement quality reviewer should also evaluate whether the engagement documentation that he or she reviewed indicates that the engagement team responded appropriately to significant risks and whether the engagement documentation that he or she reviewed supports the conclusions reached by the engagement team with respect to matters reviewed.[38] Finally, the engagement quality reviewer should review the engagement completion document.[39]

31. In connection with each of the 2012 and 2013 Audits, Ricks failed to evaluate the significant judgments made, and the related conclusions reached, by the engagement team with respect to significant audit areas including revenue, goodwill, long-lived assets, and accounts receivable. In addition, Ricks failed to obtain and evaluate any audit documentation with respect to those audit areas. As noted above, Shelley and the Firm failed to obtain sufficient appropriate audit evidence relating to those audit areas during the 2012 and 2013 Audits, and Ricks failed to perform EQRs sufficient to discover those significant engagement deficiencies. Furthermore, Ricks failed to review the engagement completion document. Ricks provided his concurring approvals of issuance without performing the EQRs with due professional care and accordingly violated AS 7.

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[35] AS 7 ¶ 12, Note.

[36] AS 7 ¶ 9.

[37] AS 7 ¶ 10.

[38] AS 7 ¶ 11.

[39] AS 7 ¶ 10.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Mark Shelley CPA, Mark A. Shelley, CPA, and Allan J. Ricks are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Mark Shelley CPA is revoked;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Mark A. Shelley, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[40]

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Allan J. Ricks is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[41] and

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[40] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Shelley. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[41] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will also apply with respect to Ricks.

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E. After one (1) year from the date of this Order, Allan J. Ricks may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 28, 2015

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Harris & Gillespie CPA's, PLLC, and Thomas J. Harris, CPA*, Respondents.	PCAOB Release No. 105-2015-011 June 16, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring the registered public accounting firm Harris & Gillespie CPA's, PLLC ("Firm"); (2) revoking the Firm's registration;[1] (3) imposing a civil money penalty in the amount of $15,000 on the Firm; (4) censuring Thomas J. Harris, CPA ("Harris"); and (5) barring Harris from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the Firm and Harris (together, "Respondents") on the basis of its findings that Respondents violated PCAOB rules and standards in connection with the audits of three issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (together, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to

[1] The Firm may re-apply for registration after five (5) years from the date of this Order.

[2] Harris may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

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which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. Harris & Gillespie CPA's, PLLC, is a professional limited liability company organized under the laws of the State of Washington and headquartered in Seattle, Washington. It is registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and is licensed by the Washington State Board of Accountancy (license no. 5987).

2. The audit reports discussed in this Order were issued by the registered firm Thomas J Harris CPA ("Predecessor Firm"), a sole proprietorship that registered with the Board on October 5, 2004. The Firm succeeded to the registration status of the Predecessor Firm in 2014 by filing with the Board a Form 4, *Succeeding to Registration Status of Predecessor*, in which it affirmed that, "for purposes of the Board's authority…to impose disciplinary sanctions, the Firm either has retained or assumes responsibility for the conduct of any predecessor registered public accounting firm before the change or business combination reported on this Form took effect." The Firm and the Predecessor Firm are therefore referred to in this Order together as the "Firm."

3. Thomas J. Harris, CPA, 71, of Lake Forest Park, Washington, is a certified public accountant licensed by the Washington State Board of Accountancy (license no.

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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02796). He is the managing member of the Firm, and at all relevant times was the owner of the Predecessor Firm. Harris authorized the issuance of all audit reports discussed in this Order. Harris is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

4. This matter concerns Respondents' repeated and numerous failures to comply with PCAOB rules and standards. Specifically, Respondents failed to comply with PCAOB rules and standards in connection with auditing the financial statements of Amerilithium Corp. ("Amerilithium"), Hitor Group, Inc. ("Hitor"), and Asia Interactive Media, Inc. ("Asia Interactive"), for the year ended December 31, 2011 ("FY 2011"), and in connection with the audit of Hitor for the year ended December 31, 2012 ("FY 2012").

5. Respondents also violated federal securities laws and PCAOB rules and standards relating to independence during the FY 2011 audit and FY 2012 quarterly reviews of Asia Interactive's financial statements, because Harris served as lead partner for more than five consecutive years. Respondents also violated applicable independence rules in connection with the Firm's audit report concerning Asia Interactive's restatement of its FY 2011 financial statements, for which a Firm employee prepared the restated financial statements.

6. Subsequent to the audits discussed above, Respondents failed to maintain their documentation for the FY 2011 Hitor and Asia Interactive audits for the time period required by PCAOB standards.

C. Respondents Repeatedly Violated Applicable PCAOB Rules and Standards

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with applicable auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6] Among other things, those standards require that an auditor

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits and reviews.

[6] See AU § 508.07, *Reports on Audited Financial Statements*.

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exercise due professional care and professional skepticism and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.[7] Those standards also require that, if an auditor has not obtained sufficient appropriate audit evidence about a relevant assertion, the auditor should perform procedures to obtain further audit evidence to address the matter. If the auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the financial statements as a whole are free of material misstatement, the auditor should express a qualified opinion or a disclaimer of opinion.[8]

8. PCAOB standards state that, in planning an audit, an auditor should, among other things: establish an overall strategy for the audit; develop and document an audit plan; and determine whether specialized skill or knowledge is needed to perform the audit.[9]

9. In connection with the planning and performance of an audit, an auditor should also identify and assess the risks of material misstatement in the financial statements.[10] Procedures related to these risks include holding discussions concerning the risks of material misstatement with engagement team members and inquiring with management about the risks of material misstatement that exist.[11] PCAOB standards also state that auditors should perform procedures to "obtain satisfaction concerning the purpose, nature, and extent" of identified related-party transactions and to satisfy themselves that those transactions are adequately disclosed.[12] PCAOB auditing standards also state that an auditor should consider materiality in planning and performing an audit.[13]

10. PCAOB standards require each audit engagement and interim review to have an engagement quality review and concurring approval of the issuance of an audit

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[7] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230.01, .07, *Due Professional Care in the Performance of Work*; Auditing Standard No. 15, *Audit Evidence* ("AS 15").

[8] See Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), ¶ 35.

[9] See Auditing Standard No. 9, *Audit Planning* ("AS 9"), ¶¶ 8-10, 16.

[10] See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12").

[11] See id. ¶¶ 49-55.

[12] AU §§ 334.09, *Related Parties*; see also AU § 334.11.

[13] See Auditing Standard No. 11, *Consideration of Materiality in Planning and Performing an Audit* ("AS 11").

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report from an engagement quality reviewer.[14] PCAOB standards also require that audit procedures be documented.[15]

11. PCAOB rules also prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation of Board standards by that firm.[16]

Respondents Violated PCAOB Rules and Standards During the FY 2011 Audit of Amerilithium

12. Amerilithium was, at all relevant times, a Nevada corporation headquartered in Henderson, Nevada. According to its public filings, Amerilithium was a mineral exploration company. Its common stock was quoted on the OTC Markets OTCBB under the symbol "AMEL." At all relevant times, Amerilithium was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). The Firm acted as Amerilithium's external auditor for FY 2011.

13. The Firm issued an audit report dated March 29, 2012, that was included in Amerilithium's Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") on April 4, 2012. The report stated that the audit of Amerilithium's FY 2011 financial statements had been conducted in accordance with PCAOB standards, and expressed an unqualified opinion concerning those financial statements. Harris authorized the issuance of the audit report.[17]

14. In connection with the audit of Amerilithium's FY 2011 financial statements, Respondents failed to properly plan the audit. They failed to establish an audit strategy for the engagement or to develop an audit plan.[18] They also failed to

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[14] See Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), ¶¶ 1, 13, 18.

[15] See Auditing Standard No. 3, *Audit Documentation* ("AS 3"), ¶ 6.

[16] See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

[17] Respondents subsequently consented to the inclusion of the March 29, 2012 audit report in an Amerilithium registration statement on Form S-1/A filed with the Commission on April 24, 2012.

[18] See AS 9 ¶¶ 7-10. Harris failed to familiarize himself with PCAOB standards related to audit planning prior to the audits discussed in this Order.

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consider materiality when performing their audit procedures.[19] Additionally, Respondents failed to perform sufficient risk assessment procedures by not performing procedures to identify risks of material misstatement and not inquiring of management about those risks, despite knowing that such inquiries were required by PCAOB standards.[20]

15. Respondents also failed to exercise due professional care and professional skepticism and failed to obtain sufficient appropriate audit evidence concerning significant balances and transactions in Amerilithium's FY 2011 financial statements. Amerilithium's financial statements reported total assets of $7.8 million. Mining claims represented 93% of those reported assets, yet Respondents failed to perform any procedures to test the reported value of those claims, including by failing to perform any procedures to consider whether the claims were impaired at year-end 2011.[21]

16. Amerilithium's FY 2011 financial statements reported total liabilities of approximately $627,000. Convertible debentures represented almost 99% of those reported liabilities. Respondents, who had no experience with or understanding of convertible debt, took no steps to determine whether specialized skill or knowledge was required to audit Amerilithium's accounting for the liability.[22] They then failed to perform any procedures to obtain sufficient appropriate audit evidence concerning the convertible debt.[23] As a result of their failure to perform procedures concerning the convertible debt, Respondents did not consider whether the convertible debt contained a beneficial conversion feature that affected the proper accounting for that debt.

17. During FY 2011, Amerilithium issued 4.4 million shares, both to raise capital for mining claims and related services and in exchange for the conversion of debt. The company valued the shares at approximately $709,000. Respondents failed to perform any procedures to determine whether Amerilithium's issuances of shares were valued appropriately.[24]

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19 See AS 11.

20 See AS 12.

21 See AU § 230; AS 15; AS 14 ¶ 35.

22 See AS 9 ¶ 16.

23 See AU § 230; AS 15; AS 14 ¶ 35.

24 See id.

ORDER

18. The Firm also failed to obtain a concurring approval of issuance of the audit report from an engagement quality reviewer prior to authorizing its issuance.[25] Harris knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violation of AS 7 when he improperly authorized the issuance of the audit report by the Firm without an engagement quality review and concurring approval of issuance.[26] After Respondents ultimately obtained an engagement quality review in April 2012 (after Amerilithium had filed its Form 10-K), the engagement quality reviewer noted that Amerilithium had incorrectly accounted for its convertible debentures. Respondents notified Amerilithium of the results of the belated engagement quality review, and Amerilithium filed restated financial statements on Form 10-K/A on June 28, 2012.

Respondents Violated PCAOB Rules and Standards During the FY 2011 Audit of Hitor

19. Hitor was, at all relevant times, a Nevada corporation headquartered in Kirkland, Washington. According to its public filings, Hitor owned proprietary technology to increase the fuel efficiency of vehicles. Its common stock was quoted on the OTC Bulletin Board under the symbol "HITR." At all relevant times, Hitor was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). The Firm acted as Hitor's external auditor for FY 2011 and FY 2012.

20. The Firm issued an audit report dated April 16, 2012, that was included in Hitor's Form 10-K filed with the Commission on April 17, 2012. The report stated that the audit of Hitor's FY 2011 financial statements had been conducted in accordance with PCAOB standards, and expressed an unqualified opinion concerning Hitor's FY 2011 financial statements. Harris authorized the issuance of the audit report.

21. At the time Respondents performed the FY 2011 audit of Hitor, Harris understood that Hitor was under significant time pressure to file its financial statements. Respondents conducted the audit in a narrow time frame which ended in multiple audit deficiencies.

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[25] See AS 7 ¶¶ 1, 13.

[26] See PCAOB Rule 3502.

ORDER

22. Respondents failed to properly plan the audit. They failed to establish an audit strategy and to develop an audit plan.[27] In addition, they failed to identify and assess the risks of material misstatement.[28]

23. Respondents also failed to exercise due professional care and professional skepticism and failed to obtain sufficient appropriate audit evidence concerning significant balances and transactions in Hitor's FY 2011 financial statements. Hitor's financial statements reported liabilities of approximately $806,000. Over 49% of those reported liabilities consisted of convertible notes payable. As with Amerilithium, Respondents had no experience with or understanding of convertible debt and took no steps to determine whether specialized skill or knowledge was required to audit Hitor's accounting for that debt.[29] They also failed to perform any procedures concerning the valuation of the notes.[30]

24. An additional 19% of Hitor's reported December 31, 2011, liabilities consisted of a "deposit." Respondents understood that this deposit was a prepayment from a customer, but failed to perform any procedures concerning that item and failed to inquire of management concerning the current status of Hitor's relationship with the customer.[31]

25. Hitor's FY 2011 financial statements also reported certain notes payable. One of these notes, which represented approximately 8% of its liabilities, was disclosed as "a note payable with one of its officers and shareholders." Respondents understood at the time of the audit, however, that this note actually reflected funds loaned by family members of Hitor's chief executive officer ("CEO") to the company, which the CEO was using for personal expenses. Respondents failed to address the discrepancy between this understanding and the company's disclosure, or to take any steps to investigate the nature of the transaction.[32] They also failed to perform any procedures concerning the purpose, nature, and extent of the loan or to satisfy themselves that the loan was adequately disclosed.[33]

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27 See AS 9 ¶¶ 8-10.

28 See AS 12.

29 See AS 9 ¶ 16.

30 See AU § 230; AS 15; AS 14 ¶ 35.

31 See id.

32 See id.; see also AS 15 ¶ 29.

33 See AU §§ 334.09, .11.

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26. The Firm failed to obtain an engagement quality review for the FY 2011 Hitor audit.[34] Harris knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violation of AS 7 when he improperly authorized the issuance of the audit report by the Firm without an engagement quality review and concurring approval of issuance.[35]

Respondents Violated PCAOB Rules and Standards During the FY 2011 Re-Audit of Hitor

27. The Firm issued an audit report dated April 15, 2013, that was included in Hitor's Form 10-K filed with the Commission on April 16, 2013. The report, as subsequently corrected in a Form 10-K/A,[36] stated that the audits of Hitor's FY 2012 and FY 2011 financial statements had been conducted in accordance with PCAOB standards, and expressed an unqualified opinion concerning those financial statements.

28. In early 2013, while preparing for the audit of Hitor's FY 2012 financial statements, Respondents determined that they might not be independent of Hitor, and might not have been independent of Hitor for the FY 2011 audit, because the FY 2011 audit had been the sixth consecutive audit for which Harris had acted as lead partner. In response, Harris asked another auditor ("Outside Auditor") to serve as partner for the audit of Hitor's FY 2012 financial statements, and simultaneously to conduct a "re-audit" of Hitor's FY 2011 financial statements. The Outside Auditor had no prior experience with the Hitor audits. The Outside Auditor agreed to and did serve as partner for both audits and became an associated person of the Firm in connection with the FY 2012 Hitor audit and FY 2011 re-audit.

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[34] See AS 7.

[35] See PCAOB Rule 3502.

[36] The audit report included in the April 16, 2013, Form 10-K stated that the Firm had "audited the accompanying financial statements of [Hitor], which comprise the balance sheet as of February 28, 2013, and the related statements of income, stockholders' equity and cash flows for the year then ended." The audit report then expressed an unqualified opinion as to "the financial position of [Hitor] as of December 31, 2012, and the results of their operations and the cash flows for the year then ended." On September 27, 2013, Hitor filed a Form 10-K/A that included a corrected Firm report that pertained to the financial statements for FY 2011 and FY 2012. That report was based on the audit work conducted in connection with the Form 10-K filed on April 16, 2013.

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29. Respondents agreed that the Outside Auditor would play the lead role in the audit work, though a staff employee of the Firm would perform most of the field procedures. Harris, however, retained sole authority to authorize the issuance of the Firm's audit report.

30. The Firm failed to perform any procedures to identify and assess the risks of material misstatement.[37]

31. The Firm also failed to exercise due professional care and professional skepticism and failed to obtain sufficient appropriate audit evidence concerning significant balances and transactions in Hitor's FY 2011 financial statements. Hitor reported total assets of approximately $187,000 as of December 31, 2011, of which cash represented over 58%. The Firm failed to perform adequate procedures to test the existence of cash. It did not send or receive cash confirmations; its only procedure was to review bank statements provided by the client.[38]

32. Similarly, inventory represented over 40% of Hitor's reported assets as of December 31, 2011. The Firm failed to perform any procedures regarding the existence or valuation of that inventory, despite the fact that in FY 2012 (the year that it was simultaneously auditing) Hitor wrote off the inventory.[39]

33. With regard to Hitor's liabilities reported in the FY 2011 financial statements, the Firm failed to perform any procedures concerning convertible notes payable, a deposit, or notes payable, financial statement line items that together represented 78% of Hitor's reported $806,000 in liabilities.[40]

34. The Firm failed to obtain an engagement quality review for the FY 2011 Hitor re-audit.[41] Harris knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violation of AS 7 by failing to ensure that an engagement quality review was performed and concurring approval of issuance was obtained.[42]

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37 See AS 12 ¶¶ 49-58.

38 See AU § 230; AS 15; AS 14 ¶ 35.

39 See id.

40 See id.

41 See AS 7.

42 See PCAOB Rule 3502.

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Respondents Violated PCAOB Rules and Standards During the FY 2012 Audit of Hitor

35. As stated above, the Firm's April 15, 2013 audit report also contained an unqualified opinion concerning Hitor's FY 2012 financial statements. Again, the Outside Auditor served as a partner and Harris authorized the issuance of the audit report. The Firm conducted the audit of the FY 2012 financial statements simultaneously with the re-audit of Hitor's FY 2011 financial statements.

36. As with the FY 2011 re-audit, the Firm failed to perform any procedures to identify and assess the risks of material misstatement, including by failing to hold discussions with the engagement team and failing to inquire with the client about those risks.[43]

37. The Firm failed to exercise due professional care and professional skepticism and to obtain sufficient appropriate audit evidence concerning significant balances and transactions in Hitor's FY 2012 financial statements. Hitor reported assets of approximately $146,000 as of December 31, 2012. Prepaid expenses represented almost 40% of total assets, an increase from the December 31, 2011, balance of zero. The Firm failed to perform any procedures concerning prepaid expenses.[44]

38. The Firm also failed to perform any procedures concerning Hitor's decision to write off the value of its inventory to zero as of December 31, 2012.[45] Similarly, almost 16% of Hitor's reported assets consisted of an "Investment in Hitor Poland LLC," but when Hitor's only documentation of this "asset" consisted of an invoice recording Hitor's purchase of a wind turbine from a Canadian company, the Firm failed to address or inquire about the discrepancy between the nature of the invoice and the reported investment.[46]

39. Additionally, Hitor reported liabilities of approximately $1 million as of December 31, 2012, of which 65% consisted of notes payable and convertible notes payable. The Firm failed to perform any procedures regarding these items.[47]

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43 See AS 12 ¶¶ 49-58.

44 See AU § 230; AS 15; AS 14 ¶ 35.

45 See id.

46 See id.; see also AS 15 ¶ 29.

47 See AU § 230; AS 15; AS 14 ¶ 35.

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40. The Firm failed to obtain an engagement quality review for the FY 2012 Hitor audit.[48] Harris knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violation of AS 7 by failing to ensure that an engagement quality review was performed and concurring approval of issuance was obtained.[49]

Respondents Violated PCAOB Rules and Standards During the FY 2011 Audit of Asia Interactive

41. Asia Interactive was, at all relevant times, a Nevada corporation headquartered in the Hong Kong Special Administrative Region of the People's Republic of China. According to its public filings, Asia Interactive was a "blank check" company formed for the purpose of conducting a business combination with one or more operating businesses. Its common stock was registered with the Commission under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act"). At all relevant times, Asia Interactive was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). The Firm acted as Asia Interactive's external auditor for the years ended December 31, 2006, through 2011, as well as for the FY 2012 quarterly reviews.

42. The Firm issued an audit report dated April 4, 2012 that was included in Asia Interactive's Form 10-K filed with the Commission on April 11, 2012. The report stated that the audit of Asia Interactive's FY 2011 financial statements had been conducted in accordance with PCAOB standards, and expressed an unqualified opinion concerning those financial statements. Harris authorized the audit report's issuance.

43. Respondents failed to exercise due professional care and professional skepticism and failed to obtain sufficient appropriate audit evidence concerning Asia Interactive's FY 2011 financial statements. Asia Interactive's financial statements reported total assets of approximately $271,000, including a loan receivable related to a bridge loan agreement that represented almost 88% of that total. Despite the fact that the reported outstanding balance due under the bridge loan agreement had steadily increased for the prior four years, Respondents failed to perform any procedures concerning the valuation of the loan receivable.[50]

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48 See AS 7.

49 See PCAOB Rule 3502.

50 See AU § 230; AS 15; AS 14 ¶ 35.

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44. Prior to issuing the audit report, the Firm failed to obtain concurring approval from an engagement quality reviewer.[51] Harris knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violation of AS 7 when he improperly authorized the issuance of the audit report by the Firm without an engagement quality review and concurring approval of issuance.[52] Respondents subsequently retained an engagement quality reviewer, who questioned the collectability of Asia Interactive's loan receivable. After Respondents notified Asia Interactive of the engagement quality reviewer's questions, the company determined that the receivable was not collectible and restated its FY 2011 financial statements on November 2, 2012, in a Form 10-K/A filed with the Commission to reflect a write-off of that asset.

D. Respondents Violated Independence Rules

45. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[53] "[A] registered public accounting firm or associated person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws."[54]

46. Section 10A(j) of the Exchange Act provides that "[i]t shall be unlawful for a registered public accounting firm to provide audit services to an issuer if the lead (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, has performed audit services for that issuer in each of the 5 previous fiscal years of that issuer."[55]

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[51] See AS 7 ¶¶ 1, 13.

[52] See PCAOB Rule 3502.

[53] See PCAOB Rule 3520, *Auditor Independence*; see also AU §§ 220.01-02, *Independence*.

[54] PCAOB Rule 3520, Note 1.

[55] Section 10A(j) of the Exchange Act, 15 U.S.C. § 78j-1(j).

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47. Rule 2-01 of Commission Regulation S-X provides that an accountant is not independent of an audit client when an audit partner performs the services of lead or concurring audit partner for the same issuer for more than five consecutive years.[56]

48. Section 10A(g) of the Exchange Act prohibits an auditor from providing non-audit services to an audit client that relate to its financial statements.[57] Rule 2-01 of Commission Regulation S-X also provides that an accountant is not independent of an audit client when the accountant provides certain non-audit services to an audit client, including bookkeeping services such as "[p]reparing the audit client's financial statements that are filed with the Commission."[58]

49. Exchange Act Rule 10A-2 provides that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the partner-rotation requirements and non-audit services requirements of Rule 2-01 of Commission Regulation S-X.[59]

Respondents Violated Applicable Independence Rules During the FY 2011 Audit and FY 2012 Reviews of Asia Interactive

50. The Firm was engaged as Asia Interactive's external auditor in early 2007. The Firm issued six unqualified audit reports on Asia Interactive's financial statements for the years ended December 31, 2006, through December 31, 2011. Each of those six audit reports was included in a Form 10-K or 10-KSB that Asia Interactive filed with the Commission.

51. Harris served as the lead partner on the audit of Asia Interactive for the years ending December 31, 2006, through 2010. After serving as lead partner for the aforementioned five-year period, Harris continued to serve as the lead partner on the audit of Asia Interactive's FY 2011 financial statements and on the reviews of Asia Interactive's FY 2012 quarterly financial statements.

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[56] See Rule 2-01 of Commission Regulation S-X, 17 C.F.R. § 210.2-01(c)(6)(i)(A)(*1*). At all relevant times, the Firm had five or more issuer clients, and did not qualify for the exemption contained in Rule 2-01(c)(6)(ii), 17 C.F.R. § 210.2-01(c)(6)(ii).

[57] See Section 10A(g)(1) of the Exchange Act, 15 U.S.C. § 78j-1(g)(1).

[58] Rule 2-01(c)(4)(i) of Commission Regulation S-X, 17 C.F.R. § 210.2-01(c)(4)(i).

[59] See Exchange Act Rule 10A-2, 17 C.F.R. § 240.10A-2.

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52. As a result of the services described above, Respondents were not independent during the audit of Asia Interactive's FY 2011 financial statements and quarterly reviews of Asia Interactive's FY 2012 financial statements, in violation of Section 10A(j) of the Exchange Act, Commission Regulation S-X, Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220.[60]

53. As stated above, Asia Interactive filed restated FY 2011 financial statements on November 2, 2012. The Firm issued a revised audit report dated October 26, 2012, concerning those financial statements. Harris served as lead partner in connection with that audit report, in further violation of applicable independence rules relating to partner rotation.[61]

54. Additionally, after Harris informed Asia Interactive of the need to restate its FY 2011 financial statements, he directed the Firm staff employee to prepare the restated financial statements, and Harris provided the restated financial statements to Asia Interactive to be included in the Form 10-K/A filed with the Commission, resulting in an additional violation of applicable independence rules by Respondents.[62]

E. Respondents Violated Audit Documentation Standards

55. PCAOB standards require that audit documentation be retained for seven years after the report release date.[63] The report release date for the FY 2011 Hitor audit was on or about April 17, 2012. The report release date for the FY 2011 Asia Interactive audit was on or about April 11, 2012. Respondents were therefore required to maintain their audit documentation for the FY 2011 Hitor and Asia Interactive audits until on or about April 17, 2019, and April 11, 2019, respectively.

56. During the Board's investigation in this matter, Respondents lost all of their audit documentation for the FY 2011 Hitor and Asia Interactive audits.

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[60] See Section 10A(j) of the Exchange Act, 15 U.S.C. § 78j-1(j); Rule 2-01(c)(6) of Regulation S-X, 17 C.F.R. § 210.2-01(c)(6)(i)(A)(*1*); Exchange Act Rule 10A-2, 17 C.F.R. § 240.10A-2; PCAOB Rule 3520; AU § 220.

[61] See id.

[62] See PCAOB Rule 3520; AU § 220; Section 10A(g) of the Exchange Act, 15 U.S.C. § 78j-1(g)(1); Rule 2-01(c)(4) of Commission Regulation S-X, 17 C.F.R. § 210.2-01(c)(4)(i).

[63] See AS 3 ¶ 14.

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57. Respondents failed to maintain their audit documentation for the FY 2011 Hitor and Asia Interactive audits for the required seven-year period, in violation of PCAOB standards.[64]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Harris & Gillespie CPA's, PLLC, is censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Harris & Gillespie CPA's, PLLC, is revoked;

C. After 5 years from the date of this Order, Harris & Gillespie CPA's, PLLC, may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Thomas J. Harris, CPA, is censured;

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Thomas J. Harris, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[65]

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[64] See id.

[65] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Harris. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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F. After 5 years from the date of this Order, Thomas J. Harris, CPA, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon Harris & Gillespie CPA's, PLLC. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Harris & Gillespie CPA's, PLLC shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Harris & Gillespie CPA's, PLLC, as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 16, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Samyn & Martin, LLC and John J. Samyn, CPA*, *Respondents.*	PCAOB Release No. 105-2015-012 July 9, 2015

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is (1) censuring Samyn & Martin, LLC (the "Firm" or "Samyn & Martin"), revoking the Firm's registration,[1] and imposing upon the Firm a civil money penalty in the amount of $10,000; and (2) censuring John J. Samyn, CPA ("Samyn") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and standards, as well as Section 10A(g) of the Securities Exchange Act of 1934 ("Exchange Act"), and Exchange Act Rule 10A-2 concerning auditor independence, in connection with the audits of two issuers, and Samyn directly and substantially contributed to the Firm's violations with respect to one issuer.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against the Firm and Samyn (together "Respondents").

[1] The Firm may reapply for registration after one (1) year from the date of this Order.

[2] Samyn may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Samyn & Martin, LLC is a limited liability company organized under the laws of the State of Missouri, and is headquartered in Kansas City, Missouri. Samyn & Martin registered with the Board on October 8, 2003, pursuant to Section 102 of the Act and PCAOB rules. Samyn & Martin is licensed to practice public accountancy by the Missouri State Board of Accountancy (License No. 2014007505) and, at all relevant times, was the external auditor for each of the issuers identified below. During 2011 and 2012, the time periods in which the violations occurred, Samyn & Martin had three audit partners and one audit staff person.

2. John J. Samyn, age 45, of Overland Park, Kansas, is, and at all relevant times was, a partner in the Kansas City, Missouri office of Samyn & Martin and a certified public accountant licensed by the Missouri State Board of Accountancy (License No.

[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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018897). At all relevant times, Samyn was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Other Relevant Individual

3. Suzanne M. Herring, age 49, of Las Vegas, Nevada, was, at all relevant times, an audit staff person in the Kansas City, Missouri office of Samyn & Martin. In that role, she served on the engagement team for the Firm's audit of one of the two issuers identified below and participated in one of the Firm's interim reviews of the other issuer identified below. At all relevant times, Herring was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Herring left Samyn & Martin in December 2012 and is currently employed at an entity that is not a registered public accounting firm. On April 1, 2015, the Board issued an order instituting and settled disciplinary proceedings against Herring related to her violations of PCAOB rules and standards, as well as Section 10A(g) of the Exchange Act and Exchange Act Rule 10A-2 concerning auditor independence.[5] That order concerned, in part, the provision of prohibited non-audit services to the two Samyn & Martin issuer audit clients as discussed in Section D below.

C. Summary

4. This matter concerns the Firm's violations of PCAOB rules and standards that require a registered public accounting firm and its associated persons to be independent of the firm's issuer audit clients throughout the relevant audit and professional engagement periods, as well as the Firm's violations of Section 10A(g) of the Exchange Act and Exchange Act Rule 10A-2 concerning auditor independence. The Firm was not independent with respect to two of its issuer audit clients because one of its staff auditors, Herring, provided the following prohibited non-audit services to its audit clients: (1) bookkeeping and financial statement preparation work for one of those issuers, Decision Diagnostics Corp. ("Decision Diagnostics"), during the audit period for which she served on the audit engagement team; and (2) derivative accounting and valuation services for the other issuer, American Petro-Hunter, Inc. ("APH"), during the

[5] See *Suzanne M. Herring*, PCAOB Release No. 105-2015-008 (April 1, 2015).

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year under audit and while she was assisting with one of the Firm's interim reviews of APH's financial statements.[6]

5. In addition, this matter concerns the Firm's violation of PCAOB quality control standards. Specifically, the Firm violated PCAOB quality control standards by failing to establish and implement policies and procedures sufficient to provide it with reasonable assurance that the Firm and its personnel maintained independence in fact and appearance.[7]

6. This matter also concerns Samyn's violation of the PCAOB rule that prohibits an associated person of a registered public accounting firm from directly and substantially contributing to the firm's violation of, among other things, relevant independence requirements.[8] Specifically, Samyn, the engagement partner on the APH audit, (a) asked Herring to assist APH by providing it with derivative accounting and valuation services, (b) acted as an intermediary between APH and Herring, and (c) at least initially, supervised Herring's performance of such services. Through his actions and omissions, Samyn directly and substantially contributed to Samyn & Martin's violation of applicable independence requirements, in violation of PCAOB Rule 3502.

D. The Firm Violated PCAOB Rules and Standards and the Exchange Act

7. PCAOB rules and standards require that a registered public accounting firm be independent of the firm's audit client throughout the audit and professional engagement period.[9] A registered public accounting firm's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement,

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[6] See *Suzanne M. Herring*, PCAOB Release No. 105-2015-008. See also Section 10A(g) of the Exchange Act; Exchange Act Rule 10A-2, *Auditor Independence*; PCAOB Rule 3520, *Auditor Independence*; and AU §§ 220.01-02, *Independence*.

[7] See PCAOB Rule 3400T, *Interim Quality Control Standards*; QC § 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[8] See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations.*

[9] See PCAOB Rule 3520; see also AU §§ 220.01-.02.

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including the independence criteria set out in the rules and regulations of the Securities and Exchange Commission ("Commission") under the federal securities laws.[10]

8. Section 10A(g) of the Exchange Act provides that it shall be unlawful for a registered public accounting firm that performs an audit for an issuer "to provide to that issuer, contemporaneously with the audit, any non-audit service, including . . . [b]ookkeeping or other services related to the accounting records or financial statements of the audit client" and "[a]ppraisal or valuation services."

9. Exchange Act Rule 10A-2 states that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the prohibited non-audit services provisions of Commission Regulation S-X. Rule 2-01 of Regulation S-X provides that an accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides certain non-audit services for an audit client, including bookkeeping and financial statement preparation services and appraisal or valuation services.[11]

10. As described below, the Firm failed to comply with PCAOB rules and auditing standards, the Exchange Act, and Exchange Act rules in connection with its audits of Decision Diagnostics 2011 financial statements and APH's 2012 financial statements.

Samyn & Martin's Audit of Decision Diagnostics' 2011 Financial Statements

11. On August 5, 2011, Decision Diagnostics engaged Samyn & Martin as its auditor for the year ended December 31, 2011. Prior to Samyn & Martin accepting that engagement, Herring had provided bookkeeping and financial statement preparation services for Decision Diagnostics, including in 2010 and in the first half of 2011.[12] In

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[10] See PCAOB Rule 3520, Note 1.

[11] 17 C.F.R. §§ 210.2-01(b), (c)(4)(i), (c)(4)(iii).

[12] At all relevant times, Decision Diagnostics (prior to February 9, 2012, known as instaCare Corp.) was a Nevada corporation headquartered in Westlake Village, California. Decision Diagnostics' public filings disclose that it is a nationwide prescription and non-prescription diagnostic and home testing products distributor. On April 22, 2015, Decision Diagnostics filed a Form 15 to deregister its common stock. At all relevant times, its common stock was registered under Section 12(g) of the Exchange Act, that stock was quoted on the OTC Bulletin Board, and the company was

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that capacity, Herring prepared journal entries, maintained Decision Diagnostics' accounting records, advised the issuer on generally accepted accounting principles ("GAAP"), and prepared the issuer's financial statements and Forms 10-Q and 10-K that were filed with the Commission. Contemporaneously, Herring worked as a staff person for Samyn & Martin on more than ten audits unrelated to Decision Diagnostics.

12. When Decision Diagnostics engaged Samyn & Martin, Herring ceased providing bookkeeping and financial statement preparation services for Decision Diagnostics and joined the 2011 audit engagement team for Samyn & Martin. During Samyn & Martin's audit of Decision Diagnostics' fiscal year 2011 financial statements, the Firm audited accounting records that Herring had previously prepared and that reflected accounting principles she had recommended. In addition, the December 31, 2011 Decision Diagnostics' financial statements that Herring assisted in auditing were based, at least in part, on the quarterly financial statements that she had previously prepared.

13. As a result of the bookkeeping and financial statement preparation services provided by Herring, the Firm was not independent of Decision Diagnostics during its audit of the issuer's December 31, 2011 financial statements, in violation of PCAOB rules and auditing standards, the Exchange Act, and Exchange Act rules.[13]

14. In addition, on March 13, 2012, the Firm issued a letter to Decision Diagnostics pursuant to PCAOB Rule 3526, *Communication with Audit Committees Concerning Independence*. In violation of Rule 3526, however, that letter failed to disclose the bookkeeping and financial statement preparation services provided by Herring. Also in violation of Rule 3526, the Firm failed to discuss with the Decision Diagnostics' audit committee the potential impact of those services on the Firm's independence.

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an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

[13] See Section 10A(g) of the Exchange Act; Exchange Act Rule 10A-2; PCAOB Rule 3520; and AU §§ 220.01-.02.

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Samyn & Martin's Audit of APH's 2012 Financial Statements

15. Samyn & Martin was engaged as APH's external auditor in March 2009.[14] Beginning in March 2012, at the request of Samyn, the engagement partner for the APH audit, Herring provided accounting and valuation services to APH related to a derivative liability that APH recorded. As of the end of the third quarter of 2012, the derivative liability was the largest liability on APH's balance sheet, representing more than 68% of APH's total reported liabilities. As part of Herring's services for APH, she calculated the value of the derivative liability and related amounts, prepared source data and documents that supported the amounts reflected in the accounting records and financial statements of APH, prepared the journal entries for APH to record in its accounting records, and assisted in the preparation of APH's financial statements and notes thereto.

16. At the time Herring performed those prohibited non-audit services for APH, she was also an audit staff person for Samyn & Martin. Notwithstanding her performance of accounting and valuation services for APH during 2012, Herring also assisted with Samyn & Martin's quarterly review of APH's September 30, 2012 financial statements. Furthermore, Samyn and the Firm relied upon her accounting and valuation work in performing their quarterly review and their year-end 2012 audit.

17. As a result of the accounting and valuation services provided by Herring, the Firm was not independent of APH during its review of the issuer's September 30, 2012 financial statements and during its audit of the issuer's December 31, 2012 financial statements. The Firm thereby violated PCAOB rules and standards, the Exchange Act, and Exchange Act rules.[15]

18. In addition, on January 7, 2013, the Firm issued a letter to APH pursuant to PCAOB Rule 3526. In violation of Rule 3526, however, that letter failed to disclose the derivative accounting and valuation services provided by Herring. Also in violation

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[14] At all relevant times, APH was a Nevada corporation headquartered in Scottsdale, Arizona. APH's public filings disclose that it is an oil and gas exploration and production company. Its common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. At all relevant times, APH was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

[15] See Section 10A(g) of the Exchange Act; Exchange Act Rule 10A-2; PCAOB Rule 3520; and AU §§ 220.01-.02.

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of Rule 3526, the Firm failed to discuss with the APH's audit committee the potential impact of those services on the Firm's independence.

E. Samyn Directly and Substantially Contributed to Samyn & Martin's Violation of PCAOB Rules and Standards and the Exchange Act

19. PCAOB rules prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to violations by that firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.[16]

20. As described above, Samyn & Martin failed to comply with Section 10A(g) of the Exchange Act, Exchange Act Rule 10A-2, and PCAOB rules and standards in connection with the third quarter review and the year-end audit of APH's 2012 financial statements. Samyn directly and substantially contributed to those APH-related violations because, in his role as the engagement partner on the APH audit, Samyn requested that Herring provide derivative accounting and valuation services for APH, acted as an intermediary between APH management and Herring, and, at least initially, supervised Herring's performance of such services. Despite doing so, Samyn failed to properly communicate with the audit committee regarding the impact of Herring's services on the independence of the Firm, signed off on the quarterly review of APH's September 30, 2012 financial statements, and approved the issuance of an audit opinion on APH's December 31, 2012 financial statements. Accordingly, Samyn violated PCAOB Rule 3502 by taking or omitting to take actions, knowing, or recklessly not knowing, that such actions or omissions would directly and substantially contribute to the Firm's APH-related independence violations.

F. The Firm Violated PCAOB Rules and Quality Control Standards

21. PCAOB Rules require that a registered accounting firm comply with the Board's quality control standards.[17] PCAOB quality control standards require that a

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[16] PCAOB Rule 3502.

[17] PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards*, and 3400T, *Interim Quality Control Standards*.

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registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[18]

22. Policies and procedures "should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[19] Among other things, a firm's policies and procedures should provide reasonable assurance that personnel maintain independence in fact and appearance.[20] Furthermore, a "firm should communicate its quality control policies and procedures to its personnel in a manner that provides reasonable assurance that those policies and procedures are understood and complied with."[21] As detailed below, the Firm failed to comply with PCAOB rules and quality control standards.

23. The Firm failed to adopt, implement, and communicate, in writing or through the actions of its partners, appropriate quality control policies and procedures governing the Firm's independence with respect to its issuer audit clients. For example, the Firm's quality control policies and procedures related to independence failed to include a prohibition on providing prohibited non-audit services to issuer audit clients and were also silent as to partner rotation requirements. Indeed, past and present Samyn & Martin personnel have acknowledged that they had an inadequate understanding of the prohibitions on providing non-audit services to issuer audit clients, which contributed to the independence violations of the Firm.

24. In addition, although the firm obtained annual independence confirmations from partners and staff members from 2011-2014, those confirmations required a statement that each individual complied with AICPA standards but not PCAOB rules and standards. Moreover, the Firm failed to confirm compliance with PCAOB independence rules and standards in any other manner during those four years.

25. The Firm also failed to design and implement an appropriate process for confirming the Firm's independence with respect to potential new issuer audit clients. Although the Firm's partners confirmed their independence prior to accepting a new

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[18] QC § 20.01.

[19] QC § 20.17.

[20] QC § 20.09.

[21] QC § 20.23.

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issuer audit engagement, no process was implemented to confirm the independence of audit staff prior to accepting a new issuer audit engagement. Accordingly, there was no process in place to determine whether the Firm's audit staff, including Herring, were independent of an issuer before the Firm accepted an audit engagement with that issuer.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Firm and Samyn's Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Samyn & Martin, LLC and John J. Samyn are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration Samyn & Martin, LLC, is revoked;

C. After one (1) year from the date of the Order, Samyn & Martin, LLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), John J. Samyn is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[22]

E. After one (1) year from the date of this Order, John J. Samyn may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

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[22] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Samyn. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty is imposed in the amount of $10,000 upon Samyn & Martin, LLC. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Samyn & Martin, LLC shall pay the $10,000 civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies the payor as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

July 9, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Conn & Company, P.C.,* *Respondent.*	PCAOB Release No. 105-2015-013 July 9, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Conn & Company, P.C. ("Conn & Company," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) in the event the Board grants any future registration application by the Firm,[1] requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission") as a result of having prepared financial statements that were filed with the Commission for a registered broker-dealer audit client and thus impairing its independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has

[1] The Firm has filed a Form 1-WD seeking leave to withdraw from registration with the Board, which the Board has determined to grant as of the date of this Order.

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determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Conn & Company is a registered public accounting firm located in Atlanta, Georgia. At all relevant times, the Firm was licensed by the Georgia State Board of Accountancy (license no. ACF001663). The Firm, formed in 1970, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. Conn & Company prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended December 31, 2012. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[3] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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statements it filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[4] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[5]

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[4] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[5] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

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7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[6] apply to audits of brokers and dealers.[7] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's December 31, 2012 financial statements. At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In February 2013, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2012. Included in that filing was an audit report signed by the Firm dated February 14, 2013. That report stated, among other

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[6] 17 C.F.R. Part 210.

[7] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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things, that the Firm audited the Broker-Dealer's financial statements "in accordance with generally accepted auditing standards."

10. Firm staff obtained from the Broker-Dealer in January and February 2013 various documents including a trial balance and "Trial Balance Worksheet" as of December 31, 2012, portions of the Broker-Dealer's general ledger, a "Balance Sheet" and "Balance Sheet Prev[ious] Year Comparison" as of December 31, 2012, a "Profit & Loss Prev[ious] Year Comparison" for January through December 2012, and a Form X-17A-5 Part IIA for the period October 1, 2012 to December 31, 2012 that Firm staff understood had been filed by the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA") and that bore the header "FOCUS Report (Financial and Operational Combined Uniform Single Report)."

11. Firm staff used the above documents obtained from the Broker-Dealer to prepare the Statement of Cash Flows for the year ended December 31, 2012, and to draft the notes to the financial statements, filed by the Broker-Dealer with the Commission in February 2013.

12. As a result of the Firm's conduct in preparing the cash flow statement and the notes to the financial statements, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audit of the Broker-Dealer's financial statements. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[8]

13. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the audit of the Broker-Dealer's December 31, 2012 financial statements in accordance with GAAS when in fact, because of the independence impairment described above, the audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

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[8] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm, should the Board grant any future application of the Firm for registration, is required:

1. within ninety (90) days from the date the Board grants any future application of the Firm for registration ("Future Registration Date"), to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an

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examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the Future Registration Date, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the Future Registration Date and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement, to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within thirty (30) days from the Future Registration Date, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the Future Registration Date,

b. within thirty (30) days from the Future Registration Date, to any client of the Firm as of the Future Registration Date for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the Future Registration Date. The Firm shall also submit such additional evidence of and information

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concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

July 9, 2015

PCAOB
Public Company Accounting Oversight Board

1666 K Street, N.W.
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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of CST Group, CPAs, P.C.,* *Respondent.*	PCAOB Release No. 105-2015-014 July 9, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm CST Group, CPAs, P.C. ("CST Group," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $7,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission") in connection with two audits of a broker-dealer client as a result of preparing financial statements that the broker-dealer filed with the Commission and thus impairing the Firm's independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings,

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Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. CST Group is a registered public accounting firm located in Reston, Virginia. At all relevant times, the Firm was licensed by the Virginia Board of Accountancy (license no. 50317). The Firm, formed in 1973, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. CST Group prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the years ended December 31, 2012 and December 31, 2013. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited both sets of financial statements and issued audit reports that the Broker-Dealer included with the financial statements it filed with the Commission. In each of the audit reports, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, each of those representations violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[5] apply to

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[3] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

[5] 17 C.F.R. Part 210.

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audits of brokers and dealers.[6] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's December 31, 2012 financial statements, as well as its December 31, 2013 financial statements. At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In March 2013, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2012. Included in that filing was an audit report signed by the Firm dated February 19, 2013. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

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[6] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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10. Firm staff completed an "Engagement Acceptance and Continuance Form" in connection with the audit of the Broker-Dealer's December 31, 2012 financial statements ("2012 Audit"). That form included a pre-printed item reading, "What services does the entity desire from our firm?" Firm staff added a checkmark under "Yes" alongside the pre-printed sub-item reading, "Preparation of financial statements."

11. Firm staff obtained from the Broker-Dealer in January and February 2013 various documents including a Form X-17A-5 Part IIA that Firm staff understood had been filed by the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA") and that bore the header "FOCUS Report (Financial and Operational Combined Uniform Single Report)." That Form X-17A-5 Part IIA contained, among other things, three financial statements: a Statement of Financial Condition as of December 31, 2012, a Statement of Income (Loss) for the period October 1, 2012 to December 31, 2012 ("FOCUS Statement of Income"), and a Statement of Changes in Ownership Equity for the period October 1, 2012 to December 31, 2012. The documents obtained from the Broker-Dealer also included at least two other sets of financial statements: a one-page financial statement document containing a balance sheet, an income statement, a statement of changes in members' equity, and a reconciliation of the income reflected in the FOCUS Statement of Income to income statement amounts recorded by the Broker-Dealer in internal accounting records; and an electronic file containing a general ledger, a trial balance, a balance sheet, an income statement, a cash flow statement, and a statement of changes in members' equity.

12. Firm staff used the above documents obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of December 31, 2012, as well as the Statement of Income, Statement of Changes in Member's Equity, and Statement of Cash Flows for the year ended December 31, 2012, filed by the Broker-Dealer with the Commission in March 2013.

13. In preparing the above financial statements, Firm staff aggregated line items and changed line item descriptions as compared to corresponding information in the documents obtained from the Broker-Dealer.

14. Firm staff also prepared the notes to the Broker-Dealer's financial statements, which were filed by the Broker-Dealer with the Commission in March 2013. Firm staff based the preparation of the notes on the content and presentation of the notes to the previous year's financial statements filed by the Broker-Dealer, and in preparing them incorporated certain financial data provided by the Broker-Dealer.

15. Firm staff provided the Broker-Dealer with draft sets of financial statements on February 25 and February 26, 2013 for management approval.

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16. In October 2013, Board inspection staff conducted a review of certain aspects of the 2012 Audit. Board inspection staff communicated to the Firm the staff's finding that, as a result of the Firm's preparation of financial statements of the Broker-Dealer, the Firm had not been independent with respect to the 2012 Audit.

17. In July 2014, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2013. Included in that filing was an audit report signed by the Firm dated February 24, 2014. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

18. The Firm commenced work on the audit of the Broker-Dealer's financial statements for the year ended December 31, 2013 ("2013 Audit") in December 2013.

19. On December 20, 2013, Firm staff emailed the managing member and the business manager of the Broker-Dealer, writing in part:

> When we had the PCAOB examination in October they were tough on the fact that we did not have you provide the financial statements to us already prepared (including footnotes), even though you gave us all the parts, just not in one cohesive form. So, I have attached a draft of the usual financial statements in MS Word format for you to enter the 2013 numbers. You do not need to worry about it looking perfect as we will put the numbers into our system and generate the final product as usual, just fill in where the XXX numbers are and any blank underlined ___ spaces.

20. Attached to the December 20, 2013 email was a draft set of financial statements, including a Statement of Financial Condition as of December 31, 2013; a Statement of Income, a Statement of Changes in Member's Equity, and a Statement of Cash Flows for the year ended December 31, 2013; and notes to the financial statements. The financial statements were facially complete except for dollar amounts, which appeared therein as placeholders consisting of one or more typed X's (e.g., "X" or "X,XXX"). The notes were facially complete except for dollar amounts and one calendar date, which appeared therein as placeholders consisting of blank underscores ("__") and the text "[DATE]," respectively. Firm staff based the preparation of these draft financial statements on the content and presentation of the previous year's financial statements filed by the Broker-Dealer.

21. Firm staff obtained from the Broker-Dealer in January and February 2014 various documents including items similar to those obtained in connection with the previous year's audit: a Form X-17A-5 Part IIA that Firm staff understood had been filed

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by the Broker-Dealer with FINRA and that contained financial statements; an electronic file containing a general ledger, a trial balance, a balance sheet, an income statement, a cash flow statement, and a statement of changes in members' equity; and other financial statements, reports, and schedules prepared by the Broker-Dealer. The draft set of financial statements provided by Firm staff to the Broker-Dealer on December 20, 2013 differed from, and reflected the aggregation of line items and changes to line item descriptions as compared to, corresponding information in the documents obtained from the Broker-Dealer.

22. On January 8, 2014, the Firm received a comment form issued by Board inspection staff in connection with the staff's review of certain aspects of the 2012 Audit. The comment form set out the staff's finding that the Firm had failed to maintain auditor independence under Rule 2-01(c)(4)(i) of Regulation S-X because it had prepared financial statements of the Broker-Dealer.

23. On February 6, 2014, the Broker-Dealer's business manager emailed back to Firm staff a revised version of the draft set of financial statements received by the Broker-Dealer on December 20, 2013. The revised set, including notes, was identical to the draft set except for the substitution of all twenty-four (24) placeholders with dollar amounts and, in one instance, a calendar date. After certain additional changes were made to the financial statements, the Broker-Dealer filed the financial statements with the Commission.

24. On February 24, 2014, Firm staff completed an "Engagement Acceptance and Continuance Form" in connection with the 2013 Audit. That form, unlike the version completed for the previous year's audit, contained no reference to financial statement preparation. It did contain, however, the following text in a section concerning independence: "The SEC expects auditors of broker-dealers to comply with the independence requirements established by the accounting profession (the AICPA), as well as the requirements promulgated by the Commission and its staff. The SEC's independence rules are set forth in Rule 2-01 of Regulation S-X." Firm staff also added a checkmark under "No" alongside the pre-printed sub-item reading, "Have any prohibited nonaudit services been performed for this client?"

25. Firm staff prepared the Broker-Dealer's December 31, 2013 financial statements, including notes, notwithstanding the fact that Firm staff took different steps to do so than it had in the previous year and believed that those steps would not impair the Firm's independence.

26. As a result of the Firm's conduct—both in preparing the December 31, 2012 financial statements before being notified by Board inspection staff that such preparation impaired its independence, and in preparing the December 31, 2013

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financial statements after that notification—the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audits of the Broker-Dealer's financial statements. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[7]

27. The Firm violated Rule 17a-5(i) by representing in its audit reports that it had performed the audits of the Broker-Dealer's December 31, 2012 financial statements and December 31, 2013 financial statements in accordance with GAAS when in fact, because of the independence impairments described above, the audits had not been performed in accordance with GAAS. Those violations constituted violations of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $7,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order,

[7] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

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Public Company Accounting Oversight Board

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4. to provide a copy of this Order—

a. within thirty (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within thirty (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

July 9, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Goracke & Associates, P.C.,* *Respondent.*	PCAOB Release No. 105-2015-015 July 9, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Goracke & Associates, P.C. ("Goracke & Associates," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $20,000; and (3) in the event the Board grants any future registration application by the Firm,[1] (a) requiring the Firm to undertake certain remedial measures directed toward satisfying independence criteria applicable to audits of brokers and dealers, and (b) prohibiting the Firm from accepting any new broker-dealer engagement clients for a period of one year from the date of this Order. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission") in connection with two audits of a broker-dealer client as a result of preparing financial statements that the broker-dealer filed with the Commission and thus impairing the Firm's independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

[1] The Firm has filed a Form 1-WD seeking leave to withdraw from registration with the Board, which the Board has determined to grant as of the date of this Order.

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II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. Goracke & Associates is a registered public accounting firm located in La Vista, Nebraska. At all relevant times, the Firm was licensed by the Nebraska Board of Public Accountancy (permit no. 38505). The Firm, formed in 2000, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. Goracke & Associates prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended December 31, 2012. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3)

[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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to audits of brokers and dealers.[4] Board inspection staff reviewed aspects of the December 31, 2012 audit of the Broker-Dealer and communicated to the Firm that its preparation of the financial statements had impaired the Firm's independence. Notwithstanding that communication, Goracke & Associates, for the year ended December 31, 2013, again prepared the Broker-Dealer's financial statements and took substantially the same steps to do so as it had the previous year.

3. The Firm audited both sets of financial statements and issued audit reports that the Broker-Dealer included with the financial statements it filed with the Commission. In each of the audit reports, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, each of those representations violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

C. Respondent Violated a Commission Rule

4. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

5. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this

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[4] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

6. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

7. GAAS requires auditors to maintain strict independence from their audit clients.[5] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[6]

8. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[7] apply to audits of brokers and dealers.[8] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:

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[5] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[6] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

[7] 17 C.F.R. Part 210.

[8] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

9. The Firm served as the auditor of the Broker-Dealer's December 31, 2012 financial statements, as well as its December 31, 2013 financial statements. At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

10. In February 2013, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2012. Included in that filing was an audit report signed by the Firm dated February 5, 2013. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

11. Firm staff completed an "Engagement Acceptance and Continuance Form" in connection with the audit of the Broker-Dealer's December 31, 2012 financial statements ("2012 Audit"). That form included pre-printed text reading, in part:

> The SEC expects accountants to comply with the independence requirements established by the PCAOB, Independence Standards Board, and the accounting profession (the AICPA), as well as the requirements promulgated by the Commission and its staff. The SEC's independence rules are set forth in Rule 2-01 of Regulation S-X. Rule 2-01's general standard of independence requires both the fact and the appearance of independence.

12. Firm staff also completed a work paper titled "Audit Program for General Auditing and Completion Procedures" in connection with the 2012 Audit. The pre-printed text therein included, among other things, a direction to the engagement team to "[o]btain a draft of the financial statements from the client."

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13. Firm staff obtained from the Broker-Dealer in January and February 2013 various documents including a trial balance as of December 31, 2012; a balance sheet as of December 31, 2012; an income statement for the year ended December 31, 2012; and four Forms X-17A-5 Part IIA—one for each of the four quarters of 2012—that Firm staff understood had been filed by the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA"), that bore the headers "FOCUS Report (Financial and Operational Combined Uniform Single Report)," and that contained quarterly financial statements.

14. Firm staff used the above documents and other information obtained from the Broker-Dealer to prepare the Statement of Cash Flows for the year ended December 31, 2012, as well as to draft the notes to the Broker-Dealer's December 31, 2012 financial statements, all of which were filed by the Broker-Dealer with the Commission in February 2013.

15. Firm staff provided the Broker-Dealer with a draft Statement of Cash Flows and draft notes to the financial statements on February 2, February 13, and February 20, 2013 for management approval.

16. Following the 2012 Audit, Board inspection staff conducted a review of certain aspects of the 2012 Audit. On October 22, 2013, the Firm received a comment form issued by Board inspection staff in connection with that review. The comment form set out the staff's finding that the Firm had failed to maintain auditor independence under Rule 2-01(c)(4)(i) of Regulation S-X because it had prepared the Statement of Cash Flows and the notes to the financial statements of the Broker-Dealer.

17. On January 13, 2014, Firm staff sent an email to the Firm's broker-dealer clients highlighting certain aspects of the Commission's regulation of registered broker-dealers and of the Board's oversight of broker-dealer audit firms. That email characterized the PCAOB as "focused" on the preparation of broker-dealer financial statements, including notes; quoted that portion of Rule 2-01(c)(4) of Regulation S-X identifying the preparation of financial statements filed with the Commission as a prohibited non-audit service; and noted that Firm staff as part of their audit procedures would "need to document that you prepared the entire financial statement including footnotes and supplementary schedules."

18. On January 22, 2014, Firm staff emailed a quarterly "PCAOB Newsletter"/"Broker-Dealer Quarterly Update" to its broker-dealer clients. The newsletter reported that the Commission had finalized amendments to broker-dealer reporting rules, described at length the auditor independence criteria set out in Rule 2-01 of Regulation S-X (including the prohibition against preparing financial statements filed with the Commission), and stated:

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> The amendments do not change the independence requirements. However, the SEC's announcement contains a reminder that broker-dealers and their independent public accountants must comply with the independence requirements of Rule 2-01 of Regulation S-X. . . .
> . . .
> Small broker dealers may need to hire a second accounting firm to prepare the statement of cash flows and the footnotes to the financial statements in order to meet the independence requirements of Rule 2-01 of Regulation S-X.

19. On January 27, 2014, Firm staff sent yet another email to the Firm's broker-dealer clients concerning auditor independence. That email stated in part: "Please make sure that you have made arrangements for 2014 to fully prepare your financial statement[s] including the statement of cash flows and footnotes. Alternatively you can hire a second accounting firm to perform that function."

20. In February 2014, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2013. Included in that filing was an audit report signed by the Firm dated February 17, 2014. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

21. In connection with the audit of the December 31, 2013 financial statements ("2013 Audit"), Firm staff again completed an "Engagement Acceptance and Continuance Form." That work paper contained the same pre-printed text as the previous year's version, including the same reference to "[t]he SEC's independence rules . . . set forth in Rule 2-01 of Regulation S-X."

22. In January and February 2014, Firm staff obtained from the Broker-Dealer in connection with the 2013 Audit substantially the same types of documents obtained the previous year in connection with the 2012 Audit.

23. Firm staff used the above documents and other information obtained from the Broker-Dealer to prepare the Statement of Cash Flows for the year ended December 31, 2013, as well as to draft the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in February 2014.

24. Firm staff prepared the Statement of Cash Flows, and the notes to the financial statements, for the year ended December 31, 2013 notwithstanding the Firm's receipt on October 22, 2013 of the Board inspection staff's comment form noting that

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the Firm's preparation of the Broker-Dealer's Statement of Cash Flows and financial statement notes for the previous year had impaired the Firm's independence.

25. Firm staff provided the Broker-Dealer with a draft Statement of Cash Flows and draft notes to the financial statements on February 18, February 19, and February 20, 2014 for management approval.

26. As a result of the Firm's conduct—both in preparing the Statement of Cash Flows and notes to the financial statements for the year ended December 31, 2012 before being notified by Board inspection staff that such preparation impaired its independence, and in preparing the Statement of Cash Flows and notes to the financial statements for the year ended December 31, 2013 after that notification—the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audits of the Broker-Dealer's financial statements. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[9]

27. The Firm violated Rule 17a-5(i) by representing in its audit reports that it had performed the audits of the Broker-Dealer's December 31, 2012 financial statements and December 31, 2013 financial statements in accordance with GAAS when in fact, because of the independence impairments described above, the audits had not been performed in accordance with GAAS. Those violations constituted violations of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

[9] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm, should the Board grant any future application of the Firm for registration, is required:

1. within ninety (90) days from the date the Board grants any future application of the Firm for registration ("Future Registration Date"), to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an

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examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the Future Registration Date, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the Future Registration Date and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement, to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within thirty (30) days from the Future Registration Date, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the Future Registration Date,

b. within thirty (30) days from the Future Registration Date, to any client of the Firm as of the Future Registration Date for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the Future Registration Date. The Firm shall also submit such additional evidence of and information

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concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

D. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), the Firm, should the Board grant any future application of the Firm for registration, is prohibited from accepting any new SEC Registered Broker-Dealer Engagement clients for a period of one year from the date of this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

July 9, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Bret M. Sewell, CPA,* *Respondent.*	PCAOB Release No. 105-2015-016 July 9, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring Bret M. Sewell, CPA ("Sewell" or "Respondent"); (2) imposing upon Sewell a civil money penalty in the amount of $10,000; and (3) barring Sewell from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings that Sewell took or omitted to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to violations by a registered public accounting firm of a rule of the Securities and Exchange Commission ("Commission"). Those violations, in connection with two audits of a broker-dealer client, resulted from the firm's preparation of financial statements that the broker-dealer filed with the Commission, which impaired the firm's independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other

[1] Sewell may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. Sewell, age 44, of Omaha, Nebraska, is, and was at all relevant times, a certified public accountant licensed by the Nebraska Board of Public Accountancy (permit no. 39820). At all relevant times, Sewell was a partner at Goracke & Associates, P.C. ("Goracke & Associates" or "Firm"). Sewell is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. Goracke & Associates prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended December 31, 2012. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[4] Board inspection staff reviewed aspects of the

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports,

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December 31, 2012 audit of the Broker-Dealer and communicated to the Firm that its preparation of the financial statements had impaired the Firm's independence. Notwithstanding that communication, Goracke & Associates, for the year ended December 31, 2013, again prepared the Broker-Dealer's financial statements and took substantially the same steps to do so as it had the previous year.

3. The Firm audited both sets of financial statements and issued audit reports that the Broker-Dealer included with the financial statements it filed with the Commission. In each of the audit reports, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, each of those representations violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

4. Sewell, as engagement partner for each of the audits, took or omitted to take actions in connection with the Firm's audits and its preparation of the Broker-Dealer's financial statements that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violations of Rule 17a-5(i). Sewell thereby violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

C. Respondent Violated a Board Rule

5. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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6. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

7. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

8. GAAS requires auditors to maintain strict independence from their audit clients.[5] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[6]

9. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[7] apply to audits of brokers and dealers.[8] The applicable provisions include Rule 2-01(c)(4), which states in part:

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[5] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[6] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

[7] 17 C.F.R. Part 210.

[8] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

10. The Firm served as the auditor of the Broker-Dealer's December 31, 2012 financial statements, as well as its December 31, 2013 financial statements. At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

11. In February 2013, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2012. Included in that filing was an audit report signed by the Firm dated February 5, 2013. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

12. Firm staff completed, and Sewell on January 5, 2013 signed off on, an "Engagement Acceptance and Continuance Form" in connection with the audit of the Broker-Dealer's December 31, 2012 financial statements ("2012 Audit"). That form included pre-printed text reading, in part:

> The SEC expects accountants to comply with the independence requirements established by the PCAOB, Independence Standards Board, and the accounting profession (the AICPA), as well as the requirements promulgated by the Commission and its staff. The SEC's independence rules are set forth in Rule 2-01 of Regulation S-X. Rule 2-01's general standard of independence requires both the fact and the appearance of independence.

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13. Firm staff also completed a work paper titled "Audit Program for General Auditing and Completion Procedures" in connection with the 2012 Audit. The pre-printed text therein included, among other things, a direction to the engagement team to "[o]btain a draft of the financial statements from the client."

14. Firm staff obtained from the Broker-Dealer in January and February 2013 various documents including a trial balance as of December 31, 2012; a balance sheet as of December 31, 2012; an income statement for the year ended December 31, 2012; and four Forms X-17A-5 Part IIA—one for each of the four quarters of 2012—that Firm staff understood had been filed by the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA"), that bore the headers "FOCUS Report (Financial and Operational Combined Uniform Single Report)," and that contained quarterly financial statements.

15. Firm staff used the above documents and other information obtained from the Broker-Dealer to prepare the Statement of Cash Flows for the year ended December 31, 2012, as well as to draft the notes to the Broker-Dealer's December 31, 2012 financial statements, all of which were filed by the Broker-Dealer with the Commission in February 2013.

16. Firm staff provided the Broker-Dealer with a draft Statement of Cash Flows and draft notes to the financial statements on February 2, February 13, and February 20, 2013 for management approval.

17. Following the 2012 Audit, Board inspection staff conducted a review of certain aspects of the 2012 Audit. On October 22, 2013, the Firm received a comment form issued by Board inspection staff in connection with that review. The comment form set out the staff's finding that the Firm had failed to maintain auditor independence under Rule 2-01(c)(4)(i) of Regulation S-X because it had prepared the Statement of Cash Flows and the notes to the financial statements of the Broker-Dealer.

18. On January 13, 2014, Firm staff sent an email to the Firm's broker-dealer clients highlighting certain aspects of the Commission's regulation of registered broker-dealers and of the Board's oversight of broker-dealer audit firms. That email characterized the PCAOB as "focused" on the preparation of broker-dealer financial statements, including notes; quoted that portion of Rule 2-01(c)(4) of Regulation S-X identifying the preparation of financial statements filed with the Commission as a prohibited non-audit service; and noted that Firm staff as part of their audit procedures would "need to document that you prepared the entire financial statement including footnotes and supplementary schedules."

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19. On January 22, 2014, Firm staff emailed a quarterly "PCAOB Newsletter"/Broker-Dealer Quarterly Update" to its broker-dealer clients. The newsletter reported that the Commission had finalized amendments to broker-dealer reporting rules, described at length the auditor independence criteria set out in Rule 2-01 of Regulation S-X (including the prohibition against preparing financial statements filed with the Commission), and stated:

> The amendments do not change the independence requirements. However, the SEC's announcement contains a reminder that broker-dealers and their independent public accountants must comply with the independence requirements of Rule 2-01 of Regulation S-X. . . .
> . . .
> Small broker dealers may need to hire a second accounting firm to prepare the statement of cash flows and the footnotes to the financial statements in order to meet the independence requirements of Rule 2-01 of Regulation S-X.

20. On January 27, 2014, Firm staff sent yet another email to the Firm's broker-dealer clients concerning auditor independence. That email stated in part: "Please make sure that you have made arrangements for 2014 to fully prepare your financial statement[s] including the statement of cash flows and footnotes. Alternatively you can hire a second accounting firm to perform that function."

21. In February 2014, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2013. Included in that filing was an audit report signed by the Firm dated February 17, 2014. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

22. In connection with the audit of the December 31, 2013 financial statements ("2013 Audit"), Firm staff again completed, and Sewell on January 25, 2014 signed off on, an "Engagement Acceptance and Continuance Form." That work paper contained the same pre-printed text as the previous year's version, including the same reference to "[t]he SEC's independence rules . . . set forth in Rule 2-01 of Regulation S-X."

23. In January and February 2014, Firm staff obtained from the Broker-Dealer in connection with the 2013 Audit substantially the same types of documents obtained the previous year in connection with the 2012 Audit.

24. Firm staff used the above documents and other information obtained from the Broker-Dealer to prepare the Statement of Cash Flows for the year ended

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December 31, 2013, as well as to draft the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in February 2014.

25. Firm staff prepared the Statement of Cash Flows, and the notes to the financial statements, for the year ended December 31, 2013 notwithstanding the Firm's receipt on October 22, 2013 of the Board inspection staff's comment form noting that the Firm's preparation of the Broker-Dealer's Statement of Cash Flows and financial statement notes for the previous year had impaired the Firm's independence.

26. Firm staff provided the Broker-Dealer with a draft Statement of Cash Flows and draft notes to the financial statements on February 18, February 19, and February 20, 2014 for management approval.

27. As a result of the Firm's conduct—both in preparing the Statement of Cash Flows and notes to the financial statements for the year ended December 31, 2012 before being notified by Board inspection staff that such preparation impaired its independence, and in preparing the Statement of Cash Flows and notes to the financial statements for the year ended December 31, 2013 after that notification—the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audits of the Broker-Dealer's financial statements. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[9]

28. The Firm violated Rule 17a-5(i) by representing in its audit reports that it had performed the audits of the Broker-Dealer's December 31, 2012 financial statements and December 31, 2013 financial statements in accordance with GAAS when in fact, because of the independence impairments described above, the audits had not been performed in accordance with GAAS. Those violations constituted violations of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

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[9] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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29. Sewell, as the engagement partner for the 2012 and 2013 Audits, had responsibility for ensuring that he and Firm staff were aware of applicable independence requirements and that the Firm maintained its independence, as required by GAAS, under the independence criteria in Rules 2-01(b) and (c) of Regulation S-X made applicable by Rule 17a-5(f)(3) to those audits. Moreover, Sewell authorized and supervised the preparation of the Broker-Dealer's cash flow statement and financial statement notes, both for the year ended December 31, 2012 and—after the Firm received a Board inspection comment form noting that financial statement preparation had impaired the Firm's independence in connection with the 2012 Audit—for the year ended December 31, 2013. In connection with the 2012 and 2013 Audits, therefore, Sewell took or omitted to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violations of Rule 17a-5(i).

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Bret M. Sewell, CPA, is censured.

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Bret M. Sewell, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[10] and

[10] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Sewell. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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C. After one (1) year from the date of this Order, Bret M. Sewell, CPA, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Bret M. Sewell, CPA. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Sewell shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Sewell as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

July 9, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of James G. Pirolli, CPA,* *Respondent.*	PCAOB Release No. 105-2015-017 July 9, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm James G. Pirolli, CPA ("Firm" or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission") as a result of having prepared financial statements that were filed with the Commission for a registered broker-dealer audit client and thus impairing its independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings,

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Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. The Firm, a sole proprietorship, is a registered public accounting firm located in Holland, Pennsylvania. At all relevant times, the Firm's proprietor and sole professional was licensed by the Pennsylvania State Board of Accountancy (license no. CA018279L). The Firm, formed in 1986, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. The Firm prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended December 31, 2012. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[5] apply to

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[3] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

[5] 17 C.F.R. Part 210.

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audits of brokers and dealers.[6] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's December 31, 2012 financial statements. At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In March 2013, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2012. Included in that filing was an audit report signed by the Firm dated February 25, 2013. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

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[6] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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10. The engagement letter for the audit of the Broker-Dealer's December 31, 2012 financial statements ("Audit")—signed by the Firm's owner, who served as the engagement partner for the Audit—stated in part: "The financial statements I issue will also include reporting on internal control as required by SEC Rule 17a-5(g)(1) . . . . I understand that the SEC and FINRA require that the audited financial statements be submitted within 60 days after the end of the year and I will submit the financial statements to you in sufficient time to meet this requirement [emphases added]."

11. The "Engagement Acceptance and Continuance Form" completed in connection with the Audit included a pre-printed item reading, "What services does the entity desire from our firm?" The engagement partner added a checkmark under "Yes" alongside the pre-printed sub-item reading, "Preparation of financial statements." The same form included a separate item titled "Factors to Consider" with pre-printed text reading, "In addition to the AICPA independence standards, auditors may be required to comply with more stringent independence rules imposed by regulatory bodies."

12. A work paper prepared in connection with the Audit and titled "Final Review Procedures" listed sixteen descriptions of procedures performed and actions undertaken, including: "Prepared an auditor's report and financial statements and released report on 2/25/13 [emphasis added]."

13. The engagement partner obtained from the Broker-Dealer in January and February 2013 various documents including a Statement of Financial Condition as of December 31, 2012; a Statement of Operations, Statement of Stockholders' Equity, and Statement of Cash Flows for the year ended December 31, 2012; several schedules titled "Balance Sheet" and "Income Statement"; a "Financial St[ate]m[e]nt Groupings" report; a "Trial Balance Worksheet" as of December 31, 2012; portions of the Broker-Dealer's general ledger; and four Forms X-17A-5 Part IIA—one for each of the four quarters of 2012—that the engagement partner understood had been filed by the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA"), that bore the headers "FOCUS Report (Financial and Operational Combined Uniform Single Report)," and that contained quarterly financial statements.

14. The engagement partner used the above documents obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of December 31, 2012, as well as the Statement of Operations, Statement of Changes in Stockholders' Equity, and Statement of Cash Flows for the year ended December 31, 2012, filed by the Broker-Dealer with the Commission in March 2013.

15. In preparing those financial statements, the engagement partner added and deleted line items, aggregated and disaggregated line items, and changed line item

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descriptions and amounts, as compared to corresponding information in the documents obtained from the Broker-Dealer.

16. The engagement partner also drafted the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in March 2013.

17. The engagement partner provided the Broker-Dealer with a set of draft financial statements on February 20, 2013 for management approval.

18. As a result of the Firm's conduct in preparing the financial statements, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audit of the Broker-Dealer's financial statements. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[7]

19. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the audit of the Broker-Dealer's December 31, 2012 financial statements in accordance with GAAS when in fact, because of the independence impairment described above, the audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

[7] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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ORDER

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

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2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within thirty (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within thirty (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning

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compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

July 9, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Mistretta Associates and Robert Mistretta, CPA,* *Respondents.*	PCAOB Release No. 105-2015-018 July 9, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Mistretta Associates ("Mistretta Associates" or "Firm"); (2) imposing upon the Firm a civil money penalty in the amount of $20,000; (3) in the event the Board grants any future registration application by the Firm,[1] (a) requiring the Firm to undertake certain remedial measures directed toward satisfying independence criteria applicable to audits of brokers and dealers, and (b) prohibiting the Firm from accepting any new broker-dealer engagement clients for a period of one year from the date of this Order; (4) censuring Robert Mistretta, CPA ("Mistretta"); and (5) barring Mistretta from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings (a) that the Firm violated a rule of the Securities and Exchange Commission ("Commission") in connection with two audits of a broker-dealer client as a result of preparing financial statements that the broker-dealer filed with the Commission and thus impairing the Firm's independence, and (b) that Mistretta took or omitted to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violations of a Commission rule.

[1] The Firm has filed a Form 1-WD seeking leave to withdraw from registration with the Board, which the Board has determined to grant as of the date of this Order.

[2] Mistretta may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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ORDER

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against the Firm and Mistretta ("Respondents").

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondents each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Mistretta Associates is a registered public accounting firm located in Sacramento, California. At all relevant times, the Firm was licensed by the California Board of Accountancy (license no. 1296). The Firm, formed in 2003, is registered with the Board pursuant to Section 102 of the Act and Board rules.

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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2. Robert Mistretta, CPA, 63, of Sacramento, California, is, and was at all relevant times, a certified public accountant licensed by the California Board of Accountancy (license no. 25884). He is the sole owner of Mistretta Associates. Mistretta is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. Mistretta Associates prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended December 31, 2012. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[5] Board inspection staff reviewed aspects of the December 31, 2012 audit of the Broker-Dealer and communicated to the Firm that its preparation of the financial statements had impaired the Firm's independence. Notwithstanding that communication, Mistretta Associates, for the year ended December 31, 2013, again prepared the Broker-Dealer's financial statements and took substantially the same steps to do so as it had the previous year.

4. The Firm audited both sets of financial statements and issued audit reports that the Broker-Dealer included with the financial statements it filed with the Commission. In each of the audit reports, the Firm represented that the audits had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, each of those representations violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

5. Mistretta, as sole owner of the Firm and engagement partner for each of the audits, took or omitted to take actions in connection with the Firm's audits and its

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[5] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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preparation of the Broker-Dealer's financial statements that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violations of Rule 17a-5(i). Mistretta thereby violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

C. Respondents Violated Commission and Board Rules

6. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

7. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

8. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

9. GAAS requires auditors to maintain strict independence from their audit clients.[6] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[7]

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[6] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[7] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

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10. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[8] apply to audits of brokers and dealers.[9] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

11. The Firm served as the auditor of the Broker-Dealer's December 31, 2012 financial statements, as well as its December 31, 2013 financial statements. At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Mistretta served as engagement partner for both audits.

12. In March 2013, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2012. Included in that filing was an audit

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[8] 17 C.F.R. Part 210.

[9] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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report signed by the Firm dated February 19, 2013. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

13. On February 7, 2013, Mistretta completed an "Engagement Acceptance and Continuance Form" in connection with the audit of the Broker-Dealer's December 31, 2012 financial statements ("2012 Audit"). That form included a pre-printed item reading, "What services does the entity desire from our firm?" Mistretta added a checkmark under "Yes" alongside the pre-printed sub-item reading, "Preparation of financial statements." The same form included a separate item titled "Factors to Consider" with pre-printed text reading, "In addition to the AICPA independence standards, auditors may be required to comply with more stringent independence rules imposed by regulatory bodies."

14. Mistretta and Firm staff obtained from the Broker-Dealer in January and February 2013 various documents including a trial balance, a profit and loss schedule, and a Form X-17A-5 Part IIA that Firm staff understood had been filed by the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA") and that bore the header "FOCUS Report (Financial and Operational Combined Uniform Single Report)." That Form X-17A-5 Part IIA contained, among other things, three financial statements: a Statement of Financial Condition as of December 31, 2012 ("FOCUS Statement of Financial Condition"), a Statement of Income (Loss) for the period October 1, 2012 to December 31, 2012 ("FOCUS Statement of Income"), and a Statement of Changes in Ownership Equity for the period October 1, 2012 to December 31, 2012 ("FOCUS Statement of Changes in Ownership Equity").

15. Mistretta and Firm staff used the above documents obtained from the Broker-Dealer to prepare the Balance Sheet as of December 31, 2012, as well as the Statement of Income and Proprietor's Equity for the year ended December 31, 2012, filed by the Broker-Dealer with the Commission in March 2013.

16. In preparing the Balance Sheet and Statement of Income and Proprietor's Equity filed by the Broker-Dealer with the Commission, Mistretta and Firm staff aggregated line items and changed line item descriptions as compared to corresponding information in the documents obtained from the Broker-Dealer.

17. Mistretta and Firm staff also prepared the Statement of Cash Flows for the year ended December 31, 2012, as well as drafted the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in March 2013.

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18. Mistretta and Firm staff provided the Broker-Dealer with a set of draft financial statements in February 2013 for management approval.

19. Following the 2012 Audit, Board inspection staff conducted a review of certain aspects of the 2012 Audit. On January 22, 2014, the Firm received a comment form issued by Board inspection staff in connection with that review. The comment form set out the staff's finding that the Firm had failed to maintain auditor independence under Rule 2-01(c)(4)(i) of Regulation S-X because it had prepared financial statements of the Broker-Dealer.

20. In March 2014, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2013. Included in that filing was an audit report signed by the Firm dated February 20, 2014. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

21. Rather than completing a new "Engagement Acceptance and Continuance Form" in connection with the audit of the Broker-Dealer's December 31, 2013 financial statements ("2013 Audit"), Mistretta used a copy of the form he had completed in connection with the 2012 Audit and made a few changes, including adding the applicable financial statement year end ("12/31/13") at the top of the form and adding new sign-offs at the top and bottom of the form dated February 10, 2014. Like the previous year's form, the copy of the form for the 2013 Audit included a pre-printed item reading, "What services does the entity desire from our firm?" and a checkmark added by Mistretta under "Yes" alongside the pre-printed sub-item reading, "Preparation of financial statements."

22. In January and February 2014, Mistretta and Firm staff obtained from the Broker-Dealer in connection with the 2013 Audit substantially the same types of documents obtained the previous year in connection with the 2012 Audit. Mistretta and Firm staff also obtained from the Broker-Dealer a balance sheet prepared by the Broker-Dealer.

23. In February 2014, Mistretta and Firm staff used the documents obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of December 31, 2013, as well as the Statement of Income and Proprietor's Equity for the year ended December 31, 2013, filed by the Broker-Dealer with the Commission in March 2014.

24. In preparing the Statement of Financial Condition and Statement of Income and Proprietor's Equity filed by the Broker-Dealer with the Commission, Mistretta and Firm staff aggregated line items and changed line item descriptions as

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compared to corresponding information in the documents obtained from the Broker-Dealer.

25. Mistretta and Firm staff also prepared the Statement of Cash Flows for the year ended December 31, 2013, as well as drafted the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in March 2014.

26. Mistretta and Firm staff prepared in February 2014 the Broker-Dealer's December 31, 2013 financial statements, including notes, notwithstanding the Firm's receipt on January 22, 2014 of the Board inspection staff's comment form noting that the Firm's preparation of the Broker-Dealer's December 31, 2012 financial statements had impaired the Firm's independence.

27. Mistretta and Firm staff provided the Broker-Dealer with a set of draft financial statements in February 2014 for management approval.

28. As a result of the Firm's conduct—both in preparing the December 31, 2012 financial statements before being notified by Board inspection staff that such preparation impaired its independence, and in preparing the December 31, 2013 financial statements after that notification—the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audit of the Broker-Dealer's financial statements. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[10]

29. The Firm violated Rule 17a-5(i) by representing in its audit reports that it had performed the audits of the Broker-Dealer's December 31, 2012 financial statements and December 31, 2013 financial statements in accordance with GAAS when in fact, because of the independence impairments described above, the audits had not been performed in accordance with GAAS. Those violations constituted violations of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

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[10] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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30. Mistretta, as the Firm's sole owner and the engagement partner for the 2012 and 2013 Audits, had responsibility for ensuring that he and Firm staff were aware of applicable independence requirements and that the Firm maintained its independence, as required by GAAS, under the independence criteria in Rules 2-01(b) and (c) of Regulation S-X made applicable by Rule 17a-5(f)(3) to those audits. Moreover, Mistretta authorized, supervised, and participated in the preparation of the Broker-Dealer's financial statements, both for the year ended December 31, 2012 and—after Mistretta received on behalf of the Firm a Board inspection comment form noting that financial statement preparation had impaired the Firm's independence in connection with the 2012 Audit—for the year ended December 31, 2013. In connection with the 2012 and 2013 Audits, therefore, Mistretta took or omitted to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violations of Rule 17a-5(i).

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary,

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Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm, should the Board grant any future application of the Firm for registration, is required:

1. within ninety (90) days from the date the Board grants any future application of the Firm for registration ("Future Registration Date"), to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the Future Registration Date, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the Future Registration Date and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement, to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within thirty (30) days from the Future Registration Date, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the Future Registration Date,

b. within thirty (30) days from the Future Registration Date, to any client of the Firm as of the Future Registration Date for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

ORDER

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the Future Registration Date. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

D. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), the Firm, should the Board grant any future application of the Firm for registration, is prohibited from accepting any new SEC Registered Broker-Dealer Engagement clients for a period of one year from the date of this Order.

E. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Robert Mistretta, CPA, is censured.

F. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Robert Mistretta, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[11] and

[11] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Mistretta. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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G. After one (1) year from the date of this Order, Robert Mistretta, CPA, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

July 9, 2015

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Sanford, Baumeister & Frazier, LLP,* *Respondent.*	PCAOB Release No. 105-2015-019 July 9, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Sanford, Baumeister & Frazier, LLP ("Sanford, Baumeister & Frazier," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission") as a result of having prepared financial statements that were filed with the Commission for a registered broker-dealer audit client and thus impairing its independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings,

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ORDER

Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Sanford, Baumeister & Frazier is a registered public accounting firm with offices in Fort Worth and Dallas, Texas. At all relevant times, the Firm was licensed by the Texas State Board of Public Accountancy (license no. P05381). The Firm, formed in 1949, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. Sanford, Baumeister & Frazier prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended June 30, 2012. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[5] apply to

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[3] AU Section 220, *Independence*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

[5] 17 C.F.R. Part 210.

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audits of brokers and dealers.[6] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's June 30, 2012 financial statements. At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In August 2012, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended June 30, 2012. Included in that filing was an audit report signed by the Firm dated August 23, 2012. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

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[6] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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10. Firm staff completed an "Engagement Acceptance and Continuance Form" in connection with the audit of the Broker-Dealer's June 30, 2012 financial statements ("Audit"). That form included a pre-printed item reading, "What services does the entity desire from our firm?" Firm staff added a checkmark under "Yes" alongside the pre-printed sub-item reading, "Preparation of financial statements."

11. Firm staff obtained from the Broker-Dealer in July 2012 various documents including a trial balance and a "Balance Sheet" as of June 30, 2012, a 2012 "Income Statement," a general ledger, and a Form X-17A-5 Part IIA that Firm staff understood had been filed by the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA") and that bore the header "FOCUS Report (Financial and Operational Combined Uniform Single Report)." That Form X-17A-5 Part IIA contained, among other things, three financial statements: a Statement of Financial Condition as of June 30, 2012, a Statement of Income (Loss) for the period April 1, 2012 to June 30, 2012, and a Statement of Changes in Ownership Equity for the period April 1, 2012 to June 30, 2012.

12. Firm staff used the above documents obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of June 30, 2012, as well as the Statement of Income for the year ended June 30, 2012, filed by the Broker-Dealer with the Commission in August 2012.

13. In preparing the Statement of Financial Condition and the Statement of Income, Firm staff aggregated and disaggregated line items, and changed line item descriptions and the wording of a caption, as compared to corresponding information in the documents obtained from the Broker-Dealer.

14. Firm staff also prepared the Statement of Changes in Stockholders' Equity and Statement of Cash Flows for the year ended June 30, 2012.

15. Firm staff provided the Broker-Dealer with a set of draft financial statements on August 22, 2012 for management approval.

16. As a result of the Firm's conduct in preparing the financial statements, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audit of the Broker-Dealer's financial statements. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In

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addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[7]

17. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the audit of the Broker-Dealer's June 30, 2012 financial statements in accordance with GAAS when in fact, because of the independence impairment described above, the audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary,

[7] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within thirty (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within thirty (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

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c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

July 9, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Walker & Armstrong LLP,* *Respondent.*	PCAOB Release No. 105-2015-020 July 9, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Walker & Armstrong LLP ("Walker & Armstrong," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $7,500; and (3) in the event the Board grants any future registration application by the Firm,[1] requiring the Firm to undertake certain remedial measures directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission") in connection with two audits of a broker-dealer client as a result of preparing financial statements that the broker-dealer filed with the Commission and thus impairing the Firm's independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has

[1] The Firm has filed a Form 1-WD seeking leave to withdraw from registration with the Board, which the Board has determined to grant as of the date of this Order.

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determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Walker & Armstrong is a registered public accounting firm with offices in Phoenix, Tucson, and Carefree, Arizona. At all relevant times, the Firm was licensed by the Arizona State Board of Accountancy (registration no. 375). The Firm, formed in 1971, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. Walker & Armstrong prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the years ended December 31, 2012 and December 31, 2013. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[3] The Firm nevertheless audited both sets of financial statements and issued audit reports that the Broker-Dealer

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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included with the financial statements it filed with the Commission. In each of the audit reports, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, each of those representations violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[4] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[5]

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[4] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[5] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

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7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[6] apply to audits of brokers and dealers.[7] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's December 31, 2012 financial statements, as well as its December 31, 2013 financial statements. At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In February 2013, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2012. Included in that filing was an audit report signed by the Firm dated February 25, 2013. That report stated, among other

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[6] 17 C.F.R. Part 210.

[7] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

10. Firm staff completed an "Engagement Acceptance and Continuance Form" in connection with the audit of the Broker-Dealer's December 31, 2012 financial statements ("2012 Audit"). That form included a pre-printed item reading, "What services does the financial institution desire from our firm?" Firm staff added a checkmark under "No" alongside the pre-printed sub-item reading, "Preparation of financial statements," as well as a note that the Broker-Dealer "determines groupings and note disclosure language with recommendations by [Walker & Armstrong]."

11. Firm staff also completed a work paper titled "Understanding the Entity and Identifying Risks," which contained a pre-printed item calling for an identification of "significant accounting policies," specialized or new "accounting standards," and "any other issues related to the application of GAAP." In response to that item, Firm staff added a note reading, in part: "SEC independence rules, PCAOB audit standards (possible in the near future)" (emphasis added).

12. Firm staff obtained from the Broker-Dealer in January and February 2013 various documents including a trial balance, a balance sheet as of December 31, 2012, and an income statement for the year ended December 31, 2012. The documents obtained from the Broker-Dealer also included four Forms X-17A-5 Part IIA—one for each of the four quarters of 2012—that Firm staff understood had been filed by the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA"), that bore the headers "FOCUS Report (Financial and Operational Combined Uniform Single Report)," and that contained quarterly financial statements ("Quarterly FOCUS Reports"). Firm staff also obtained from the Broker-Dealer in connection with each Quarterly FOCUS Report a set of documents containing related information for that quarter—specifically, a trial balance, a sales report, and a financial statement document consisting of a "Balance Sheet," a "Statement of Operations," and a "Calculation of Net Capital."

13. On February 5, 2013, Firm staff emailed the Broker-Dealer proposed groupings of asset, liability, income, and expense items under captions and into line items for inclusion in the financial statements to be filed with the Commission. Firm staff noted in the email that the attached groupings matched those used in connection with the previous year's financial statements filed by the Broker-Dealer with the Commission. By February 15, 2013, Broker-Dealer management had communicated approval of those groupings to Firm staff.

14. Firm staff used the above documents obtained from and groupings approved by the Broker-Dealer to prepare the Statement of Financial Condition as of

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December 31, 2012, as well as the Statement of Income for the year ended December 31, 2012, filed by the Broker-Dealer with the Commission in February 2013.

15. In preparing the groupings approved by the Broker-Dealer, and thereafter the Statement of Financial Condition and Statement of Income filed by the Broker-Dealer with the Commission, Firm staff aggregated line items, deleted captions and line items, and changed line item descriptions as compared to corresponding information in the documents obtained from the Broker-Dealer.

16. Firm staff also prepared the Statement of Changes in Partners' Capital and Statement of Cash Flows for the year ended December 31, 2012, which were filed by the Broker-Dealer with the Commission in February 2013.

17. Firm staff provided the Broker-Dealer with a set of draft financial statements on February 22, 2013 for management approval.

18. Following the 2012 Audit, Board inspection staff conducted a review of certain aspects of the 2012 Audit. On January 21, 2014, the Firm received a comment form issued by Board inspection staff in connection with that review. The comment form set out the staff's finding that the Firm had failed to maintain auditor independence under Rule 2-01(c)(4)(i) of Regulation S-X because it had prepared financial statements of the Broker-Dealer. Firm staff discussed the comment form and the finding therein with Broker-Dealer management personnel.

19. In February 2014, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2013. Included in that filing was an audit report signed by the Firm dated February 26, 2014. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

20. Firm staff completed an "Engagement Acceptance and Continuance Form" in connection with the audit of the Broker-Dealer's December 31, 2013 financial statements ("2013 Audit"). Like the form completed in connection with the previous year's audit, this form included a pre-printed item reading, "What services does the financial institution desire from our firm?," as well as a checkmark added by Firm staff under "No" alongside the pre-printed sub-item reading, "Preparation of financial statements." Firm staff also added a note reading, "[Broker-Dealer] prepares."

21. Firm staff also completed a work paper titled "Understanding the Entity and Identifying Risks." Like the form completed in connection with the 2012 Audit, this form contained a pre-printed item calling for an identification of "significant accounting policies," specialized or new "accounting standards," and "any other issues related to

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the application of GAAP." Firm staff added the same note in response to that item as had been added to the previous year's form: "SEC independence rules, PCAOB audit standards (possible in the near future)" (emphasis added).

22. In January and February 2014, Firm staff obtained from the Broker-Dealer in connection with the 2013 Audit substantially the same types of documents obtained the previous year in connection with the 2012 Audit.

23. In addition, on February 6, 2014, Firm staff obtained from the Broker-Dealer a draft set of December 31, 2013 financial statements, including Statements of Financial Condition, Income, Changes in Partners' Capital, and Cash Flows, as well as a draft set of notes to those financial statements, for filing with the Commission. Firm staff thereafter identified certain aspects of the financial statements including notes that, in their view, should be revised. Firm staff discussed and obtained approval for those proposed revisions during a meeting on February 24, 2014 with the Broker-Dealer's chief financial officer; made those revisions in the electronic copy of the draft financial statements that the Firm had received; provided the Broker-Dealer with a copy of that revised set on February 26, 2014 for management approval; and generated from that Firm-revised set the final version of the financial statements including notes, which were later filed by the Broker-Dealer with the Commission.

24. The revisions made by Firm staff to the financial statements and notes drafted by and obtained from the Broker-Dealer included changes to 15 of 31 line item amounts in the Statement of Financial Condition and Statement of Income; nine of 24 line item descriptions and 16 of 24 line item amounts in the Statement of Cash Flows; and 13 of 43 paragraphs in the notes to the financial statements (including, for example, the deletion of one paragraph altogether, the addition of a tabular presentation, and the disaggregation on a year-by-year basis of information concerning the timing of certain future payments due from the Broker-Dealer).

25. Firm staff also asked Broker-Dealer management personnel to make the same revisions to the Broker-Dealer's own electronic copy of the draft financial statements, and then to email to the Firm a copy of that client-revised set for the Firm's records. Broker-Dealer management personnel did so.

26. Firm staff prepared the Broker-Dealer's December 31, 2013 financial statements, including notes, notwithstanding the fact that Firm staff took different steps to do so than it had in the previous year and believed that those steps would not impair the Firm's independence.

27. As a result of the Firm's conduct—both in preparing the December 31, 2012 financial statements before being notified by Board inspection staff that such

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preparation impaired its independence, and in preparing the December 31, 2013 financial statements after that notification—the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audits of the Broker-Dealer's financial statements. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[8]

28. The Firm violated Rule 17a-5(i) by representing in its audit reports that it had performed the audits of the Broker-Dealer's December 31, 2012 financial statements and December 31, 2013 financial statements in accordance with GAAS when in fact, because of the independence impairments described above, the audits had not been performed in accordance with GAAS. Those violations constituted violations of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $7,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions

[8] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required, should the Board grant any future application of the Firm for registration:

1. within ninety (90) days from the date the Board grants any future application of the Firm for registration ("Future Registration Date"), to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the Future Registration Date, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the Future Registration Date and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement, to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

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4. to provide a copy of this Order—

a. within (30) days from the Future Registration Date, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the Future Registration Date,

b. within (30) days from the Future Registration Date, to any client of the Firm as of the Future Registration Date for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the Future Registration Date. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

July 9, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Cowan, Gunteski & Co., P.A. and William Meyler, CPA* *Respondents.*	PCAOB Release No. 105-2015-021 July 23, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring the registered public accounting firm Cowan, Gunteski & Co., P.A. ("Cowan" or the "Firm") and censuring William Meyler, CPA ("Meyler"). The Board is imposing these sanctions on the basis of its findings concerning the Firm's and Meyler's (collectively, "Respondents"): (1) violations of Section 10A(j) of the Securities Exchange Act of 1934 ("Exchange Act"), Exchange Act Rule 10A-2, and PCAOB rules and standards in connection with the Firm's audits of two issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted,

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:

A. Respondents

1. Cowan, Gunteski, & Co, P.A. is, and at all relevant times was, a professional association organized under the laws of the state of New Jersey, and headquartered in Toms River, New Jersey. Cowan is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Cowan is licensed by the New Jersey State Board of Accountancy (license no. 20CB00205500). Cowan merged with Meyler & Co., LLC in early 2013. At all relevant times, either Cowan or Meyler & Co., LLC was the external auditor for each of the issuers identified below.

2. William Meyler, 70, of Middletown, New Jersey, is a certified public accountant licensed under the laws of the state of New Jersey (license no. 20CC00656300). At all relevant times, he was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, and PCAOB rules and auditing standards that require a registered public accounting firm and its associated persons be independent of the firm's audit clients throughout the audit and professional engagement period. Respondents were not independent with respect to one issuer audit client, Tauriga Sciences, Inc. ("Tauriga"), because Meyler served as lead partner on the audits of that client's financial statements for more than five consecutive years.[2]

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[1] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[2] See Section 10A(j) of the Exchange Act; Exchange Act Rule 10A-2, *Auditor Independence*; PCAOB Rule 3520, *Auditor Independence*; and AU §§ 220.01-02, *Independence*.

ORDER

4. This matter also concerns Respondents' failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to one issuer audit client, China Ginseng Holdings, Inc. ("China Ginseng"), because Meyler served as engagement quality reviewer immediately after serving as the engagement partner for China Ginseng without satisfying the mandatory two-year "cooling-off" period for former engagement partners.[3]

C. Respondents Violated PCAOB and Exchange Act Rules, and PCAOB Auditing Standards

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[4] PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[5] A registered public accounting firm or associated person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Securities and Exchange Commission ("Commission") under the federal securities laws.[6]

6. Section 10A(j) of the Exchange Act provides, "[i]t shall be unlawful for a registered public accounting firm to provide audit services to an issuer if the lead (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, has performed audit services for that issuer in each of the 5 previous fiscal years of that issuer." Exchange Act Rule 10A-2 provides

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[3] See AS 7 ¶ 8; see also PCAOB Release 2009-004, Auditing Standard No. 7 – *Engagement Quality Review and Conforming Amendment to the Board's Interim Quality Control Standards*. At all relevant times, Cowan had 10 or more partners and did not qualify for AS 7 ¶ 8's small firm exemption.

[4] See PCAOB Rules 3100, *Compliance with Auditing and Related Professional Standards*, and 3200T, *Interim Auditing Standards*.

[5] See PCAOB Rule 3520; see also AU §§ 220.01-02.

[6] See PCAOB Rule 3520, Note 1.

ORDER

that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the partner rotation requirements of Commission Regulation S-X.

7. Rule 2-01 of Commission Regulation S-X provides that an accountant is not independent of an audit client when an audit partner performs the services of lead or concurring audit partner for the same issuer for more than five consecutive years and within the five consecutive year period following the performance of services for the maximum period permitted. The partner rotation requirements set forth in Rule 2-01 were promulgated in 2003.[7]

8. For audits of financial statements for years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[8] Further, paragraph 8 of AS 7 provides: "[t]he person who served as the engagement partner during either of the two audits preceding the audit subject to the engagement quality review may not be the engagement quality reviewer."

9. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[9]

10. As described below, Respondents failed to comply with Exchange Act Rule 10A-2 and PCAOB rules and standards, the Firm failed to comply with Section 10A(j) of the Exchange Act, and Meyler took or omitted to take actions knowing, or recklessly not knowing, that his acts and/or omissions would directly and substantially contribute to the Firm's violations of Section 10A(j) of the Exchange Act.

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[7] See Rule 2-01 of Regulation S-X, 17 C.F.R. §§ 210.2-01(c)(6)(i)(A)(1) and (c)(6)(i)(B)(1). At all relevant times, Cowan had 10 or more partners and did not qualify for the small firm exemption. Id. at § 210.2-01(c)(6)(ii).

[8] See AS 7 ¶ 1.

[9] See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

ORDER

Audits of Tauriga's Financial Statements

11. At all relevant times, Tauriga Sciences, Inc. was a Florida corporation headquartered in Danbury, Connecticut. Tauriga's public filings disclose that it was engaged in the business of developing a method of remediating wastewater generated by nuclear energy production, developing an alternative clean energy platform using proprietary microbial solutions that create electricity while consuming polluting molecules from wastewater, and selling a topical medicinal cannabis product. At all relevant times, Tauriga was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

12. Meyler & Co., LLC was engaged as Tauriga's external auditor in 2009. Meyler & Co., LLC audited Tauriga's March 31, 2009 through 2012 year-end financial statements over a period of four consecutive fiscal years,[10] and issued audit reports, which were filed with the Commission, expressing unqualified opinions on those financial statements. Meyler served as the lead audit partner on each of the Tauriga engagements and authorized the issuance of all audit reports during this four-year period.

13. Cowan was engaged as Tauriga's external auditor in 2013. Cowan audited Tauriga's March 31, 2013 year-end financial statements and issued an audit report, which was filed with the Commission, expressing an unqualified opinion on the financial statements. Meyler served as the lead audit partner on the March 31, 2013 Tauriga engagement and authorized the issuance of the audit report for a fifth consecutive year.

14. After serving as lead audit partner for the aforementioned five year period, Meyler continued to serve as the lead audit partner on the audit of Tauriga's March 31, 2014 year-end financial statements in violation of Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220. Meyler also authorized the issuance of an audit report that was included in a Form 10-K filed with the Commission, expressing an unqualified opinion on those financial statements, even though the Firm and Meyler were not independent of the client. As a result, both Respondents failed to comply with Exchange Act Rule 10A-2 and PCAOB Rule 3520, and AU § 220.

[10] The initial audit report, issued in 2009, covered Tauriga's March 31, 2008 and 2009 year-end financial statements.

ORDER

Audits of China Ginseng Holdings, Inc.'s Financial Statements

15. At all relevant times, China Ginseng was a Nevada corporation headquartered in the People's Republic of China. China Ginseng's public filings disclose that it was in the business of farming, processing, distributing, and marketing fresh ginseng, as well as the business of producing and selling ginseng juice and wine. At all relevant times, China Ginseng was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

16. Meyler & Co., LLC audited China Ginseng's June 30, 2012 year-end financial statements, and issued an audit report, which was filed with the Commission, expressing an unqualified opinion on the financial statements. Meyler served as the lead audit partner for the China Ginseng audit and authorized the issuance of the audit report.

17. Cowan was engaged as China Ginseng's external auditor in 2013. Cowan audited China Ginseng's June 30, 2013 year-end financial statements and issued an audit report, which was filed with the Commission, expressing an unqualified opinion on the financial statements. After serving as the lead audit partner on the prior year's audit, Meyler immediately served as the engagement quality reviewer on the June 30, 2013 China Ginseng audit without satisfying the mandatory two-year "cooling-off" period. As a result, Respondents violated AS 7.[11]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

[11] See AS 7 ¶ 8.

PCAOB
Public Company Accounting Oversight Board

ORDER

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Cowan, Gunteski & Co., P.A. and William Meyler, CPA are hereby censured.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

July 23, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Weaver and Tidwell, L.L.P.* *Respondent.*	PCAOB Release No. 105-2015-022 July 23, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring the registered public accounting firm Weaver and Tidwell, L.L.P. ("Weaver," the "Firm," or "Respondent"). The Board is imposing this sanction on the basis of its findings concerning the Firm's violations of PCAOB rules and standards in connection with two of the Firm's audits of one issuer audit client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over it and the subject matter of these proceedings, which is admitted, Respondent

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consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Weaver and Tidwell, L.L.P. is, and at all relevant times was, a limited liability partnership organized under the laws of the state of Texas, and headquartered in Fort Worth, Texas. Weaver is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Weaver is licensed by the Texas State Board of Accountancy (license no. P04338). At all relevant times, the Firm was the external auditor for the issuer identified below.

B. Summary

2. This matter concerns Respondent's failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to one issuer client, San Juan Basin Royalty Trust ("San Juan Basin Royalty"). A partner at Weaver, Dale Jensen ("Jensen"),[2] served as engagement quality reviewer on two San Juan Basin Royalty audits immediately after serving as the engagement partner on San Juan Basin Royalty's audits, without satisfying the mandatory two year "cooling-off" period for former engagement partners.[3]

C. Respondent Violated Auditing Standard No. 7

3. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[2] See Dale Jensen, CPA, PCAOB Release No. 105-2015-023 (July 23, 2015).

[3] See AS 7 ¶ 8; see also PCAOB Release 2009-004, *Auditing Standard No. 7 – Engagement Quality Review and Conforming Amendment to the Board's Interim Quality Control Standards.*

PCAOB
Public Company Accounting Oversight Board

ORDER

with the Board's auditing and related professional practice standards.[4] For audits of financial statements for years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[5] Further, paragraph 8 of AS 7 provides: "[t]he person who served as the engagement partner during either of the two audits preceding the audit subject to the engagement quality review may not be the engagement quality reviewer."[6]

4. As described below, Respondent failed to comply with AS 7.

Audits of San Juan Basin Royalty's Financial Statements

5. At all relevant times, San Juan Basin Royalty Trust was a Texas corporation headquartered in Fort Worth, Texas. San Juan Basin Royalty's public filings disclose that it was in the business of collecting and distributing royalties from the production of natural gas. At all relevant times, San Juan Basin Royalty was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

6. Weaver audited San Juan Basin Royalty's 2011 year-end financial statements, and issued an audit report, which was filed with the Commission, expressing an unqualified opinion on the financial statements. Jensen served as the engagement partner for the 2011 San Juan Basin Royalty engagement and authorized the issuance of the audit report.

7. Weaver also audited San Juan Basin Royalty's 2012 and 2013 year-end financial statements and issued audit reports, which were filed with the Commission, expressing unqualified opinions on the financial statements. Jensen served as the engagement quality reviewer on the audits of San Juan Basin Royalty's financial statements for the years ended December 31, 2012 and December 31, 2013, immediately after serving as the engagement partner on the 2011 audit, violating AS 7's two-year "cooling-off" period for former engagement partners.

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[4] See PCAOB Rules 3100, *Compliance with Auditing and Related Professional Standards*.

[5] See AS 7 ¶ 1.

[6] At all relevant times, Weaver had five or more issuer audit clients and did not qualify for AS 7 ¶ 8's small firm exemption.

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Public Company Accounting Oversight Board

ORDER

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Weaver and Tidwell, L.L.P. is hereby censured.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

July 23, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Dale Jensen, CPA* *Respondent.*	PCAOB Release No. 105-2015-023 July 23, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Dale Jensen, CPA ("Jensen" or "Respondent"). The Board is imposing this sanction on the basis of its findings concerning Jensen's violation of PCAOB rules and standards in connection with two audits of an issuer audit client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

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III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Dale Jensen, 39, of Wylie, Texas, is a certified public accountant licensed under the laws of the state of Texas (license no. 081626). At all relevant times, he was an associated person of a registered public accounting firm, Weaver and Tidwell, L.L.P. ("Weaver"), as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[2]

B. Summary

2. This matter concerns Respondent's failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to one issuer client, San Juan Basin Royalty Trust ("San Juan Basin Royalty"). Jensen served as the engagement quality reviewer on two San Juan Basin Royalty audits immediately after serving as the engagement partner on San Juan Basin Royalty's audits, without satisfying the mandatory two-year "cooling-off" period for former engagement partners.[3]

C. Respondent Violated Auditing Standard No. 7

3. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[4]

4. For audits of financial statements for years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[5] Further,

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[2] See Weaver and Tidwell, L.L.P., PCAOB Release No. 105-2015-022 (July 23, 2015).

[3] See AS 7 ¶ 8; see also PCAOB Release 2009-004, *Auditing Standard No. 7 – Engagement Quality Review and Conforming Amendment to the Board's Interim Quality Control Standards.*

[4] See PCAOB Rules 3100, *Compliance with Auditing and Related Professional Standards*.

[5] See AS 7 ¶ 1.

ORDER

paragraph 8 of AS 7 provides: "[t]he person who served as the engagement partner during either of the two audits preceding the audit subject to the engagement quality review may not be the engagement quality reviewer."[6]

5. As described below, Respondent failed to comply with AS 7.

Audits of San Juan Basin Royalty's Financial Statements

6. At all relevant times, San Juan Basin Royalty was a Texas corporation headquartered in Fort Worth, Texas. San Juan Basin Royalty's public filings disclose that it was in the business of collecting and distributing royalties from the production of natural gas. At all relevant times, San Juan Basin Royalty was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

7. Weaver audited San Juan Basin Royalty's 2011 year-end financial statements, and issued an audit report, which was filed with the Commission, expressing an unqualified opinion on the financial statements. Jensen served as the engagement partner for the 2011 San Juan Basin Royalty engagement and authorized the issuance of the audit report.

8. Weaver also audited San Juan Basin Royalty's 2012 and 2013 year-end financial statements and issued audit reports, which were filed with the Commission, expressing unqualified opinions on the financial statements. Jensen served as the engagement quality reviewer on the audits of San Juan Basin Royalty's financial statements for the years ended December 31, 2012 and December 31, 2013, immediately after serving as the engagement partner on the 2011 audit, violating AS 7's two-year "cooling-off" period for former engagement partners.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanction agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

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[6] At all relevant times, Weaver had five or more issuer audit clients and did not qualify for AS 7 ¶ 8's small firm exemption.

PCAOB
Public Company Accounting Oversight Board

ORDER

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Dale Jensen, CPA is hereby censured.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

July 23, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of HDSG & Associates* *Respondent.*	PCAOB Release No. 105-2015-024 July 23, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring HDSG & Associates ("Firm"), a registered public accounting firm, imposing a civil money penalty in the amount of $5,000 upon the Firm, and requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward ensuring compliance with the engagement quality review criteria requirements applicable to audits of issuers. The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and standards in connection with the Firm's audit of one issuer audit client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over it and the subject matter of these proceedings, which is admitted, Respondent

PCAOB
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consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. HDSG & Associates is, and at all relevant times was, an accounting firm organized under Indian law, and headquartered in New Delhi, India. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and is licensed by the Institute of Chartered Accountants of India (license no. 002871N). At all relevant times, the Firm was the external auditor for the issuer, Skajaquoda Group, Inc. ("Skajaquoda").

B. Summary

2. This matter concerns the Firm's failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to its issuer client, Skajaquoda. In the case of the Firm's audit of Skajaquoda's 2011 year-end financial statements, the Firm failed to have an engagement quality review performed even though it was required.

C. Respondent Violated PCAOB Auditing Standards

3. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[2]

4. For audits of financial statements for years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[3] AS 7 also

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[3] See AS 7 ¶ 1.

ORDER

provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance.[4]

Audit of Skajaquoda's Financial Statements

5. At all relevant times, Skajaquoda was a Delaware corporation headquartered in Claymont, Delaware. The company's public filings disclose that it was in the business of managing an investment fund. At all relevant times, Skajaquoda was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

6. The Firm was engaged as Skajaquoda's external auditor in 2011. The Firm was engaged to audit the financial statements of Skajaquoda for the year ended December 31, 2011. The Firm issued an audit report, dated May 3, 2012, which was included in Skajaquoda's Form 10-K filed with the Securities and Exchange Commission ("Commission" or "SEC") on May 4, 2012.

7. The Firm issued its audit report without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), HDSG & Associates is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $5,000 is imposed upon HDSG & Associates. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. HDSG & Associates shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight

[4] Id. at ¶ 13.

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Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies HDSG & Associates as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or review and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with Auditing Standard No. 7, *Engagement Quality Review*;

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent basis, concerning Auditing Standard No. 7, of any Firm audit personnel who participate in any way in the planning or performing of any audit services (as defined in PCAOB Rule 1001(a)(vii));

3. within ninety (90) days from the date of this Order, and before the Firm's commencement of any audit services, to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order;

b. within (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform audit services;

c. before the commencement of any audit services, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such audit services; and

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ORDER

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

July 23, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Anil Bedi, CPA* *Respondent.*	PCAOB Release No. 105-2015-025 July 23, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Anil Bedi ("Bedi"). The Board is imposing this sanction on the basis of its findings that Bedi directly and substantially contributed to a registered public accounting firm's violation of PCAOB rules and standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Anil Bedi, CPA, 52, of Suwanee, Georgia, is a certified public accountant licensed by the Georgia State Board of Accountancy (license no. CPA020365). At all relevant times, Bedi was an associated person of a registered public accounting firm, HDSG & Associates ("Firm"), as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[2] At all relevant times, the Firm was the external auditor for the issuer, Skajaquoda Group, Inc. ("Skajaquoda"). Bedi served as the engagement partner for the Skajaquoda engagement.

B. Summary

2. This matter concerns Bedi's direct and substantial contribution to the Firm's violation of PCAOB rules and auditing standards with respect to the Firm's audit of Skajaquoda's year-end 2011 financial statements.

C. Respondent Violated PCAOB Rules

3. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[3]

4. For audits of financial statements for years beginning on or after December 15, 2009, PCAOB Auditing Standard No. 7, *Engagement Quality Review*, ("AS 7") requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[4] AS 7 also provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance.[5]

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[2] See HDSG & Associates, PCAOB Release No. 105-2015-024 (July 23, 2015).

[3] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[4] See AS 7 ¶ 1.

[5] Id. at ¶ 13.

ORDER

5. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Securities and Exchange Commission issued under the Act, or professional standards."[6]

Audit of Skajaquoda's Financial Statements

6. At all relevant times, Skajaquoda was a Delaware corporation headquartered in Claymont, Delaware. The company's public filings disclose that it was in the business of managing an investment fund. At all relevant times, Skajaquoda was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

7. The Firm was engaged as Skajaquoda's external auditor in 2011. The Firm was engaged to audit the financial statements of Skajaquoda for the year ended December 31, 2011. The Firm issued an audit report, dated May 3, 2012, which was included in Skajaquoda's Form 10-K filed with the Securities and Exchange Commission ("Commission" or "SEC") on May 4, 2012.

8. The Firm issued its audit report without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

9. Bedi served as the engagement partner for the Skajaquoda audit and authorized the issuance of the audit report. HDSG considered Bedi to be responsible for the audit. Bedi knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violation when he improperly permitted the issuance of the audit report by the Firm without an engagement quality review and concurring approval of issuance. As a result, Bedi violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

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[6] See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

PCAOB
Public Company Accounting Oversight Board

ORDER

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Anil Bedi, CPA is hereby censured.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

July 23, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Timothy Alan Coons, CPA and Timothy Coons, CPA* *Respondents.*	PCAOB Release No. 105-2015-026 July 23, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Timothy Alan Coons, CPA ("Firm"), a registered public accounting firm, imposing a civil money penalty in the amount of $7,500 upon the Firm, and requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward ensuring compliance with the engagement quality review requirements applicable to audits and reviews of issuers; and censuring Timothy Coons, CPA ("Coons"). The Board is imposing these sanctions on the basis of its findings that the Firm and Coons (collectively, "Respondents") violated PCAOB rules and standards in connection with the Firm's audits of two issuer audit clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted,

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:

A. Respondents

1. Timothy Alan Coons, CPA, is, and at all relevant times was, a sole proprietorship headquartered in La Jolla, California. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, the Firm was the external auditor for each of the issuers identified below.

2. Timothy Coons, CPA, 54, of La Jolla, California, is a certified public accountant licensed by the California Board of Accountancy (license no. 82466). At all relevant times, Coons was the sole owner of the Firm and was the Firm's sole accountant. At all relevant times, he was, an associated person of a registered public accounting firm, Timothy Alan Coons, CPA, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns the Firm's failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to two issuer clients. In the audits of each client, the Firm failed to obtain an engagement quality review of the two audits even though an engagement quality review was required under AS 7.

4. This matter also concerns Coons's failure to comply with PCAOB Rules with respect to the same two issuer clients. Coons took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of PCAOB standards.

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[1] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

ORDER

C. Respondents Violated PCAOB Rules and Auditing Standards

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[2]

6. For audits of financial statements for years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[3] AS 7 also provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance.[4]

7. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[5]

8. As described below, Respondents failed to comply with PCAOB rules and standards.

Audit of Boxceipts' Financial Statements

9. At all relevant times, Boxceipts was a Nevada corporation headquartered in Overland Park, Kansas. Boxceipts' public filings disclosed that it was in the business of developing a system that allows retail companies the option of emailing customer transactions receipts. At all relevant times, Boxceipts was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[2] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[3] See AS 7 ¶ 1.

[4] Id. at ¶ 13.

[5] See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

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10. The Firm was engaged as Boxceipts' external auditor in 2011. Respondents were engaged to audit the financial statements of Boxceipts for the period from October 25, 2010 to August 31, 2011.

11. Respondents issued their audit report dual dated "September 19, 2011" and "November 29, 2011," which was included in Boxceipts' December 1, 2011 amended Form S-1 filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

12. Coons knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7 when he caused the Firm to grant permission to the client to use the engagement report without obtaining an engagement quality review and concurring approval of issuance. As a result, Coons violated PCAOB Rule 3502.

Audit of Offsite Docs' Financial Statements

13. At all relevant times, Offsite Docs was a Nevada corporation headquartered in Overland Park, Kansas. Offsite Docs' public filings disclosed that it was in the business of providing for a cloud-based document storage and security solution targeted at law firms, financial service companies and other businesses that store and manage a large number of documents. At all relevant times, Offsite Docs was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

14. The Firm was engaged as Offsite Docs' external auditor in 2011. Respondents had been engaged to audit the financial statements of Offsite Docs for the period from March 30, 2011 to July 31, 2011.

15. Respondents issued their audit report dated October 7, 2011, which was included in Offsite Docs' October 11, 2011 amended Form S-1 filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

16. Coons knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7 when he caused the Firm to grant permission to the client to use the engagement report without obtaining an engagement quality review and concurring approval of issuance. As a result, Coons violated PCAOB Rule 3502.

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Public Company Accounting Oversight Board

ORDER

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Timothy Alan Coons, CPA and Timothy Coons, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $7,500 is imposed upon Timothy Alan Coons, CPA. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Timothy Alan Coons, CPA shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Timothy Alan Coons, CPA as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

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ORDER

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or review and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with Auditing Standard No. 7, *Engagement Quality Review*;

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent basis, concerning Auditing Standard No. 7, of any Firm audit personnel who participate in any way in the planning or performing of any audit services (as defined in PCAOB Rule 1001(a)(vii));

3. within ninety (90) days from the date of this Order, and before the Firm's commencement of any audit services, to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order;

b. within (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform audit services;

c. before the commencement of any audit services, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such audit services; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit

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such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

July 23, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of R.R. Hawkins & Associates, International A Professional Corporation and R. Richard Hawkins, II, CPA,* *Respondents.*	PCAOB Release No. 105-2015-027 July 23, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring the registered public accounting firm R.R. Hawkins & Associates, International A Professional Corporation ("Firm"), revoking the Firm's registration,[1] and censuring R. Richard Hawkins, II, CPA ("Hawkins") and barring him from being an associated person for a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Hawkins (collectively, "Respondents") violated PCAOB rules and standards in connection with the audits of two issuer audit clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

[1] The Firm may reapply for registration after one (1) year from the date of this Order.

[2] Hawkins may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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ORDER

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. R.R. Hawkins & Associates, International A Professional Corporation, is, and at all relevant times was, a sole proprietorship headquartered in Los Angeles, California. The firm is licensed to practice public accountancy by the California Board of Accountancy (license no. 6533). The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, the Firm was the external auditor for each of the issuers identified below.

2. R. Richard Hawkins, II, CPA, 63, of Los Angeles, California, was a certified public accountant licensed by the California Board of Accountancy (license no. 55450). At all relevant times, Hawkins was the sole owner of the Firm. At all relevant times, he was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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3 The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

4 The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

PCAOB
Public Company Accounting Oversight Board

ORDER

B. Summary

3. This matter concerns the Firm's failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to two issuer audit clients. In the case of each client, the Firm failed to obtain an engagement quality review of each audit even though it was required to be performed.

4. This matter also concerns Hawkins' direct and substantial contribution to the Firm's violations of AS 7 with respect to the Firm's audits of two issuer clients. Hawkins took or omitted to take actions knowing, or recklessly not knowing, that his acts or omissions would directly and substantially contribute to the Firm's violations of PCAOB rules and auditing standards.

C. Respondents Violated PCAOB Rules and Auditing Standards

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5]

6. For audits of financial statements for years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[6] AS 7 also provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance.[7]

7. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports

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[5] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[6] See AS 7 ¶ 1.

[7] Id. at ¶ 13.

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ORDER

and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[8]

8. As described below, the Firm and Hawkins failed to obtain an engagement quality review for each of the audits described below even though an engagement quality review was required to be performed.

Audit of Denali Concrete's Financial Statements

9. At all relevant times, Denali Concrete Management, Inc. ("Denali Concrete") was a Nevada corporation headquartered in Carson City, Nevada. The company's public filings disclose it was focusing on efforts to obtain a business opportunity, either through a merger or through the acquisition of a business opportunity. At all relevant times, Denali Concrete was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

10. Respondents were engaged to audit the 2010 year-end financial statements of Denali Concrete. On March 3, 2011, Denali Concrete filed a Form 10-K with the Securities and Exchange Commission ("Commission" or "SEC"). Respondents improperly permitted the issuance of the Firm's audit report dated January 27, 2010, which was included in Denali Concrete's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

11. Hawkins knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violation when he caused the Firm to grant permission to the client to use the engagement report without obtaining an engagement quality review and concurring approval of issuance. As a result, Hawkins violated PCAOB Rule 3502.

Respondents' Violations Continued After Notice from PCAOB Inspectors

12. In connection with a 2010 inspection of the Firm, the PCAOB Inspections staff reminded the Firm that it needed to comply with AS 7 for all audits and interim reviews performed by the Firm for fiscal years beginning on or after December 15, 2009.[9]

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[8] See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

[9] AS 7 was not effective for the audits reviewed as part of the 2010 inspection period.

PCAOB
Public Company Accounting Oversight Board

ORDER

Audits of Pacific Software's Financial Statements

13. At all relevant times, Pacific Software, Inc. ("Pacific Software") was a Nevada corporation headquartered in Carson City, Nevada. The company's public filings disclose that it ceased operations in December 2009, and is focusing efforts on seeking a business opportunity, either through a merger or through the acquisition of a business opportunity. At all relevant times, Pacific Software was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

14. Respondents were engaged to audit the September 30, 2011 year-end financial statements of Pacific Software. On January 10, 2012, Pacific Software filed a Form 10-K with the Commission. Respondents improperly permitted the issuance of the Firm's audit report dated December 9, 2011, which was included in Pacific Software's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. Even though Hawkins was aware that an engagement quality review needed to be performed, the Firm failed to have an engagement quality review performed on the September 30, 2011 year-end audit of Pacific Software. As a result, the Firm violated AS 7.

15. Respondents were engaged to audit the September 30, 2012 year-end financial statements of Pacific Software. On December 12, 2012, Pacific Software filed a Form 10-K with the Commission. Respondents improperly permitted the issuance of the Firm's audit report dated November 28, 2012, which was included in Pacific Software's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

16. Hawkins knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7 when he caused the Firm to grant permission to the client to use the engagement report without obtaining an engagement quality review and concurring approval of issuance. As a result, Hawkins violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

PCAOB
Public Company Accounting Oversight Board

ORDER

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), R. Richard Hawkins, II, CPA and R.R. Hawkins & Associates, International A Professional Corporation are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), R. Richard Hawkins, II, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[10]

C. After one (1) year from the date of this Order, R. Richard Hawkins, II, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of R.R. Hawkins & Associates, International A Professional Corporation is revoked; and

E. After one (1) year from the date of this Order, R.R. Hawkins & Associates, International A Professional Corporation may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 23, 2015

[10] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Hawkins. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Bravos & Associates CPA's, and Thomas W. Bravos, CPA*, *Respondents.*	PCAOB Release No. 105-2015-028 July 23, 2015

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Bravos & Associates CPA's ("Firm"), a registered public accounting firm, revoking the Firm's registration,[1] and imposing a civil money penalty in the amount of $10,000 upon the Firm; and censuring Thomas W. Bravos, CPA ("Bravos") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Bravos (collectively, "Respondents") repeatedly violated PCAOB rules and auditing standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

[1] The Firm may reapply for registration after one (1) year from the date of this Order.

[2] Bravos may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

PCAOB
Public Company Accounting Oversight Board

ORDER

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Bravos & Associates CPA's is, and at all relevant times was, a partnership organized under Illinois law, and headquartered in Bloomingdale, Illinois. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and is licensed by the Illinois Department of Financial and Professional Regulation (license no. 066003838). At all relevant times, the Firm was the external auditor for United American Healthcare Corporation ("UAHC").

2. Thomas W. Bravos, CPA, age 68, is, and at all relevant times was, a certified public accountant licensed by the Illinois Department of Financial and Professional Regulation (license no. 065009475). Bravos is also licensed as a certified public accountant by the Indiana Board of Accountancy (license no. CP11200116), and as a licensed accountant by the Michigan Department of Licensing and Regulatory

[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

PCAOB
Public Company Accounting Oversight Board

ORDER

Affairs (license no. 1101029533). At all relevant times, Bravos was the sole owner of the Firm and was the Firm's sole member. Bravos is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' repeated failures to comply with PCAOB rules and auditing standards in connection with the audits of the consolidated financial statements of UAHC for fiscal years ended ("FYE") June 30, 2012 and June 30, 2013, and the six months ended December 31, 2013.[5]

4. With respect to the FYE June 30, 2013 UAHC audit, Respondents failed to appropriately plan and perform the audit. Specifically, during audit planning, Respondents failed to properly assess the risk of material misstatement, and as a result, Respondents failed to properly identify significant risks in connection with the audit. Respondents also failed to properly establish an overall strategy for the audit and develop an audit plan that included planned risk assessment procedures and planned responses to the risk of material misstatement. In addition, Respondents failed to perform audit procedures that adequately addressed the risks of material misstatement.

5. Respondents also failed to perform sufficient audit procedures to test (a) the valuation of UAHC's goodwill (constituting approximately 65% of the company's reported total assets), (b) the valuation of UAHC's other intangible assets (constituting approximately 10% of the company's reported total assets), and (c) UAHC's reported revenue. As a result, Respondents failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for their audit opinion's conclusions regarding UAHC's financial statement assertions relating to goodwill, intangible assets and revenue.

6. Additionally, in the case of all three audits – for FYEs June 30, 2012 and June 30, 2013, and the six months ended December 31, 2013 – the Firm failed to obtain engagement quality reviews for the audit engagements, even though such reviews were required by PCAOB standards.

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[5] After filing its Form 10-K for FYE June 30, 2013, UAHC changed the company's fiscal year end to December 31. Accordingly, UAHC filed its audited financial statements covering the transition period from July 1, 2013 through December 31, 2013 on Form 10-KT.

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7. Further, Bravos took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of PCAOB auditing standards concerning the requirement for engagement quality reviews.

C. Respondents Violated PCAOB Rules and Auditing Standards in Connection with the FYE June 30, 2013 UAHC Audit

8. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] Among other things, PCAOB standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient appropriate audit evidence to afford a reasonable basis for an opinion regarding the financial statements.[7]

9. PCAOB auditing standards also require that an audit be properly planned, that auditors identify and assess the risks of material misstatement at the financial statement level and the assertion level, and that auditors design and perform audit procedures in a manner that addresses the risks of material misstatement for each relevant assertion of each significant account and disclosure.[8] The auditor should develop and document an audit plan that describes, among other things, the planned risk assessment procedures required to be performed so that the engagement complies with PCAOB standards.[9]

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[6] PCAOB Rules 3100, *Compliance with Auditing and Related Professional Standards*, and 3200T, *Interim Auditing Standards*.

[7] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; and Auditing Standard No. 15, *Audit Evidence* ("AS 15"). All references to PCAOB standards are to the versions of those standards in effect at the time of the relevant audits.

[8] See Auditing Standard No. 9, *Audit Planning* ("AS 9"), ¶ 4; Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"), ¶ 59; and Auditing Standard No. 13, *The Auditor's Response to the Risks of Material Misstatement* ("AS 13"), ¶ 8.

[9] AS 9 ¶ 10.

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10. As detailed below, Respondents failed to comply with these PCAOB standards in connection with the audit of the FYE June 30, 2013 consolidated financial statements of UAHC.

11. UAHC was, at all relevant times, a corporation headquartered in Chicago, Illinois. UAHC's public filings disclosed that its wholly owned subsidiary, Pulse Systems, LLC, is a medical device manufacturer that represents substantially all of UAHC's ongoing operations. At all relevant times, UAHC was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).[10]

12. In connection with Respondents' audit of UAHC's consolidated financial statements for FYE June 30, 2013, Bravos authorized issuance of the Firm's unqualified audit report, which included going concern explanatory language regarding those financial statements. The audit report also stated that, in the Firm's opinion, UAHC's financial statements for FYE June 30, 2013 presented fairly, in all material respects, the issuer's financial position and results of its operations and cash flows in conformity with generally accepted accounting principles in the United States of America ("GAAP"), and that the Firm's audit was performed in accordance with PCAOB standards. However, Respondents did not have a reasonable basis for making these statements and issuing their audit report.

13. During audit planning, Respondents failed to identify and assess the risks of material misstatement at the assertion level as required by PCAOB standards.[11] Respondents also failed to properly plan and perform any analytical procedures as risk assessment procedures.[12] In addition, the risks of material misstatement were not properly assessed. For example, Respondents failed to identify any risks with respect to revenue recognition and management override of controls, even though PCAOB standards provide that the auditor should presume that there is a fraud risk involving improper revenue recognition and should include the risk of management override of

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[10] On March 23, 2015, UAHC filed a Form 15 with the United States Securities and Exchange Commission ("Commission") to terminate the registration of its common stock because the number of holders of record of the stock had declined to fewer than 300 persons.

[11] See AS 12 ¶ 59.

[12] See AS 12 ¶¶ 46-47.

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controls in his identification of fraud risks.[13] Respondents' work papers do not document any justification for failing to identify these fraud risks.

14. Respondents also failed to properly establish an overall strategy for the engagement and develop an audit plan that included appropriate planned risk assessment procedures and planned responses to the above risks of material misstatement.[14] In addition, Respondents failed to perform appropriate audit procedures that addressed these risks of material misstatement.[15]

15. Respondents also failed to appropriately evaluate UAHC's reported goodwill. As of June 30, 2013, UAHC reported goodwill representing about 65% of UAHC's total assets and other intangible assets representing about 10% of assets. Under GAAP, UAHC was required to assess the goodwill and other intangible assets for impairment, and to follow certain procedures in performing these assessments.[16] GAAP also required UAHC to assess the remaining useful life of the other intangible assets to ensure that they were amortized properly.[17] At the time of the audit, though, Respondents failed to consider these GAAP requirements in their audit.

16. Respondents' audit procedures with respect to UAHC's goodwill and other intangible assets as of June 30, 2013 did not comply with PCAOB standards. The notes to UAHC's financial statements, and the Firm's audit report, disclosed and reported that UAHC's liabilities and working capital deficiency raised substantial doubt about its ability to continue as a going concern. But the financial statement notes also indicated that management had concluded that there was no impairment of goodwill, and the notes made no disclosure about impairment of the other intangible assets. Nevertheless, Respondents failed to obtain any evidence about how UAHC had reached its

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[13] See AS 12 ¶¶ 68-69.

[14] See AS 9 ¶ 5; AS 13 ¶¶ 3, 8.

[15] See AS 15 ¶¶ 4-6.

[16] See, e.g., Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Section 350-20-35, *Intangibles – Goodwill and Other – Goodwill – Subsequent Measurement*; FASB ASC Section 350-30-35, *Intangibles – Goodwill and Other – General Intangibles Other Than Goodwill – Subsequent Measurement*.

[17] See, e.g., FASB ASC Section 350-30-35.

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conclusions on the issues of impairment and remaining useful life, and failed to perform sufficient procedures to assess the valuation of UAHC's goodwill and other intangible assets.[18]

17. Respondents also failed to obtain sufficient appropriate audit evidence to support UAHC's reported consolidated revenue.[19] Specifically, to test revenue, Respondents tested the collection of cash subsequent to the end of the year under audit equaling approximately 14% of UAHC's total revenue for FYE June 30, 2013. Other than this testing of a portion of revenue, Respondents failed to perform procedures to test UAHC's consolidated revenue.

D. The Firm Violated PCAOB Rules and Auditing Standards Relating to Engagement Quality Reviews

18. For audits of financial statements for years beginning on or after December 15, 2009, Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[20] AS 7 also provides that a firm may grant permission to an audit client to use the firm's audit report only after an engagement quality reviewer provides concurring approval of issuance of the report.[21] In connection with the audits of UAHC's financial statements for FYE June 30, 2012, June 30, 2013, and the six months ended December 31, 2013, the Firm failed to comply with these requirements.

19. For each of these audit engagements, the Firm improperly permitted the issuance of its unqualified audit report, which UAHC included in a Form 10-K or Form 10-KT filed with the Commission,[22] without obtaining an engagement quality review and

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[18] See AS 15 ¶ 4.

[19] See AS 15 ¶¶ 4-6.

[20] See AS 7 ¶ 1.

[21] Id. at ¶ 13.

[22] UAHC included its audited financial statements for FYE June 30, 2012 and June 30, 2013 in a Form 10-K, and its audited financial statements for the transition period from July 1, 2013 through December 31, 2013 in a Form 10-KT.

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concurring approval of issuance required by AS 7. Specifically, the audit report and filing dates were as follows:

UAHC Fiscal Year	Firm's Audit Report Date	UAHC Form 10-K or Form 10-KT Filing
FYE June 30, 2012	October 11, 2012	October 11, 2012[23]
FYE June 30, 2013	September 20, 2013	October 16, 2013
Six Months Ended December 31, 2013	April 11, 2014	April 16, 2014

E. Bravos Contributed to the Firm's Violations of PCAOB Rules and Standards Relating to Engagement Quality Reviews

20. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that firm of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.[24] Bravos, the sole owner and only member of the Firm, was the engagement partner for the audits conducted by the Firm and was responsible for them. Accordingly, Bravos had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Bravos knew, or was reckless in not

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[23] On December 17, 2012, UAHC filed a Form 10-K/A for FYE June 30, 2012. The amended filing contained a revised audit report from the Firm, which was still dated October 11, 2012. The revised audit report represented that the Firm had audited UAHC's financial statements for FYE June 30, 2012 and June 30, 2011, correcting the original representation that the Firm had audited only the financial statements for FYE June 30, 2012.

[24] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations.*

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knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of AS 7, described above. As a result, he violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Bravos & Associates CPA's and Thomas W. Bravos, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Thomas W. Bravos, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[25]

C. After one (1) year from the date of this Order, Thomas W. Bravos, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Bravos & Associates CPA's is revoked;

E. After one (1) year from the date of this Order, Bravos & Associates CPA's may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

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[25] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Bravos. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Bravos & Associates CPA's. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Bravos & Associates CPA's shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Bravos & Associates CPA's as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

July 23, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Keith K. Zhen, CPA and Keith Zhen, CPA* *Respondents.*	PCAOB Release No. 105-2015-029 July 23, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Keith K. Zhen, CPA ("Firm"), a registered public accounting firm, revoking the Firm's registration,[1] and imposing a civil money penalty in the amount of $15,000 upon the Firm; and censuring Keith Zhen, CPA ("Zhen") barring him from being an associated person for a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Zhen (collectively, "Respondents") violated PCAOB rules and standards in connection with the audit of five issuer audit clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Zhen may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. Keith K. Zhen, CPA, is, and at all relevant times was, a sole proprietorship headquartered in Brooklyn, New York. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is not licensed. At all relevant times, the Firm was the external auditor for each of the issuers identified below.

2. Keith Zhen, CPA, 45, of Brooklyn, New York, is a certified public accountant licensed by the New York State Education Department (license no. 085787). At all relevant times, Zhen was the sole owner of the Firm. At all relevant times, he was an associated person of a registered public accounting firm, Keith K. Zhen, CPA, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[3] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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B. Summary

3. This matter concerns the Firm's repeated failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to five issuer audit clients and for multiple audits for some. In the case of each client, the Firm failed to obtain an engagement quality review of each audit even though it was required to be performed.

4. This matter also concerns Zhen's direct and substantial contribution to the Firm's violations of PCAOB rules and standards with respect to the Firm's audits of five issuer clients. Zhen took or omitted to take actions knowing, or recklessly not knowing, that his acts or omissions would directly and substantially contribute to the Firm's violations of PCAOB rules and auditing standards.

C. Respondents Violated PCAOB Rules and Auditing Standards

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5]

6. For audits of financial statements for years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[6] AS 7 also provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance.[7]

7. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports

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[5] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[6] See AS 7 ¶ 1.

[7] Id. at ¶ 13.

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and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[8]

8. As described below, the Firm and Zhen failed to obtain an engagement quality review for each of the audits described below even though an engagement quality review was required to be performed.

Audits of China Northern's Financial Statements

9. At all relevant times, China Northern Medical Device, Inc. ("China Northern") was a Nevada corporation headquartered in the People's Republic of China. The company's public filings disclose that it is in the business of developing portable medical devices designed for home treatments. At all relevant times, China Northern was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

10. Respondents were engaged to audit the 2010 year-end financial statements of China Northern. On March 31, 2011, China Northern filed a Form 10-K with the Securities and Exchange Commission ("Commission" or "SEC"). Respondents improperly permitted the issuance of the Firm's audit report dated March 31, 2011, which was included in China Northern's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

11. Respondents were engaged to audit the 2011 year-end financial statements and obtained an engagement quality review and concurring approval of issuance of the audit report.

12. Respondents were engaged to audit the 2012 year-end financial statements of China Northern. On April 16, 2013, China Northern filed a Form 10-K with the Commission. Respondents improperly permitted the issuance of the Firm's audit report dated April 16, 2013, which was included in China Northern's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

13. Respondents were engaged to audit the 2013 year-end financial statements of China Northern. On April 15, 2014, China Northern filed a Form 10-K with the Commission. Respondents improperly permitted the issuance of the Firm's audit

[8] See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

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report dated April 14, 2014, which was included in China Northern's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

14. Zhen knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7 when he caused the Firm to grant permission to the client to use the engagement report without obtaining an engagement quality review and concurring approval of issuance. As a result, Zhen violated PCAOB Rule 3502.

Audit of Smooth Global's Financial Statements

15. At all relevant times, Smooth Global (China) Holdings, Inc. ("Smooth Global") was a Nevada corporation headquartered in the People's Republic of China. The company's public filings disclose that it is in the business of manufacturing and distributing rechargeable polymer lithium-ion batteries. At all relevant times, Smooth Global was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

16. Respondents were engaged to audit the 2010 year-end financial statements of Smooth Global. On May 19, 2011, Smooth Global filed a Form 10-K with the Commission. Respondents improperly permitted the issuance of the Firm's audit report dated April 15, 2011, which was included in Smooth Global's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

17. Zhen knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violation when he improperly permitted the issuance of the audit report by the Firm without an engagement quality review and concurring approval of issuance. As a result, Zhen violated PCAOB Rule 3502.

Audits of China Du Kang's Financial Statements

18. At all relevant times, China Du Kang Co. Ltd. ("China Du Kang") was a Nevada corporation headquartered in the People's Republic of China. The company's public filings disclose that it is in the business of manufacturing, selling, licensing, and distributing a proprietary line of white wines and other spirits. At all relevant times, China Du Kang was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

19. Respondents were engaged to audit the 2010 year-end financial statements of China Du Kang. On April 15, 2011, China Du Kang filed a Form 10-K with

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the Commission. Respondents improperly permitted the issuance of the Firm's audit report dated April 15, 2011, which was included in China Du Kang's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

20. Respondents were engaged to audit the 2011 year-end financial statements and obtained an engagement quality review and concurring approval of issuance of the audit report.

21. Respondents were engaged to audit the 2012 year-end financial statements of China Du Kang. On April 16, 2013 China Du Kang filed a Form 10-K with the Commission. Respondents improperly permitted the issuance of the Firm's audit report dated April 15, 2013, which was included in China Du Kang's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

22. Respondents were engaged to audit the 2013 year-end financial statements of China Du Kang. On July 29, 2014 China Du Kang filed a Form 10-K with the Commission. Respondents improperly permitted the issuance of the Firm's audit report dated June 18, 2014, which was included in China Du Kang's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

23. Zhen knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations when he improperly permitted the issuance of the audit reports by the Firm without an engagement quality review and concurring approval of issuance. As a result, Zhen violated PCAOB Rule 3502.

Audit of Anpulo Food's Financial Statements

24. At all relevant times, Anpulo Food Inc. ("Anpulo Food") was a British Virgin Islands corporation headquartered in the People's Republic of China. The company's public filings disclose that it is in the business of processing and distributing meat products. At all relevant times, Anpulo Food was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

25. Respondents were engaged to audit the year-end July 31, 2013, financial statements of Anpulo Food. On September 9, 2013, Anpulo Food filed a Form 10-K with the Commission. Respondents improperly permitted the issuance of the Firm's audit report dated September 6, 2013, which was included in Anpulo Food's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

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26. Zhen knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations when he improperly permitted the issuance of the audit report by the Firm without an engagement quality review and concurring approval of issuance. As a result, Zhen violated PCAOB Rule 3502.

Audit of China Environmental Protection's Financial Statements

27. At all relevant times, China Environmental Protection, Inc. ("China Environmental Protection") was a Nevada corporation headquartered in the People's Republic of China. The company's public filings disclose that it is a water treatment equipment supplier and project contractor. At all relevant times, China Environmental was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

28. Respondents were engaged to audit the year-end September 30, 2010 financial statements of China Environmental Protection. On October 23, 2012, China Environmental Protection filed a Form 10-K with the Commission. Respondents improperly permitted the issuance of the Firm's audit report dated October 23, 2012, which was included in China Environmental Protection's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

29. Zhen knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violation when he improperly permitted the issuance of the audit report by the Firm without an engagement quality review and concurring approval of issuance. As a result, Zhen violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Keith K. Zhen, CPA and Keith Zhen, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Keith Zhen, CPA is barred from being an associated person of a

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registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[9]

C. After two (2) years from the date of this Order, Keith Zhen, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Keith K. Zhen, CPA is revoked;

E. After two (2) years from the date of this Order, Keith K. Zhen, CPA, may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon Keith K. Zhen, CPA. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Keith K. Zhen, CPA shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Keith K. Zhen, CPA as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown,

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[9] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Zhen. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER

Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

July 23, 2015

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Nancy Pei Hui,* *Respondent.*	PCAOB Release No. 105-2015-031 August 13, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Nancy Pei Hui ("Respondent" or "Hui") and imposing a civil money penalty in the amount of $1,000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in 2014 and timely pay an annual fee in 2014.

I.

On June 10, 2015, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Hui did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer, the Board finds[1] that:

A. Respondent

1. Hui is a proprietorship located in Bayside, New York. The firm's Principal, Nancy Pei Hui, is licensed by the New York State Education Department to engage in the practice of public accounting (License No. 091303). The firm registered with the Board on January 8, 2013, pursuant to Section 102 of the Act and Board rules.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Hui failed to timely file an annual report for 2014.

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Hui failed to timely pay its annual fee in 2014.

C. Subsequent Events

4. The Board instituted these proceedings on June 10, 2015. Hui did not file an answer pursuant to PCAOB Rule 5421(b).

5. On June 17, 2015, Hui paid its annual fee for 2014.

6. On June 17, 2015, Hui filed its annual report for 2014.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

7. On June 17, 2015, Hui filed a Form 1-WD to request leave to withdraw its registration from the Board.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Hui is censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000 is imposed upon Hui. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Hui shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies Hui as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

PCAOB
Public Company Accounting Oversight Board

ORDER

V.

Upon performance by Hui of Part IV above, pursuant to PCAOB Rule 2107, the Board shall consider Hui's Form 1-WD and whether to grant it leave to withdraw. In doing so, the Board shall not take into consideration its findings contained in Part III herein.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

August 13, 2015

PCAOB
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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Albert Thomas,* *Respondent.*	PCAOB Release No. 105-2015-030 August 13, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Albert Thomas ("Respondent" or "Thomas") and imposing a civil money penalty in the amount of $1,000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in 2014 and timely pay an annual fee in 2014.

I.

On June 10, 2015, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Thomas did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer, the Board finds[1] that:

A. Respondent

1. Thomas is a proprietorship located in New York, New York. The firm's President, Albert Thomas, CPA, is licensed by the New York State Education Department to engage in the practice of public accounting (License No. 07-089527). The firm registered with the Board on February 10, 2009, pursuant to Section 102 of the Act and Board rules.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Thomas failed to timely file an annual report for 2014.

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Thomas failed to timely pay its annual fee in 2014.

C. Subsequent Events

4. The Board instituted these proceedings on June 10, 2015. Thomas did not file an answer pursuant to PCAOB Rule 5421(b).

5. On June 24, 2015, Thomas paid its annual fee for 2014.

6. On June 24, 2015, Thomas filed its annual report for 2014.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

ORDER

7. On June 29, 2015, Thomas filed a Form 1-WD to request leave to withdraw its registration from the Board.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Thomas is censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000 is imposed upon Thomas. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Thomas shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies Thomas as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

PCAOB
Public Company Accounting Oversight Board

ORDER

V.

Upon performance by Thomas of Part IV above, pursuant to PCAOB Rule 2107, the Board shall consider Thomas' Form 1-WD and whether to grant it leave to withdraw. In doing so, the Board shall not take into consideration its findings contained in Part III herein.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

August 13, 2015

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Brookscardiel & Company, PLLC,* *Respondent.*	PCAOB Release No. 105-2015-032 September 10, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Brookscardiel & Company, PLLC ("Respondent, "Firm," or "Brookscardiel"), imposing a civil money penalty in the amount of $2,000, and requiring the Firm to undertake certain remedial measures. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely pay an annual fee in 2014.

I.

On June 10, 2015, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Brookscardiel did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer, the Board finds[1] that:

A. Respondent

1. Brookscardiel & Company, PLLC is a limited liability corporation located in The Woodlands, Texas. Brookscardiel is licensed by the Texas State Board of Public Accountancy to engage in the practice of public accounting (License No. C08031). The Firm registered with the Board on September 6, 2012, pursuant to Section 102 of the Act and Board rules. A search of public records indicates that the Firm has not issued any audit reports or broker-dealer certifications since registering with the Board.

B. Violations

2. Pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Brookscardiel failed to timely pay its annual fee in 2014.

C. Subsequent Events

3. The Board instituted these proceedings on June 10, 2015.

4. On June 12, 2015, Brookscardiel paid its annual fee for 2014.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Brookscardiel is censured;

B. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,000 is imposed upon Brookscardiel. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Brookscardiel shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies Brookscardiel as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. to provide a copy of this Order –

    a. within thirty (30) days from the date of this Order, to all audit personnel employed by, or associated (as defined in PCAOB Rule 1001(p)(i)) with the Firm as of the date of this Order,

    b. within thirty (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an "Audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), or SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report – whether an audit report, an examination report, or a review report – required under paragraph (d)(1)(i)(C) of Exchange Act Rule 17a-5, as amended (found at 17 C.F.R. § 240.17a-5)),

PCAOB
Public Company Accounting Oversight Board

ORDER

c. before the commencement of any Audit or any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within one (1) year of the date of this Order to perform such an Audit or SEC Registered Broker-Dealer Engagement; and

2. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1)(a) through C(1)(c) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within thirty (30) days from the expiration of the one (1) year period in paragraph C(1)(c) above.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

September 10, 2015

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Buffington & Company, P.C.,* *Respondent.*	PCAOB Release No. 105-2015-033 September 10, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Buffington & Company, P.C. ("Respondent, "Firm," or "Buffington"), temporarily suspending Respondent's registration for a period of one year from the date of the issuance of this Order, and imposing a civil money penalty in the amount of $3,000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in 2014.

I.

On June 10, 2015, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement ("Offer"), Buffington did not file an answer indicating the Firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject

PCAOB
Public Company Accounting Oversight Board

ORDER

matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer, the Board finds[1] that:[2]

A. Respondent

1. Buffington & Company, P.C. is a proprietorship located in Houston, Texas. The Firm registered with the Board on March 1, 2005, pursuant to Section 102 of the Act and Board rules. Buffington is licensed by the Texas State Board of Public Accountancy to engage in the practice of public accounting (License No. C02130). During the 2014 reporting period, the Firm issued a broker-dealer certification for a broker-dealer which was filed with the Commission on February 28, 2014.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Buffington failed to timely file an annual report for 2014.

3. On September 5, 2014, the Division of Registration and Inspections ("DRI") sent a notice of non-compliance with PCAOB Rules to Buffington that the Firm had not

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The sanctions that the Board is imposing on Respondent in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

complied with the requirement to file an Annual Report for 2014 as required by PCAOB Rules 2200 and 2201. On October 17, 2014, DRI sent a second notice on non-compliance to Buffington. On December 22, 2014, the Division sent a charging letter to Buffington regarding the Firm's failure to file its 2014 annual report. Buffington only filed its annual report for 2014 on June 24, 2015, two weeks after the Board instituted disciplinary proceedings against the Firm.

C. Subsequent Events

4. The Board instituted these proceedings on June 10, 2015.

5. On June 24, 2015, Buffington filed its annual report for 2014.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Buffington is censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), Buffington's registration is temporarily suspended for a period of one year from the date of the issuance of this Order; and

C. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $3,000 is imposed upon Buffington. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Buffington shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies Buffington as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary,

PCAOB
Public Company Accounting Oversight Board

ORDER

Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

September 10, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of David A. Aronson, CPA, P.A., and David A. Aronson, CPA,* *Respondents.*	PCAOB Release No. 105-2015-034 October 2, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring David A. Aronson, CPA, P.A. ("Firm"), a registered public accounting firm, and revoking the Firm's registration; and censuring David A. Aronson, CPA ("Aronson"), and barring him from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings that the Firm and Aronson (collectively, "Respondents") repeatedly violated PCAOB rules and standards in connection with ten audits of issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Respondents admit the facts, findings, and violations set forth below, and consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[1]

[1] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondents' Offers, the Board finds[2] that:

A. Respondents

1. David A. Aronson, CPA, P.A. is, and at all relevant times was, a professional association organized under Florida law, and headquartered in North Miami Beach, Florida. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed by the Florida Department of Business and Professional Regulation (license no. AD64119). At all relevant times, the Firm was the external auditor for each of the issuers identified below.

2. David A. Aronson, CPA, age 55, is, and at all relevant times was, a certified public accountant licensed by the Florida Department of Business and Professional Regulation (license no. AC0029792). At all relevant times, Aronson was the sole owner of the Firm and was the Firm's sole member. Aronson is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns the Firm's repeated failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), PCAOB rules and standards in connection with ten issuer audit engagements from 2011 through 2014. In the case of each client, the Firm failed to obtain an engagement quality review of each audit engagement even though it was required to be performed. For eight of these audits, the Firm failed to obtain engagement quality reviews despite being on notice of the requirement from PCAOB inspectors and, in one case, despite also being on notice from the PCAOB's Division of Enforcement and Investigations ("DEI").

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[2] The sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5)(A), which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

4. This matter also concerns Aronson's direct and substantial contribution to the Firm's violations of PCAOB rules and standards concerning the requirement for engagement quality reviews. With respect to each of the ten audit engagements in which the Firm failed to have an engagement quality review, Aronson took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of PCAOB rules and standards.

5. Additionally, for five of the above audit engagements, Respondents issued audit reports related to issuers for which Aronson's son had acted in an accounting role during the period under audit. In doing so, Respondents violated independence requirements that prohibit auditors from having certain employment relationships with an audit client.

C. Respondents Violated PCAOB Rules and Standards

6. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[3]

The Firm Failed to Obtain Engagement Quality Reviews

7. For audits of financial statements for years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[4] AS 7 also provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance of the report.[5]

8. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, rules of the Board, the

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[3] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*. This Order applies PCAOB auditing standards in effect at the time of the conduct described herein.

[4] See AS 7 ¶ 1.

[5] Id. at ¶ 13.

PCAOB
Public Company Accounting Oversight Board

ORDER

provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the [Securities and Exchange] Commission issued under the Act, or professional standards."[6]

9. As described below, the Firm and Aronson failed to obtain an engagement quality review for each of the audits described below even though an engagement quality review was required to be performed.

Audit of Yellow7, Inc. for FY 2010

10. At all relevant times, Yellow7, Inc. ("Yellow7") was a corporation with its headquarters in Little Elm, Texas. Yellow 7's public filings disclosed that its business was to provide online marketing and advertising services. At all relevant times, Yellow7 was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

11. The Firm was engaged as Yellow7's external auditor for fiscal year ended December 31, 2010. On March 31, 2011, Yellow7 filed a Form 10-K for fiscal year ended December 31, 2010 with the Securities and Exchange Commission ("Commission" or "SEC"). The Firm improperly permitted the issuance of its unqualified audit report dated March 30, 2011, which was included in Yellow7's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.[7]

Audit of VDO-PH International, Inc. for FY 2010

12. At all relevant times, VDO-PH International, Inc. ("VDO") was a corporation with its headquarters in Las Vegas, Nevada. VDO's public filings disclosed that its business was developing a software program to allow businesses to operate telephone, computer, and Internet services from one appliance. At all relevant times, VDO was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

13. The Firm was engaged as VDO's external auditor for fiscal year ended December 31, 2010. On April 13, 2011, VDO filed with the Commission a Form 10-K for

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[6] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

[7] See AS 7 ¶ 13.

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fiscal year ended December 31, 2010. The Firm improperly permitted the issuance of its unqualified audit report dated April 10, 2011, which was included in VDO's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.[8]

The Firm Continues to Fail to Obtain Engagement Quality Reviews after the PCAOB's Inspection Staff Put the Firm on Notice of the Failures

14. In connection with a June 2011 inspection of the Firm, the PCAOB's Inspections staff brought to the Firm's attention apparent failures by the Firm to comply with AS 7 regarding the performance of an engagement quality review in connection with certain audits. In the Firm's response, it agreed that AS 7 requires an engagement quality review and concurring approval of issuance for audit engagements conducted pursuant to PCAOB standards. Despite this acknowledgment, the Firm continued to fail to comply with AS 7 regarding the performance of engagement quality reviews in connection with its subsequent issuer audits.

Audits of Frozen Food Gift Group, Inc. for FY 2011 and FY 2012

15. At all relevant times, Frozen Food Gift Group, Inc. ("FFG")[9] was a corporation with its headquarters in La Jolla, California, and in Kansas City, Missouri. FFG's public filings disclosed that its business was an e-commerce retailer that sells and ships frozen desserts, ice cream, and associated food products throughout the United States. At all relevant times, FFG was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

16. The Firm was engaged as FFG's external auditor for fiscal year ended December 31, 2011. On March 30, 2012, FFG filed with the Commission a Form 10-K for fiscal year ended December 31, 2011. The Firm improperly permitted the issuance of its unqualified audit report dated March 22, 2012, which was included in FFG's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.[10]

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[8] Id.

[9] After March 2012, FFG filed a Form 8-K announcing that it had changed its name to APT MotoVox Group, Inc.

[10] See AS 7 ¶ 13.

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17. The Firm also was engaged as FFG's external auditor for fiscal year ended December 31, 2012. On April 15, 2013, FFG filed with the Commission a Form 10-K for fiscal year ended December 31, 2012. The Firm released its audit report dated February 22, 2013, along with a similarly-dated consent to use the audit report in FFG's Form 10-K. The consent was included in FFG's Form 10-K filing, and the audit report was included in a Form 10-K/A filed on April 18, 2013. The Firm improperly permitted the issuance of its unqualified audit report without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.[11]

Audit of Medifirst Solutions, Inc. for FY 2012

18. At all relevant times, Medifirst Solutions, Inc. ("Medifirst") was a corporation with its headquarters in Boca Raton, Florida, and in Freehold, New Jersey. Medifirst's public filings disclosed that its business included selling an electronic cigarette product and developing an on-line healthcare directory and social media site for both professionals and consumers. At all relevant times, Medifirst was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

19. The Firm was engaged as Medifirst's external auditor for fiscal year ended December 31, 2012. On April 1, 2013, Medifirst filed with the Commission a Form 10-K for fiscal year ended December 31, 2012. The Firm improperly permitted the issuance of its unqualified audit report dated March 9, 2013, which was included in Medifirst's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.[12]

Audit of Flow Tech Solutions, Inc. for FY 2013

20. At all relevant times, Flow Tech Solutions, Inc. ("Flow Tech")[13] was a corporation with its headquarters in Portland, Oregon. Flow Tech's public filings disclosed that it was a development stage company planning to open a massage clinic in Carson, California. At all relevant times, Flow Tech was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[11] Id.

[12] Id.

[13] Three times since July 2013, Flow Tech filed Forms 8-K announcing that it had changed its name: first to World Stevia Corp., then to Cannabis Capital Corp., and then to Crown Baus Capital Corp.

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21. The Firm was engaged as Flow Tech's external auditor for fiscal year ended March 31, 2013. On July 26, 2013, Flow Tech filed with the Commission a Form 10-K for fiscal year ended March 31, 2013. The Firm improperly permitted the issuance of its unqualified audit report dated July 18, 2013, which was included in Flow Tech's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.[14]

The Firm Still Fails to Obtain Engagement Quality Reviews after Again Being Put on Notice during a Second PCAOB Inspection

22. In connection with another inspection of the Firm in early March 2014, the PCAOB inspection staff again notified Respondents about the engagement quality review requirements in AS 7, and notified Respondents of the Firm's apparent failures to fulfill those requirements with respect to the inspected audits.

Audit of Sipup Corporation for FY 2013

23. At all relevant times, Sipup Corporation ("Sipup") was a corporation with its headquarters in New York, New York. Sipup's public filings disclosed that the company was formed to produce, pack, and sell flavored yogurts. At all relevant times, Sipup was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

24. The Firm was engaged as Sipup's external auditor for fiscal year ended November 30, 2013. On March 17, 2014, Sipup filed with the Commission a Form 10-K for fiscal year ended November 30, 2013. The Firm improperly permitted the issuance of its unqualified audit report dated March 12, 2014, which was included in Sipup's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.[15]

Audit of Medifirst Solutions, Inc. for FY 2013

25. The Firm was engaged as Medifirst's external auditor for fiscal year ended December 31, 2013. On April 15, 2014, Medifirst filed with the Commission a Form 10-K for fiscal year ended December 31, 2013. The Firm improperly permitted the issuance of its unqualified audit report dated April 11, 2014, which was included in Medifirst's

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[14] AS 7 ¶ 13.

[15] Id.

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Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.[16]

Audit of Frozen Food Gift Group, Inc. for FY 2013

26. The Firm was engaged as FFG's external auditor for fiscal year ended December 31, 2013. On April 15, 2014, FFG filed with the Commission a Form 10-K for fiscal year ended December 31, 2013. The Firm improperly permitted the issuance of its unqualified audit report dated April 11, 2014, which was included in FFG's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.[17]

The Firm Commits Yet Another AS 7 Violation after Notice of a Board Investigation: Audit of Medifirst Solutions, Inc. for FY 2014

27. In connection with a DEI inquiry regarding Respondents' audits, DEI staff notified Respondents in March 2015 about the Firm's apparent repeated failure to comply with AS 7 with respect to the aforementioned issuer audits. The Firm was engaged as Medifirst's external auditor for fiscal year ended December 31, 2014. On April 15, 2015, Medifirst filed with the Commission a Form 10-K for fiscal year ended December 31, 2014. Despite being aware of DEI's inquiry and notice of the Firm's apparent prior violations of AS 7, the Firm improperly permitted the issuance of its unqualified audit report dated April 5, 2015, which was included in Medifirst's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.[18]

Aronson Contributed to the Firm's Violations of PCAOB Rules and Standards

28. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that firm of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and

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16 Id.

17 Id.

18 Id.

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liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.

29. Aronson, the sole owner and only member of the Firm, was principally responsible for the audits conducted by the Firm. Accordingly, Aronson had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Aronson knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7, described above. As a result, he violated PCAOB Rule 3502.

Respondents Failed to Comply with Professional Standards Regarding Auditor Independence

30. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[19] "[A] registered public accounting firm or associated person's independence obligation with respect to an audit client encompasses not only an obligation to satisfy the independence criteria applicable to the engagement set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws."[20]

31. Rule 2-01 of the Commission's Regulation S-X provides that an accountant is not independent of an audit client when a close family member of the accountant serves in an accounting role at an audit client during the period covered by the audit.[21] An accounting role means a role in which a person is in a position to, or does, exercise more than minimal influence over the contents of the accounting records or anyone who prepares them.[22] Under Regulation S-X, "close family member" includes a person's nondependent child and any dependents.[23]

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19 See PCAOB Rule 3520, *Auditor Independence*; AU § 220.02, *Independence*.

20 PCAOB Rule 3520, Note 1.

21 See Rule 2-01 of Regulation S-X, 17 C.F.R. § 220.2-01(c)(2)(ii).

22 See id. at 17 C.F.R. § 220.2-01(f)(3)(i).

23 See id. at 17 C.F.R. § 220.2-01(f)(9).

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32. During five of the above-mentioned audit engagements, Respondents failed to comply with PCAOB independence requirements because Aronson's son served in an accounting role at VDO during fiscal year 2010, at FFG during fiscal years 2011 and 2012, at Flow Tech during fiscal year 2013, and at Sipup during fiscal year 2013. Aronson was aware that these audit clients had hired a bookkeeping firm owned by his son because Aronson had recommended his son's firm to the audit clients.[24] Aronson's son's firm served as the primary bookkeeper (recording journal entries directly to the clients' general ledgers) and preparer of the financial statements for the clients. Respondents audited those financial statements, and issued unqualified audit reports by the Firm, in violation of PCAOB independence rules and standards.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), David A. Aronson, CPA, P.A. and David A. Aronson, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), David A. Aronson, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[25] and

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[24] Aronson's son's firm was not a public accounting firm registered with the PCAOB.

[25] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Aronson. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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C. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of David A. Aronson, CPA, P.A. is revoked.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

October 2, 2015

PCAOB
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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Oliva, Goddard & Wright, Certified Public Accountants,* *Respondent.*	PCAOB Release No. 105-2015-035 October 15, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Oliva, Goddard & Wright, Certified Public Accountants ("Oliva, Goddard & Wright," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission" or "SEC") as a result of having maintained and prepared accounting records, and having prepared financial statements that were filed with the Commission, for a registered broker-dealer audit client and thus impairing its independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction

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over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Oliva, Goddard & Wright is a registered public accounting firm located in San Diego, California. At all relevant times, the Firm was licensed by the California State Board of Accountancy (license no. 5948). The Firm, formed in 1993, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. The Firm maintained and prepared accounting records and prepared financial statements for the year ended December 31, 2013 for a broker-dealer audit client ("Broker-Dealer"). The Firm did so through personnel from outside the Firm whom it retained and directed for the purpose of performing work in connection with the Firm's audit of those financial statements. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. In

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

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[3] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

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7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[5] apply to audits of brokers and dealers.[6] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> (A) Maintaining or preparing the audit client's accounting records;
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's December 31, 2013 financial statements ("Audit"). At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In February 2014, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2013. Included in that filing was an audit report signed by the Firm dated February 15, 2014. That report stated, among other

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[5] 17 C.F.R. Part 210.

[6] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

10. In connection with the Audit, the Firm contracted with another accounting firm ("Contract Firm") to have two professionals at the Contract Firm perform audit work. The two Contract Firm professionals were directed and supervised in their work by a Firm partner who served as the engagement partner responsible for the Audit. Together, the Contract Firm professionals and the engagement partner made up the engagement team.

11. The engagement team noted in planning documentation for the Audit that the engagement team, and not the Broker-Dealer, maintained the Broker-Dealer's fixed asset subledger. The engagement team also understood during the audit planning stage that it would be preparing certain accounting records of the Broker-Dealer. Specifically, in addition to maintaining the Broker-Dealer's fixed asset subledger, the engagement team prepared the annual journal entries for the Broker-Dealer's income tax provision and accounts payable accrual. Moreover, the engagement team prepared the Broker-Dealer's depreciation expense entry and reconciled the Broker-Dealer's fixed asset balances.

12. The engagement team also prepared the Broker-Dealer's December 31, 2013 financial statements. The engagement team identified in a work paper titled "Overall Risks and Responses" a risk that the Broker-Dealer's management had a "[l]ack of expertise in the preparation of financial statements (primarily related to disclosures)." In response to that risk, the engagement team noted that it "prepares the financial statements" for the Broker-Dealer and, in order to do so, uses "a disclosure checklist" and "ma[kes] numerous inquiries of management to include all required disclosures."

13. The engagement team also completed a form titled "Program for General Audit and Completion Procedures." The engagement team noted therein that the "[Contract Firm] will draft the FS on behalf of Oliva, Goddard & Wright." The engagement team noted in another section of the same form that it would "[d]raft or assist the owner/manager in drafting the financial statements." Alongside that item were the typed initials of an engagement team member and the date "1/17/14," thereby indicating that an engagement team member had completed this task on January 17, 2014.

14. The engagement team obtained from the Broker-Dealer various documents including a balance sheet as of December 31, 2013; an income statement for the year ended December 31, 2013; trial balance data; portions of a general ledger; and a Form X-17A-5 Part IIA that the engagement team understood had been filed by

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the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA") and that bore the header "FOCUS Report (Financial and Operational Combined Uniform Single Report)." That Form X-17A-5 Part IIA contained, among other things, three financial statements—a Statement of Financial Condition as of December 31, 2013, a Statement of Income (Loss) for the period October 1, 2013 to December 31, 2013, and a Statement of Changes in Ownership Equity for the period October 1, 2013 to December 31, 2013.

15. The engagement team used the above documents obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of December 31, 2013, as well as the Statement of Income and Statement of Changes in Stockholders' Equity for the year ended December 31, 2013, filed by the Broker-Dealer with the Commission in February 2014.

16. In preparing those financial statements, the engagement team aggregated line items, changed line item descriptions and amounts, and added, deleted, and changed captions as compared to corresponding information in the documents obtained from the Broker-Dealer.

17. The engagement team also prepared the Statement of Cash Flows for the year ended December 31, 2013, as well as drafted the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in February 2014.

18. In February 2014, the engagement partner and members of the engagement team met with the Broker-Dealer's management to discuss the Audit and obtain management approval of the draft financial statements.

19. Included in the Form X-17A-5 Part III filed with the Commission in February 2014 was an Auditors' Report on Internal Control in which the Firm identified a significant deficiency in connection with the Broker-Dealer's lack of financial accounting and reporting expertise. Specifically, the Firm stated therein that the Broker-Dealer lacked the capability to prepare its financial statements because the Broker-Dealer did not have personnel with the knowledge and skills to prepare financial statements including all required disclosures.

20. As a result of the Firm's conduct in maintaining and preparing accounting records and in preparing the financial statements, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the Audit. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the

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position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[7]

21. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the Audit in accordance with GAAS when in fact, because of the independence impairment described above, the Audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary,

[7] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

ORDER

Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within thirty (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within thirty (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

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c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

October 15, 2015

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Reilly, Penner & Benton LLP,* *Respondent.*	PCAOB Release No. 105-2015-036 October 15, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Reilly, Penner & Benton LLP ("Reilly, Penner & Benton," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission" or "SEC") as a result of having prepared financial statements that were filed with the Commission for a registered broker-dealer audit client and thus impairing its independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

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Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Reilly, Penner & Benton is a registered public accounting firm with offices in Milwaukee, Madison, and McFarland, Wisconsin. At all relevant times, the Firm was licensed by the Wisconsin Department of Safety and Professional Services (license no. 123-3). The Firm, formed in 1907, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. The Firm prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended September 30, 2013. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

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[3] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

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7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[5] apply to audits of brokers and dealers.[6] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's September 30, 2013 financial statements ("Audit"). At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In November 2013, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended September 30, 2013. Included in that filing was an audit report signed by the Firm dated November 22, 2013. That report stated, among

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[5] 17 C.F.R. Part 210.

[6] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

10. Firm staff completed an "Engagement Acceptance and Continuance Form" in connection with the Audit. That form included a pre-printed item reading, "What services does the entity desire from our firm?" The Firm typed a checkmark under "Yes" alongside the pre-printed sub-item reading, "Preparation of financial statements?"

11. Firm staff obtained from the Broker-Dealer various documents including a trial balance and balance sheet as of September 30, 2013; an income statement for the month ending September 30, 2013; portions of a general ledger; and four Forms X-17A-5 Part IIA—one for each of the four quarters of 2013—that Firm staff understood had been filed by the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA"), that bore the header "FOCUS Report (Financial and Operational Combined Uniform Single Report)," and that contained quarterly financial statements.

12. Firm staff used the above documents obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of September 30, 2013, as well as the Statement of Income and Statement of Changes in Stockholders' Equity for the year ended September 30, 2013, filed by the Broker-Dealer with the Commission in November 2013.

13. In preparing those financial statements, Firm staff aggregated line items, added a line item, changed a line item description and amount, and changed a caption as compared to corresponding information in the documents obtained from the Broker-Dealer.

14. Firm staff also prepared the Statement of Cash Flows for the year ended September 30, 2013, as well as drafted the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in November 2013.

15. Firm staff provided the Broker-Dealer with a set of draft financial statements on November 18, 2013 for management approval.

16. As a result of the Firm's conduct in preparing the financial statements, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the Audit. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the

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client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[7]

17. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the Audit in accordance with GAAS when in fact, because of the independence impairment described above, the Audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary,

[7] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within thirty (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within thirty (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

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c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

October 15, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of SHEDJAMA, Inc.,* *Respondent.*	PCAOB Release No. 105-2015-037 October 15, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm SHEDJAMA, Inc. ("SHEDJAMA," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission" or "SEC") as a result of having prepared financial statements that were filed with the Commission for a registered broker-dealer audit client and thus impairing its independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

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ORDER

Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. SHEDJAMA is a registered public accounting firm located in Lafayette, Indiana. At all relevant times, the Firm was licensed by the Indiana Professional Licensing Agency (license no. FP 50700038). The Firm, formed in 2006, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. The Firm prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended December 31, 2013. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[5] apply to

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[3] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

[5] 17 C.F.R. Part 210.

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audits of brokers and dealers.[6] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's December 31, 2013 financial statements ("Audit"). At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In February 2014, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2013. Included in that filing was an audit report signed by the Firm dated February 6, 2014. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

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[6] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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10. Firm staff completed an "Engagement Acceptance and Continuance Form" in connection with the Audit. That form included pre-printed text reading, in part:

> The SEC expects accountants to comply with the independence requirements established by the PCAOB, Independence Standards Board, and the accounting profession (the AICPA), as well as the requirements promulgated by the Commission and its staff. The SEC's independence rules are set forth in Rule 2-01 of Regulation S-X. Rule 2-01's general standard of independence requires both the fact and the appearance of independence.

11. Firm staff obtained from the Broker-Dealer various documents including a balance sheet as of December 31, 2013, a "Profit & Loss" statement for the year ended December 31, 2013, and four Forms X-17A-5 Part IIA—one for each of the four quarters of 2013—that Firm staff understood had been filed by the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA"), that bore the headers "FOCUS Report (Financial and Operational Combined Uniform Single Report)," and that contained quarterly financial statements.

12. Firm staff used the above documents obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of December 31, 2013, as well as the Statement of Income and Statement of Changes in Stockholders' Equity for the year ended December 31, 2013, filed by the Broker-Dealer with the Commission in February 2014.

13. In preparing those financial statements, Firm staff aggregated line items, changed line item descriptions, and changed a caption as compared to corresponding information in the documents obtained from the Broker-Dealer.

14. Firm staff also prepared the Statement of Cash Flows for the year ended December 31, 2013, as well as drafted the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in February 2014.

15. Firm staff provided the Broker-Dealer with a set of draft financial statements on February 11, 2014 for management approval.

16. As a result of the Firm's conduct in preparing the financial statements, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the Audit. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because

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the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[7]

17. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the Audit in accordance with GAAS when in fact, because of the independence impairment described above, the Audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover

[7] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within thirty (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within thirty (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has

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performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

October 15, 2015

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Turner, Jones and Company PLLC; Stephen M. Turner, CPA; and Mark E. Turbyfill, CPA*, *Respondents.*	PCAOB Release No. 105-2015-038 October 15, 2015

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Turner, Jones and Company PLLC ("Turner Jones" or the "Firm"), revoking the Firm's registration and imposing a civil money penalty in the amount of $10,000 upon the Firm;[1] censuring Stephen M. Turner ("Turner") and barring him from being an associated person of a registered public accounting firm;[2] and censuring Mark E. Turbyfill ("Turbyfill") and barring him from being an associated person of a registered public accounting firm.[3] The Board is imposing these sanctions on the basis of its findings that the Firm, Turner, and Turbyfill (collectively, "Respondents") violated PCAOB rules and auditing standards in connection with two audits of one issuer client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Turner may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

[3] Turbyfill may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds that:[5]

A. Respondents

1. Turner, Jones and Company PLLC is, and at all relevant times was, a professional limited liability company organized under the laws of the State of Virginia, and headquartered in Vienna, Virginia.[6] Turner Jones is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Turner Jones is licensed to practice public accountancy by the Virginia Board of Accountancy (License No. 132825). At all relevant times the Firm was the external auditor for the issuer identified below.

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[4] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[6] During 2014, the Firm changed its name to Turner, Leins & Gold, LLC.

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2. Stephen M. Turner, 57, of Herndon, Virginia is a certified public accountant licensed by the Virginia Board of Accountancy (License No. 9850) since 1986. At all relevant times, Turner was the managing partner of Turner Jones and served as a staff member on one audit and engagement partner on the other audit discussed below. Turner is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. Mark E. Turbyfill, 44, of Broadlands, Virginia is a certified public accountant licensed by the Virginia Board of Accountancy (License No. 25136) since 2000. At all relevant times, Turbyfill was an employee of Turner Jones who acted as the engagement partner on certain Firm issuer audits. Turbyfill is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

4. This matter concerns Respondents' violations of PCAOB rules and auditing standards in connection with the issuance of audit reports on the financial statements of Next Generation Energy Corp. ("NextGen") over a two year period.[7] As detailed below, Respondents failed to obtain sufficient appropriate audit evidence and exercise due care and professional skepticism in connection with the audit of the December 31, 2011 financial statements of NextGen (the "2011 audit"). And, as detailed below, Turner and the Firm failed to obtain sufficient appropriate audit evidence and exercise due care and professional skepticism in connection with the audit of the December 31, 2012 financial statements of NextGen (the "2012 audit").

C. Respondents Violated PCAOB Rules and Auditing Standards

5. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[8] An auditor may

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[7] During 2013, NextGen redirected its resources to focus on the medical marijuana industry. On June 19, 2014, NextGen changed its name to Next Generation Management Corp. to reflect its involvement in providing dispensary management services to the medical marijuana industry.

[8] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

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express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[9] Those standards require among other things, that an auditor plan and perform the audit to obtain appropriate audit evidence that is sufficient to support the opinion expressed in the auditor's report.[10] PCAOB standards further require that an auditor exercise due professional care and professional skepticism in performing the audit.[11] In addition, PCAOB standards require the auditor's evaluation of audit results to include an evaluation of conditions identified during the audit that relate to the assessment of the risk of material misstatement due to fraud.[12]

6. As described below, Respondents failed to comply with PCAOB rules and auditing standards in connection with Turner Jones's audit of the 2011 NextGen financial statements, and Turner and the Firm failed to comply with PCAOB rules and auditing standards in connection with the Firm's audit of the 2012 NextGen financial statements.

Violations in Connection with Turner Jones's Audit of NextGen's 2011 Financial Statements

7. NextGen is a Nevada corporation headquartered in Annandale, Virginia. NextGen's public filings disclose that, at all relevant times, it was in the business of acquiring and holding interests in the energy business, including natural gas and oil properties. At all relevant times, NextGen's common stock was quoted on the OTC Bulletin Board. At all relevant times, NextGen was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

8. Turbyfill, as engagement partner, authorized the Firm's issuance of an audit report expressing an unqualified audit opinion on NextGen's financial statements for the year ended December 31, 2011 and supervised the work of the engagement team. The report was included in NextGen's Form 10-K filed with the Commission on

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[9] See AU § 508.07, *Reports on Audited Financial Statements.*

[10] See Auditing Standard No. 15, *Audit Evidence* at ¶ 3.

[11] See AU § 150, *Generally Accepted Auditing Standards* and AU § 230, *Due Professional Care in the Performance of Work*.

[12] See Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14") at ¶ 4.d.

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April 18, 2012. Turner served as an engagement team member on the 2011 audit and was involved in the audit areas discussed below.

9. In March 2011, NextGen purchased a privately held company named Knox Gas, LLC ("Knox") from two related parties for $500,000.[13] The purchase price was financed via two promissory notes of $250,000 each payable to the related parties with no principal payments due until February 21, 2016 (hereinafter the "Knox transaction").

10. In the Knox transaction, NextGen acquired all the membership interests of Knox.[14] Respondents understood that Knox's only assets were four oil and gas leases purchased by Knox during 2010.[15] Knox purchased one lease for $1 in May 2010 and the remaining three leases for $40,000 in August 2010. Notwithstanding the difference between Knox's purchase of the four leases for $40,001 and NextGen's $500,000 purchase price for all the membership interests in Knox less than a year later, NextGen recorded the transaction as an "evaluated oil and gas properties" asset of $500,000 with a corresponding note payable of $500,000. The Knox transaction, as recorded, represented 67% of NextGen's total reported 2011 assets and 48% of its total reported liabilities.

11. In connection with the 2011 audit, Respondents did not document any risk presented by the Knox transaction even though they knew the purchase was entirely financed via notes from related parties.[16] Moreover, Respondents failed to identify the need to evaluate whether the oil and gas leases acquired in the Knox transaction needed

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[13] The related parties involved in the Knox transaction were the wife of NextGen's chairman and CEO and a NextGen Director.

[14] Membership interests are a member's collective ownership rights in a limited liability company. In order to acquire all of Knox, NextGen had to acquire all of Knox's membership interests.

[15] Respondents did not perform any procedures to determine if Knox had any other assets or liabilities. At the time of the audit, Respondents knew that Knox did not have any financial statements.

[16] See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* at ¶¶ 4-5; Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatements*; and AS 14 ¶ 28.

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to be recorded by NextGen at Knox's carrying amount because Knox and NextGen were related parties under common control.[17]

12. Additionally, in auditing the Knox transaction, Respondents failed to perform sufficient procedures over NextGen's $500,000 valuation assigned to the leases acquired in the Knox transaction. Respondents obtained a July 2010 Gas Reserve and Valuation Report ("2010 Valuation Report") prepared by a third-party appraiser as the only support for management's $500,000 valuation. Respondents failed to perform sufficient procedures over NextGen's reliance on the work of the third-party specialist that prepared the 2010 Valuation Report.[18] Specifically, Respondents failed to perform sufficient procedures: (a) to obtain an understanding of the methods and assumptions used by the specialist, (b) to make appropriate tests of the data provided to the specialist, and (c) to evaluate whether the specialist's relationship with NextGen might impair the specialist's objectivity.[19] Nor did Respondents know that, less than two months after the report was prepared, three of the oil and gas leases had been purchased by Knox for only $40,000.

Violations in Connection with Turner Jones's Audit of NextGen's 2012 Financial Statements

13. Turner, as engagement partner, authorized the Firm's issuance of an audit report expressing an unqualified audit opinion on NextGen's financial statements for the year ended December 31, 2012 and supervised the engagement team. The report was included in NextGen's Form 10-K filed with the Commission on April 22, 2013.

14. During the 2012 audit, NextGen concluded that the "evaluated oil and gas properties" acquired in the 2011 Knox transaction were impaired as of December 31, 2012. According to management, the impairment "was primarily due to the Company anticipating conversion of the leases into a royalty agreement with an operator."

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[17] See Financial Accounting Standard Board Accounting Standards Codification 805-50, *Business Combinations, Related Issues - Transactions Between Entities Under Common Control;* AS 14 ¶ 30; see also AU § 334, *Related Parties*; AU § 411, *The Meaning of Present Fairly in Conformity with Generally Accepted Accounting Principles*.

[18] See AU § 336, *Using the Work of a Specialist*.

[19] See id. at .10 and .12.

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Management recorded an impairment charge of $286,119 for the "evaluated oil and gas properties" originally valued at $500,000 (a 57% decrease).

15. Although the potential impairment was identified as a significant audit risk, Turner and the Firm failed to perform sufficient procedures related to the impairment charge. Initially, NextGen management proposed a new valuation of $417,750 for the properties, but ultimately asserted a valuation of $213,881 for the oil and gas wells. Turner evaluated the $213,881 valuation by considering the 2010 Valuation Report previously relied on for the $500,000 valuation in 2011 and NextGen's anticipated conversion of the leases into a royalty agreement with an operator. Turner and the Firm, however, failed to perform sufficient procedures concerning NextGen's continued reliance on the 2010 Valuation Report, including how the Report supported both the original $500,000 and the new $213,881 valuations.

16. In December 2012, less than two years after the Knox transaction, the $500,000 note payable entered into in connection with the Knox transaction was forgiven by the related parties. As a result, NextGen wrote-off the $500,000 note payable in its 2012 financial statements.

17. While the loan forgiveness was identified as a significant audit risk, Turner and the Firm failed to consider whether the forgiveness and related write-off contradicted the original valuations of the Knox leases. Despite this contradictory audit evidence, Turner and the Firm failed to perform any procedures to consider whether the 2011 Knox transaction presented a risk of material misstatement due to error or fraud and whether it was appropriately recorded in both 2011 and 2012.[20]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Turner, Jones and Company PLLC, Stephen M. Turner, and Mark E. Turbyfill are hereby censured;

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[20] See AS 14 ¶¶ 8, 28; see also AU § 316.66-.67, *Consideration of fraud in a Financial Statement Audit*.

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B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Stephen M. Turner is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[21]

C. After two (2) years from the date of this Order, Stephen M. Turner may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Mark E. Turbyfill is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[22]

E. After one (1) year from the date of this Order, Mark E. Turbyfill may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

F. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Turner, Jones and Company PLLC is revoked;

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[21] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Turner. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[22] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Turbyfill. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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G. After two (2) years from the date of the Order, Turner, Jones and Company PLLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

H. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Turner, Jones and Company PLLC. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Turner, Jones and Company PLLC shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies Turner, Jones and Company PLLC as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

October 15, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of BDO Auditores, S.L.P.,* *Respondent.*	PCAOB Release No. 105-2015-039 November 12, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring BDO Auditores, S.L.P. ("Firm" or "Respondent"), a registered public accounting firm, imposing a civil money penalty in the amount of $10,000 upon the Firm, and requiring the Firm to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements. The Board is imposing these sanctions on the basis of its findings that the Firm twice failed to timely disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making

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Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. BDO Auditores, S.L.P. is, and at all relevant times was, a limited liability corporation organized under Spanish law, and headquartered in Madrid, Spain. The Firm is a member of BDO International Limited, and forms part of the international BDO network of independent member firms. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed in Spain by the Official Register of Auditors (R.O.A.C.) (license no. S1273).

B. Summary

2. This matter concerns the Firm's failures to timely disclose certain reportable events to the Board on Form 3 as required by PCAOB rules. Specifically, the Firm became a respondent in two separate disciplinary proceedings initiated by the *Instituto de Contabilidad y Auditoria de Cuentas* ("ICAC"), the foreign auditor oversight authority in Spain.[2] PCAOB rules required the Firm to complete and file a PCAOB special report on Form 3 within 30 days of becoming aware that it had become a respondent in those disciplinary proceedings. The Firm became aware of the disciplinary proceedings in May 2012 and February 2014, respectively, yet failed to file a Form 3 reporting the proceedings until May 2015, after the PCAOB commenced its investigation, and well after the 30-day reporting deadline. The disciplinary proceedings in Spain are currently on appeal or pending resolution by ICAC, respectively.

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] A "foreign auditor oversight authority" means any governmental body or other entity empowered by a foreign government to conduct inspections of public accounting firms or otherwise to administer or enforce laws related to the regulation of public accounting firms. See PCAOB Rule 1001(f)(iii).

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C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

3. In effect since 2009, PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[3] One such specified event is when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a *Board* disciplinary proceeding."[4] The proceeding only has to relate to "professional services for a client" and does not necessarily have to involve an audit of an issuer, broker or dealer. With respect to two such events involving the Firm described below, Respondent failed to timely file a Form 3 with the Board.

4. First, on or about May 11, 2012, the Firm became aware that it had become a respondent in a disciplinary proceeding initiated by ICAC. The proceeding arose out of the Firm's audit of Establiments Miro, S.L. (a Spanish company that is not a U.S. issuer[5]) for fiscal year ending January 31, 2010. By April 2013, ICAC determined that the Firm had violated certain auditing standards. The Firm's appeal to the Spanish Courts of Justice is currently pending.

5. Second, on or about February 27, 2014, the Firm became aware that it had become a respondent in another disciplinary proceeding initiated by ICAC. The proceeding arose out of the Firm's audit of Pescanova, S.A. (a Spanish company that is

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[3] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." See PCAOB Rel. No. 2008-004 at 17 (June 10, 2008).

[4] See PCAOB Form 3, at Item 2.7.

[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities and Exchange Act of 1934 (the "Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. See PCAOB Rule 1001(i)(iii).

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not a U.S. issuer) for fiscal year ending December 31, 2011. As of the date of this Order, those disciplinary proceedings have not been concluded as to the Firm.

6. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to either proceeding until May 5, 2015, approximately three years after learning of the first proceeding and more than a year after learning of the second proceeding.

7. The Firm's internal compliance and reporting systems failed to identify the proceedings before ICAC as being reportable to the PCAOB and ensure timely reporting pursuant to PCAOB rules.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

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1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process;

3. within ninety (90) days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm; and

4. within one hundred twenty (120) days from the date of this Order, to have the individual referenced in paragraph C(3) above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(3) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

November 12, 2015

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of L.L. Bradford & Company, LLC,* *Respondent.*	PCAOB Release No. 105-2015-041 December 3, 2015

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is (1) censuring L.L. Bradford & Company, LLC ("L.L. Bradford" or the "Firm"); (2) revoking the Firm's registration; and (3) imposing upon the Firm a civil money penalty in the amount of $12,500.[1] The Board is imposing these sanctions on the basis of its findings that in connection with the Firm's audits of numerous issuer audit clients, the Firm repeatedly violated PCAOB rules, auditing standards, and quality control standards and, in connection with several of those audits, also violated Section 10A(g) and Section 10A(j) of the Securities Exchange Act of 1934 ("Exchange Act") and Exchange Act Rule 10A-2 concerning auditor independence.

I.

On April 3, 2015, the Board instituted disciplinary proceedings against L.L. Bradford pursuant to Section 105 of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1). These proceedings were not public pursuant to Section 105(c)(2) of the Act and PCAOB Rule 5203. The Board determined, under Section 105(c)(2) and PCAOB Rule 5203, that good cause was shown to make the hearing in this proceeding public, and the Division of Enforcement and Investigations consented to making the hearing public. As permitted by Section 105(c)(2) and PCAOB Rule 5203, L.L. Bradford did not consent to make the hearing in this proceeding public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, L.L. Bradford has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by

[1] The Firm may reapply for registration after five (5) years from the date of this Order.

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or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except to the Board's jurisdiction over the Firm, which is admitted, L.L. Bradford consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of L.L. Bradford's Offer, the Board finds that:[3]

A. Respondent

1. L.L. Bradford is a limited liability company organized under the laws of the State of Nevada, and is headquartered in Las Vegas, Nevada. L.L. Bradford is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. L.L. Bradford is licensed to practice public accountancy by the Nevada State Board of Accountancy (License No. LLC-0113) and, at all relevant times, was the external auditor for each of the issuers identified below.

B. Other Relevant Individuals and Entities

2. **Gordon Brad Beckstead**, age 51, of Henderson, Nevada, is a certified public accountant licensed by the Nevada State Board of Accountancy (License No. CPA-2701). At all relevant times, Beckstead was an audit principal in the Las Vegas, Nevada office of L.L. Bradford. Beckstead was the engagement partner on L.L. Bradford's audit of WebXU Inc.'s ("WebXU") December 31, 2011 financial statements and review of WebXU's June 30, 2012 financial statements.[4] Beckstead is no longer

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[2] The findings herein are made pursuant to L.L. Bradford's Offer and are not binding on any other persons or entities in this or any other proceeding.

[3] The Board finds that L.L. Bradford's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] See *Gordon Brad Beckstead*, PCAOB Release No. 105-2015-007 (Apr. 1, 2015).

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employed by L.L. Bradford. At all relevant times, Beckstead was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **Hazel-Leilani De Los Reyes Bradford**, age 47, of Henderson, Nevada, is a partner with L.L. Bradford and a certified public accountant licensed by the Nevada State Board of Accountancy (License No. CPA-2438). At all relevant times, Bradford was a partner in the Las Vegas, Nevada office of L.L. Bradford, and was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). At all relevant times, Bradford owned a majority stake in L.L. Bradford and was the partner responsible for the design, implementation, and maintenance of the Firm's quality control policies and procedures.[5]

4. **Eric S. Bullinger**, age 45, of Worland, Wyoming, is a certified public accountant licensed under the laws of Wyoming (License No. 2741).[6] At all relevant times, Bullinger was a partner in the Las Vegas, Nevada office of L.L. Bradford, and was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[7] Bullinger separated from L.L. Bradford in January 2013.

5. **Suzanne M. Herring**, age 50, of Las Vegas, Nevada, is an audit principal with L.L. Bradford, a position she has held since January 2013. Herring was a senior member of the engagement team on L.L. Bradford's audit of the financial statements of Decision Diagnostics Corp. ("Decision Diagnostics") for the year ended December 31, 2012.[8] At all relevant times, Herring was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Herring is no longer employed by L.L. Bradford.

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[5] See *Hazel-Leilani De Los Reyes Bradford*, PCAOB Rel. No. 105-2015-006 (Apr. 1, 2015).

[6] During the relevant period, Bullinger was a certified public accountant licensed under the laws of Nevada (License No. 3735). Bullinger voluntarily surrendered his Nevada license effective December 31, 2014.

[7] See *Dustin M. Lewis and Eric S. Bullinger*, PCAOB Rel. No. 2015-005 (Apr. 1, 2015).

[8] See *Suzanne M. Herring*, PCAOB Rel. No. 105-2015-008 (Apr. 1, 2015).

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6. **Dustin M. Lewis**, age 41, of Henderson, Nevada, is a certified public accountant licensed by the Nevada State Board of Accountancy (License No. CPA-3205). At all relevant times, Lewis was a partner in the Las Vegas, Nevada office of L.L. Bradford, and was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Lewis was the engagement quality reviewer on the 2011 WebXU audit and the June 30, 2012 WebXU review.[9] Lewis is no longer employed by L.L. Bradford and is currently self-employed.

C. Summary

7. This matter relates to the Firm's pervasive independence and quality control violations in its issuer audit practice, as well as the Firm's numerous violations of PCAOB rules and standards in connection with an audit and quarterly review of an issuer audit client.

8. First, the Firm repeatedly violated Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, and PCAOB rules and standards that require a registered public accounting firm and its associated persons to be independent of the Firm's issuer audit clients. The Firm was not independent with respect to six issuer audit clients because of audit partner rotation violations by two partners of the Firm. Moreover, in connection with the audits of two of those issuer audit clients, L.L. Bradford also failed to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), because one of its partners served as the engagement quality reviewer immediately after serving as the engagement partner, in violation of AS 7's mandatory two year "cooling-off" period.

9. Second, the Firm also violated Section 10A(g) of the Exchange Act and Exchange Act Rule 10A-2, as well as PCAOB independence rules and standards, prohibiting the provision of certain non-audit services to an issuer audit client at any point during the audit and professional engagement period. The Firm was not independent of one issuer audit client because an audit principal at the Firm provided bookkeeping and financial statement preparation services to that issuer audit client during the audit period. In connection with that same audit, the Firm also violated a PCAOB rule that requires a registered public accounting firm to communicate, in writing, to the audit committee of a potential audit client, all relationships between the firm and the potential audit client that may reasonably be thought to bear on the firm's

[9] See *Dustin M. Lewis and Eric S. Bullinger*, PCAOB Rel. No. 105-2015-005.

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independence and to discuss with the audit committee the potential effects of such relationships should the firm be appointed as auditor.

10. Third, the Firm violated PCAOB rules and auditing standards with respect to an audit and a quarterly review of one issuer audit client. Specifically, the Firm in conducting its audit of the financial statements of WebXU for the year ended December 31, 2011, failed to properly assess the risks of material misstatement. As a result, the Firm failed to properly identify significant risks in connection with the 2011 WebXU audit. The Firm also failed to properly establish an overall strategy for the audit and develop an audit plan that included planned risk assessment procedures and planned responses to the risks of material misstatement. In addition, the Firm failed to perform sufficient audit procedures that addressed the risks of material misstatement.

11. The Firm violated PCAOB standards in multiple other respects as well in its 2011 WebXU audit. In connection with a significant acquisition that WebXU consummated during 2011, the Firm failed to (i) evaluate the qualifications and competence of a specialist that WebXU retained to value the acquisition; (ii) evaluate the reasonableness of the significant assumptions used by the issuer and its specialist to determine the fair value of purchase consideration for the acquisition; (iii) test data WebXU provided to the specialist and properly evaluate whether the specialist's findings supported the related financial statement assertions; and (iv) evaluate the adequacy of WebXU's disclosure of the terms of the acquisition. In addition, the Firm failed to perform sufficient audit procedures to test WebXU's reported revenue.

12. The Firm also failed to comply with PCAOB standards in connection with its review of WebXU's quarterly financial statements for the period ended June 30, 2012. Specifically, the Firm failed to properly communicate with management and the audit committee regarding the engagement team's inability to complete the review.

13. Finally, as detailed below, the Firm violated PCAOB rules and quality control standards by failing to establish and implement quality control policies and procedures sufficient to provide it with reasonable assurance that Firm personnel maintained independence in fact and appearance. In addition, the Firm failed to establish and implement quality control policies and procedures sufficient to provide it with reasonable assurance that the policies and procedures established by the Firm for each of the elements of quality control were suitably designed and being effectively applied.

D. Background

14. L.L. Bradford was formed in 1994 as a professional corporation. In 2012, the time period during which the majority of the violations occurred, L.L. Bradford had

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nineteen issuer audit clients and three personnel authorized to sign audit reports on behalf of the Firm: Lewis, Bullinger, and Beckstead. Bradford, another Firm partner, was responsible for designing, implementing, and monitoring the Firm's quality control policies and procedures. Bradford had limited public company audit experience and limited knowledge of PCAOB standards and relevant Securities and Exchange Commission ("Commission") rules and regulations. After assuming responsibility for the Firm's quality control policies and procedures, Bradford failed to become sufficiently knowledgeable of PCAOB and Commission requirements, and ultimately failed to design and maintain a system of quality control that provided the Firm with reasonable assurance its personnel complied with applicable professional standards and the Firm's standards of quality.

E. L.L. Bradford Violated PCAOB Rules and Auditing Standards, and the Exchange Act and Exchange Act Rules

L.L. Bradford Repeatedly Failed to Comply with Audit Partner Rotation Requirements and the Mandatory "Cooling-Off" Period

15. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[10] PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[11] A registered public accounting firm or associated person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[12]

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[10] PCAOB Rules 3100, *Compliance with Auditing and Related Professional Standards*, and 3200T, *Interim Auditing Standards*.

[11] PCAOB Rule 3520, *Auditor Independence*; AU §§ 220.01-02, *Independence*. All references to PCAOB standards are to the versions of those standards in effect at the time of the relevant audits.

[12] PCAOB Rule 3520, Note 1.

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16. Section 10A(j) of the Exchange Act provides that "[i]t shall be unlawful for a registered public accounting firm to provide audit services to an issuer if the lead (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, has performed audit services for that issuer in each of the 5 previous fiscal years of that issuer."

17. Exchange Act Rule 10A-2 provides that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the partner rotation requirements of Commission Regulation S-X.

18. Rule 2-01 of Commission Regulation S-X provides that an accountant is not independent of an audit client when an audit partner performs the services of lead or concurring audit partner for the same issuer for more than five consecutive years or within the five consecutive year period following the performance of services for the maximum period permitted.[13]

19. AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[14] To ensure the objectivity of the engagement quality reviewer, paragraph 8 of AS 7 sets forth a mandatory two year cooling-off period before an engagement partner can assume the role of engagement quality reviewer on an issuer audit.[15] Specifically, AS 7 provides: "The person who served as the engagement partner during either of the two audits preceding the audit subject to the engagement quality review may not be the engagement quality reviewer."[16]

20. As described below, Respondent failed to comply with Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, and PCAOB rules and standards.

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[13] Rule 2-01 of Regulation S-X, 17 C.F.R. §§ 210.2-01(c)(6)(i)(A)(1) and (c)(6)(i)(B)(1). At all relevant times, the Firm had five or more issuer audit clients and did not qualify for Rule 2-01's small firm exemption. Id. at § 210.2-01(c)(6)(ii).

[14] AS 7 ¶ 1.

[15] AS 7 ¶ 8; see also *Auditing Standard No. 7, Engagement Quality Review and Conforming Amendment to the Board's Interim Quality Control Standards*, PCAOB Release No. 2009-004 (Jul. 28, 2009).

[16] AS 7 ¶ 8.

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Audits of All American SportPark, Inc.'s Financial Statements

21. At all relevant times, All American SportPark, Inc. ("AASP") was a Nevada corporation with its headquarters in Las Vegas, Nevada. AASP's public filings disclosed that it was a smaller reporting company as defined by Rule 12b-2 of the Exchange Act and operated a golf facility in Las Vegas, Nevada. Its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all relevant times, AASP was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

22. L.L. Bradford was engaged as AASP's external auditor in May 2006. The Firm issued six unqualified audit reports on AASP's financial statements for the years ended December 31, 2006 through December 31, 2011. Each of those six audit reports was included in a Form 10-K or 10-KSB that AASP filed with the Commission.

23. Lewis served as the lead partner on the audit of AASP for 2006. Thereafter, Lewis served as concurring partner/engagement quality reviewer on the audits of AASP between 2007 and 2010. After serving as lead or concurring partner for the aforementioned five year period, Lewis continued to serve as the engagement quality reviewer on the audit of AASP's financial statements for the year ended December 31, 2011.

24. Bullinger served as lead partner on the audits of AASP between 2007 and 2011. After serving for the five year period, Bullinger continued to serve as lead partner on the review of AASP's March 31, 2012 quarterly financial statements.

25. As a result of the services described above, L.L. Bradford was not independent during the audits and reviews of AASP's 2011 financial statements and during the review of AASP's interim financial statements for the first quarter of 2012, in violation of Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220.

Audits of Brownie's Marine Group, Inc.'s Financial Statements

26. At all relevant times, Brownie's Marine Group, Inc. ("Brownie's") was a Nevada corporation with its headquarters in Fort Lauderdale, Florida. Brownie's public filings disclosed that it was a smaller reporting company as defined by Rule 12b-2 of the Exchange Act and was engaged in the design, testing, manufacturing, and distribution of recreational hookah diving, yacht based scuba air compressor and nitrox generation systems, and scuba and water safety products. Its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all

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relevant times, Brownie's was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

27. L.L. Bradford was engaged as Brownie's external auditor in April 2004. The Firm issued eight unqualified audit reports on Brownie's financial statements for the years ended December 31, 2004 through December 31, 2011. Each of those eight audit reports was included in a Form 10-K or 10-KSB that Brownie's filed with the Commission.

28. Lewis served as lead partner on the audits of Brownie's financial statements for three consecutive fiscal years, between 2004 and 2006. Lewis thereafter served as concurring partner on the Firm's next two audits of Brownie's financial statements between 2007 and 2008. After serving as lead or concurring partner for the aforementioned five year period, Lewis continued to serve as the concurring partner/engagement quality reviewer on the audits of Brownie's financial statements for the years ended December 31, 2009 and December 31, 2010.

29. Bullinger served as lead partner on the audits of Brownie's financial statements between 2007 and 2011. After serving as lead partner for the aforementioned five year period, Bullinger then served as engagement quality reviewer on the reviews of Brownie's March 31, 2012, June 30, 2012, and September 30, 2012 quarterly financial statements.

30. As a result of the services described above, L.L. Bradford was not independent during the audits and reviews of Brownie's 2009 and 2010 financial statements and during the reviews of Brownie's interim financial statements for the first three quarters of 2012, in violation of Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220. Moreover, because Bullinger served as the engagement quality reviewer immediately after serving as lead partner on Brownie's audits, Respondent violated AS 7.[17]

Audits of Bravo Enterprises Ltd.'s Financial Statements

31. At all relevant times, Bravo Enterprises Ltd. (formerly known as Organa Gardens International and Shotgun Energy Corp.) ("Bravo") was a Nevada corporation with its headquarters in Patchogue, New York. Bravo's public filings disclosed that it was a smaller reporting company as defined by Rule 12b-2 of the Exchange Act and engaged in the manufacturing, distribution, and marketing of water harvesting

[17] See AS 7 ¶ 8.

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equipment. Its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all relevant times, Bravo was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

32. L.L. Bradford was engaged as Bravo's external auditor in December 2006. The Firm issued six unqualified audit reports on Bravo's financial statements for the years ended December 31, 2006 through December 31, 2011. Each of those six audit reports was included in a Form 10-K or 10-KSB that Bravo filed with the Commission.

33. Lewis served as the lead partner on the audit of Bravo's financial statements for 2006 and as the concurring partner/engagement quality reviewer on the audits of Bravo's financial statements between 2007 and 2010. After serving as lead partner or concurring partner/engagement quality reviewer for the aforementioned five year period, Lewis continued to serve as the engagement quality reviewer on the audit of Bravo's financial statements for the year ended December 31, 2011.

34. Bullinger served as lead partner on the audits of Bravo's financial statements between 2007 and 2011. After serving for the five year period, Bullinger then continued to serve as lead partner on the review of Bravo's March 31, 2012 quarterly financial statements.

35. As a result of the services described above, L.L. Bradford was not independent during the audit and reviews of Bravo's 2011 financial statements and during the review of Bravo's interim financial statements for the first quarter of 2012, in violation of Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220.

Audits of Terralene Fuels Corporation's Financial Statements

36. At all relevant times, Terralene Fuels Corporation (formerly known as Golden Spirit Enterprises Ltd.) ("Terralene") was a Delaware corporation with its headquarters in Patchogue, New York. Terralene's public filings disclosed that it was a smaller reporting company and engaged in the development of alternative fuels. Its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. On May 14, 2013, Terralene filed a Form 15 to deregister its common stock. At all relevant times, Terralene was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

37. L.L. Bradford was engaged as Terralene's external auditor in December 2006. The Firm issued six unqualified audit reports on Terralene's financial statements for the years ended December 31, 2006 through December 31, 2011. Each of those six

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audit reports was included in a Form 10-K or 10-KSB that Terralene filed with the Commission.

38. Lewis served as lead partner on the audit of Terralene's 2006 financial statements and as the concurring partner/engagement quality reviewer on the audits of Terralene's financial statements between 2007 and 2010. After serving as lead partner or concurring partner/engagement quality reviewer for the aforementioned five year period, Lewis continued to serve as the engagement quality reviewer on the audit of Terralene's financial statements for the year ended December 31, 2011.

39. Bullinger served as lead partner on the audits of Terralene's financial statements between 2007 and 2011. After serving for the five year period, Bullinger then served as engagement quality reviewer on the review of Terralene's March 31, 2012 and June 30, 2012 quarterly financial statements.

40. As a result of the services described above, L.L. Bradford was not independent during the audits and reviews of Terralene's 2011 financial statements and during the reviews of Terralene's interim financial statements for the first two quarters of 2012, in violation of Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220. Moreover, because Bullinger served as the engagement quality reviewer immediately after serving as lead partner on Terralene's audits, Respondent violated AS 7.[18]

Audits of Solar Energy Initiatives, Inc.'s Financial Statements

41. At all relevant times, Solar Energy Initiatives, Inc. ("SEI") was a Delaware corporation with its headquarters in Cary, North Carolina. SEI's public filings disclosed that it was a smaller reporting company and it had no present operations other than seeking new business activities. Its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. On January 8, 2014, SEI filed a Form 15 to deregister its common stock. At all relevant times, SEI was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

42. L.L. Bradford was engaged as SEI's external auditor in August 2007. The Firm issued five unqualified audit reports on SEI's financial statements for the years ended July 31, 2007 through July 31, 2011. Each of those five audit reports was included in a Form SB-2 or Form 10-K that SEI filed with the Commission.

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[18] See AS 7 ¶ 8.

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43. Bullinger served as lead partner and Lewis served as the concurring partner/engagement quality reviewer on the audits of SEI for the fiscal years 2007 through 2011. After serving on the audit for five fiscal year periods, Bullinger then continued to serve as lead partner and Lewis as engagement quality reviewer on the review of SEI's October 31, 2011, January 31, 2012, and April 30, 2012 quarterly financial statements.

44. As a result of the services described above, L.L. Bradford was not independent during the reviews of SEI's interim financial statements for the first three quarters of fiscal year 2012, in violation of Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220.

Audits of U-Swirl, Inc.'s Financial Statements

45. At all relevant times, U-Swirl, Inc. ("U-Swirl") was a Nevada corporation with its headquarters in Henderson, Nevada. U-Swirl's public filings disclosed that it was a smaller reporting company and engaged in the operation and franchising of frozen yogurt cafes. Its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all relevant times, U-Swirl was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

46. L.L. Bradford was engaged as U-Swirl's external auditor in November 2007. The Firm issued five unqualified audit reports on U-Swirl's financial statements for the years ended December 31, 2007 through December 31, 2011. Each of those five audit reports was included in a Form S-1/A or Form 10-K that U-Swirl filed with the Commission.

47. Bullinger served as lead partner on the audits of U-Swirl for the fiscal years 2007 through 2011. After serving on the audit of five fiscal year periods, Bullinger then continued to serve as lead partner on the review of U-Swirl's March 31, 2012 quarterly financial statements.

48. As a result of the services described above, L.L. Bradford was not independent during the review of U-Swirl's interim financial statements for the first quarter of 2012, in violation of Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220.

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L.L. Bradford Failed to Comply with Independence Requirements Related to Prohibited Non-Audit Services

49. Section 10A(g) of the Exchange Act provides that it shall be unlawful for a registered public accounting firm that performs an audit for an issuer "to provide to that issuer, contemporaneously with the audit, any non-audit service, including . . . [b]ookkeeping or other services related to the accounting records or financial statements of the audit client."

50. Exchange Act Rule 10A-2 states that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the prohibited non-audit services provisions of Commission Regulation S-X. Rule 2-01 of Regulation S-X provides that an accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides certain non-audit services to an audit client, including bookkeeping services such as "[p]reparing the audit client's financial statements that are filed with the Commission."[19]

51. In addition, PCAOB rules require that a registered public accounting firm describe, in writing, to the audit committee of a potential audit client, all relationships between the firm or any affiliates of the firm and the potential audit client that may reasonably be thought to bear on independence.[20] The firm is also required to discuss with the audit committee the potential effects of such relationships should the firm be appointed as the potential audit client's auditor and to document the substance of such discussion.[21]

52. As described below, Respondent failed to comply with Section 10A(g) of the Exchange Act, Exchange Act Rule 10A-2, and PCAOB rules in connection with the audit of Decision Diagnostics' December 31, 2012 financial statements.

53. Beginning in August 2011, Beckstead, an audit principal at L.L. Bradford, was employed on a contract basis by Decision Diagnostics to provide bookkeeping and financial statement preparation services for Decision Diagnostics through at least

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[19] See Rule 2-01 of Regulation S-X, 17 C.F.R. § 210.2-01(b), (c)(4)(i).

[20] See PCAOB Rule 3526, *Communications with Audit Committees Concerning Independence*.

[21] Id.

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December 2012. As part of those services, Beckstead prepared the first, second, and third quarter 2012 financial statements and Forms 10-Q for Decision Diagnostics.

54. L.L. Bradford was engaged as Decision Diagnostics' external auditor on February 11, 2013 to audit the company's financial statements for the year ended December 31, 2012 (the "2012 Decision Diagnostics Audit").[22] Herring, an auditor who had recently joined L.L. Bradford, solicited Decision Diagnostics to engage the Firm as its external auditor, and served as a senior member of the Firm's audit engagement team for the 2012 Decision Diagnostics Audit. At the time the Firm accepted Decision Diagnostics as an audit client, Herring and others at the Firm were aware of the timing and the nature of the services that Beckstead had provided for Decision Diagnostics during fiscal year 2012.

55. During the 2012 Decision Diagnostics Audit, the Firm performed audit procedures on the underlying accounting records of the issuer that were prepared by Beckstead and that reflected the accounting principles recommended by him. In addition, the December 31, 2012 financial statements that the Firm audited were based, at least in part, on the quarterly financial statements prepared by Beckstead. The Firm issued an unqualified audit report on Decision Diagnostics' financial statements for the year ended December 31, 2012, which was included in the Form 10-K the issuer filed with the Commission on April 16, 2013.

56. As a result of the bookkeeping and financial statement preparation services provided by Beckstead, L.L. Bradford was not independent of Decision Diagnostics during the fiscal year 2012 audit period, in violation of Section 10A(g) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220.

57. In addition, on January 21, 2013, contemporaneous with accepting the Decision Diagnostics engagement, the Firm issued a letter to Decision Diagnostics pursuant to PCAOB Rule 3526. In violation of Rule 3526, however, that letter failed to

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[22] At all relevant times, Decision Diagnostics (formerly known as instaCare Corp.) was a Nevada corporation with its headquarters in Westlake Village, California. Decision Diagnostics' public filings disclosed that it was a nationwide prescription and non-prescription diagnostic and home testing products distributor. At all relevant times, its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. On April 22, 2015, Decision Diagnostics filed a Form 15 to deregister its common stock. At all relevant times, Decision Diagnostics was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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disclose the bookkeeping and financial statement preparation services provided by Beckstead. Also in violation of Rule 3526, the Firm failed to discuss with the Decision Diagnostics' audit committee the potential impact of those services on the Firm's independence.

L.L. Bradford Violated PCAOB Rules and Auditing Standards in Connection with the Audit of the 2011 Financial Statements of WebXU

L.L. Bradford Failed to Comply with PCAOB Rules and Standards

58. An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[23] Among other things, PCAOB standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient appropriate evidential matter to afford a reasonable basis for an opinion regarding the financial statements.[24]

59. PCAOB standards also require that an audit be properly planned, that auditors identify and assess the risks of material misstatement at the financial statement level and the assertion level, and that auditors design and perform audit procedures in a manner that addresses the risks of material misstatement for each relevant assertion of each significant account and disclosure.[25]

60. When an auditor relies on the work of a specialist, PCAOB standards require the auditor to "consider the . . . qualifications of the specialist in determining that the specialist possesses the necessary skill or knowledge in the particular field" and conduct "appropriate tests of data provided to the specialist."[26]

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[23] See AU § 508.07, *Reports on Audited Financial Statements.*

[24] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; and Auditing Standard No. 15, *Audit Evidence* ("AS 15").

[25] See Auditing Standard No. 9, *Audit Planning* ("AS 9"), ¶ 4; Auditing Standard No. 12, *Identifying and Assessing the Risks of Material Misstatement* ("AS 12"), ¶ 59; Auditing Standard No. 13, *The Auditor's Response to the Risks of Material Misstatement* ("AS 13"), ¶ 8; and AS 15 ¶¶ 4-6.

[26] AU §§ 336.08-.09, .12, *Using the Work of a Specialist*.

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61. PCAOB standards further require that the auditor test an issuer's fair value measurements and disclosures. In doing so, the auditor should evaluate whether (1) "[m]anagement's assumptions are reasonable and reflect, or are not inconsistent with, market information," (2) "[t]he fair value measurement was determined using an appropriate model," and (3) "[m]anagement used relevant information that was reasonably available at the time."[27] For purposes of AU § 328, management's assumptions include assumptions developed by a specialist engaged or employed by management.[28]

62. PCAOB standards also require that the auditor evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework. In doing so, "the auditor should evaluate whether the financial statements contain the information essential for a fair presentation of the financial statements."[29]

63. As detailed below, L.L. Bradford failed to comply with these auditing standards in connection with the audit of the December 31, 2011 financial statements of WebXU.

64. WebXU was, at all relevant times, a Delaware corporation headquartered in Los Angeles, California. WebXU's public filings disclosed that it was a media company engaged in developing high-value branded websites to service consumers for products and services. During the relevant period, its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board.[30] At all relevant times, WebXU was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[27] AU § 328.26, *Auditing Fair Value Measurements and Disclosures*.

[28] See AU § 328.05 n.2.

[29] Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), ¶¶ 30-31.

[30] On June 5, 2014, the Commission temporarily suspended trading in WebXU's securities due to "questions that have been raised about the accuracy and adequacy of publicly disseminated information concerning, among other things, the company's finances." SEC, Exchange Act Release No. 72323. On December 18, 2014, the Commission revoked the registration of WebXU's securities due to the issuer's failure to file periodic reports with the Commission since its December 31, 2012 Form 10-K. SEC, Exchange Act Release No. 73869.

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65. The Firm became the auditor for WebXU on December 5, 2011. The Firm audited WebXU's financial statements for the year ended December 31, 2011, and issued an audit report containing an unqualified opinion dated April 9, 2012, which was included in WebXU's Form 10-K filed with the Commission on April 9, 2012. The audit report stated that, in L.L. Bradford's opinion, WebXU's financial statements presented fairly, in all material respects, the issuer's financial position in conformity with U.S. generally accepted accounting principles ("GAAP") and that L.L. Bradford's audit was performed in accordance with PCAOB standards. Beckstead served as the lead partner on the 2011 audit of WebXU and authorized the issuance of the Firm's audit report. Lewis served as the engagement quality reviewer on the 2011 audit of WebXU and provided concurring approval for the issuance of the Firm's audit report.

Audit Planning and Risk Assessment

66. L.L. Bradford failed to comply with PCAOB standards in connection with the 2011 audit of WebXU. During audit planning, the Firm failed to identify and assess the risks of material misstatement at the financial statement and assertion level. The engagement team's assessment of risk was limited to assessing inherent risk, control risk, and audit risk. The risks of material misstatement were not properly assessed. Furthermore, the engagement team's risk assessment was performed at a level of aggregation above that permitted by PCAOB standards.[31] For example, the Firm assessed risk on all assets collectively. A similar approach was taken with liabilities. As a result, cash carried the same risk assessment as goodwill (identified in the financial statements as "Investment in Lot6").

67. Because the Firm failed to properly assess the risks of material misstatement and failed to identify significant risks at the financial statement and assertion level, the Firm also failed to properly establish an overall strategy for the engagement and develop an audit plan that included planned risk assessment procedures and planned responses to the risks of material misstatement. In addition, the Firm failed to perform sufficient audit procedures that addressed the risks of material misstatement.[32]

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[31] See AS 12 ¶ 59.

[32] See AS 9 ¶¶ 4-5; AS 12 ¶ 59; AS 13 ¶¶ 3, 8; and AS 15 ¶¶ 4-6.

ORDER

Valuation of Lot6 and Related Purchase Consideration

68. The Firm also failed to perform appropriate procedures with respect to a significant acquisition WebXU made in 2011. In November 2011, WebXU acquired Lot6 Media LLC ("Lot6"), an affiliate marketing company. Under the terms of the share exchange agreement, purchase consideration included 1,000,000 shares of WebXU common stock, a $5,000,000 note payable, a $1,861,532 working capital note payable, and contingent consideration in the form of an earn-out agreement. In the event WebXU failed to repay or timely repay the notes payable, the share exchange agreement included a penalty provision that required WebXU to issue additional shares to the seller, as well as a right of rescission clause, which gave the seller the right to terminate the acquisition in the event of non-payment. At December 31, 2011, the goodwill WebXU recorded in connection with the acquisition of Lot6 was the largest item on WebXU's balance sheet and constituted nearly two-thirds of total reported assets. By September 30, 2012, less than a year after the acquisition and less than six months after the Firm issued its audit opinion on the December 31, 2011 financial statements, WebXU wrote off the full value of the Lot6 goodwill.

69. As a result of the acquisition of Lot6, the Firm, Beckstead, and Lewis understood that WebXU retained a specialist to value the assets and liabilities acquired, including any goodwill, as well as the purchase consideration given. The Firm failed to exercise due professional care and professional skepticism and failed to comply with PCAOB standards on the use of specialists when it failed to evaluate the qualifications, and competence of the specialist retained.[33] The work papers contained no evaluation of the specialist. Further, Beckstead acknowledged that he was aware the specialist had no experience valuing affiliate marketing companies, and though he knew the specialist had done other valuations, he did not know how many, or her qualifications for doing valuations in general.

70. In violation of PCAOB standards, the Firm also failed to perform sufficient procedures to test the valuation of purchase consideration.[34] Specifically, the Firm failed to evaluate the reasonableness of the significant assumptions used by the issuer and its specialist to determine the fair value of shares and notes payable issued in connection with the acquisition.[35] In particular, the Firm failed to properly evaluate the

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33 See AU § 150.02; AU § 230; AU §§ 336.08-09.

34 See AU §§ 328.05 n.2, 328.23.

35 See AU § 328.28.

ORDER

reasonableness of the share price used to value the restricted common stock given as consideration. The Firm also failed to test the imputed interest rate applied to the notes payable issued as part of the purchase consideration.[36]

71. Finally, the Firm failed to test data provided to the specialist by the issuer and properly evaluate whether the specialist's findings supported the related financial statement assertions.[37] The Firm failed to test the data utilized by the valuation specialist to assess the probability of triggering the earn-out targets included as part of purchase consideration. Specifically, there is no indication as to how, if at all, the Firm tested the Lot6 historical growth rates utilized by the specialist. The valuation report included historical information for 2009 and 2010, as well as each of the quarters in 2011; however, Beckstead acknowledged that the engagement team did not perform procedures to test the historical financial information for the year ended December 31, 2009, and there are no work papers indicating that L.L. Bradford audited the 2011 quarterly financial information. Moreover, as discussed below, the Firm failed to properly audit Lot6 revenue for the period ended December 31, 2011.

Disclosure of Lot6 Acquisition Terms

72. In violation of PCAOB standards, the Firm also failed to evaluate the adequacy of WebXU's disclosure of the terms of the Lot6 acquisition in the financial statements.[38] The share exchange agreement with Lot6 included: (a) a right of rescission clause in the event WebXU failed to timely repay notes payable issued in connection with the acquisition and (b) penalties for late or non-payment of the notes payable. At the time the financial statements and audit report were issued, the engagement team was aware that WebXU had triggered the penalties clause because WebXU failed to make any payments on the notes payable. They further knew that WebXU was actively considering whether to service the notes payable or walk away from the transaction. WebXU did not disclose in its 2011 financial statements or the notes thereto the right of rescission or the penalty provision. Despite the significance of Lot6 to WebXU's financial condition, the Firm failed to evaluate the need for WebXU to disclose those terms of the Lot6 acquisition, in violation of PCAOB standards.[39]

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[36] See AU § 336.12.

[37] See id.

[38] See AS 14 ¶¶ 30-31.

[39] See id.

ORDER

Revenue Recognition

73. The Firm also failed to perform sufficient audit procedures to test WebXU's reported revenue.[40] Specifically, the Firm failed to evaluate whether revenues recognized by Lot6 satisfied the relevant revenue recognition criteria. As of December 31, 2011, Lot6 had been a subsidiary of WebXU for less than two months but contributed 32% of WebXU's total reported revenues for the year. Despite the significance of Lot6 revenue, the Firm failed to: (1) test the completeness of the population from which the selected revenue transactions were chosen by, for example, failing to reconcile the population to the issuer's general ledger; (2) obtain, understand, and evaluate customer contracts to determine whether the issuer's recognition of revenue was in accordance with GAAP; and (3) perform cutoff procedures on Lot6 revenues to test whether revenue was properly recognized in the correct period.

L.L. Bradford Violated PCAOB Auditing Standards in Connection with the Review of the June 30, 2012 Financial Statements of WebXU

74. In performing a review of interim financial information, if an accountant becomes aware of information that causes the accountant to believe that the interim financial information may not be in conformity with GAAP, PCAOB standards require that the accountant "make additional inquiries or perform other procedures . . . to provide a basis for communicating whether he or she is aware of any material modifications that should be made to the interim financial information."[41] If an accountant is unable to perform procedures he or she considers necessary to achieve the objective of a review, the review is incomplete.[42] The inability to complete the review, as well as any material modification that should be made to the financial information for it to be in conformity with GAAP, should be communicated to management, and if management does not respond appropriately, those matters should

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[40] See AS 15 ¶¶ 4-6. PCAOB standards explain that an auditor "should presume that there is a fraud risk involving improper revenue recognition and evaluate which types of revenue, revenue transactions, or assertions may give rise to such risks." AS 12 ¶ 68. PCAOB standards further provide that, "[f]or significant risks, the auditor should perform substantive procedures, including tests of details, that are specifically responsive to the assessed risks." AS 13 ¶ 11.

[41] AU § 722.22*, Interim Financial Information*.

[42] AU § 722.28.

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be communicated to the issuer's audit committee.[43] The accountant is also required to communicate certain other items to the audit committee, including issues relating to sensitive accounting estimates and adjustments that could have a significant effect on the financial statements.[44]

75. As detailed below, L.L. Bradford failed to comply with these PCAOB standards in connection with the review of the June 30, 2012 financial statements of WebXU.

76. On August 21, 2012, WebXU filed its Form 10-Q with the Commission for the quarter ended June 30, 2012. Included in the Form 10-Q was an explanatory note that stated that the auditors had failed to complete the required field work and review of WebXU's filing due to technical problems with the auditor's email system. The Firm, aware that WebXU had filed before the completion of its review, internally discussed whether WebXU would need to file an amended Form 10-Q once the review was complete, but took no further action and continued its review.

77. On September 25, 2012, more than a month after WebXU filed its Form 10-Q, the Firm signed a Completion Document for the review and a Supervision, Review, and Approval Form indicating that the Firm had completed the quarterly review. The next day, Beckstead, the engagement partner, sent an email to WebXU stating: "Just so everyone is on the same page here, we are still analyzing the goodwill impairment for the quarter ended 6/30/2012 . . . In other words, the quarter is still not final. In the event that the adjustment to the impairment write-down is deemed material, a restatement of the financials and an amended 10Q will need to be filed."

78. As part of its review procedures, the Firm identified a likely misstatement of goodwill impairment of more than $2 million, an amount that was material to WebXU's financial statements, but the engagement team understood that it needed to do more work to conclude. The Firm did not complete its additional inquiries and procedures prior to signing off on the quarterly review. According to other email communications among Beckstead, Lewis, and the engagement manager, the engagement team was still assessing in October 2012 whether the second quarter goodwill impairment charge taken by WebXU was misstated. Although it was aware of the potential impact of the likely misstatement, the Firm did not discuss the amount of the likely misstatement with

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[43] AU §§ 722.28-.30.

[44] AU § 722.34.

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management or the audit committee. The Firm also never completed its additional inquiries and review procedures related to goodwill impairment.

79. By failing to complete procedures "necessary to achieve the objective of a review of financial information, . . . the review [was] incomplete."[45] Because the Firm failed to make the appropriate communications to management and the audit committee regarding the Firm's inability to complete the review, the Firm violated PCAOB standards.[46]

F. L.L. Bradford Violated PCAOB Rules and Quality Control Standards

80. PCAOB Rules require that a registered accounting firm comply with the Board's quality control standards.[47] PCAOB quality control standards require that a registered public accounting firm "have a system of quality control for its accounting and auditing practice."[48] The design and maintenance of a firm's quality control policies and procedures "should be assigned to an appropriate individual" with consideration given to the "proficiency" of the individual, the "authority to be delegated," and "the extent of supervision to be provided."[49]

81. Among other things, a firm's policies and procedures should provide reasonable assurance that personnel maintain independence in fact and appearance.[50]

82. PCAOB quality control standards also provide that policies and procedures "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied."[51] Firms are

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45 See AU § 722.28.

46 See AU §§ 722.28, 722.34.

47 PCAOB Rules 3100 and 3400T, *Interim Quality Control Standards*.

48 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

49 QC § 20.22.

50 QC § 20.09.

51 QC § 20.20; see also QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

ORDER

required to establish monitoring procedures to "enable the firm to obtain reasonable assurance that its system of quality control is effective."[52] Such monitoring procedures include, among other things, inspection procedures, post-issuance reviews of selected engagements, and analysis and assessment of the results of independence confirmations.[53]

83. As detailed below, L.L. Bradford failed to comply with PCAOB rules and quality control standards.

Independence, Integrity, and Objectivity

84. The Firm failed to adopt and implement appropriate quality control policies and procedures governing the Firm's independence with respect to its issuer audit clients. Specifically, the Firm's 2011 quality control policies and procedures included incorrect guidance with respect to audit partner rotation requirements, were silent as to engagement quality reviewer rotation requirements, and did not reflect the practices of the Firm during the relevant time period.

85. With respect to audit partner rotation requirements, Bradford assumed responsibility for the Firm's, and its associated persons', compliance with audit partner rotation requirements.[54] Significantly, the Firm and Bradford failed to design and implement a process to track and monitor audit partner assignments and rotation compliance. Indeed, Bradford acknowledged that she failed to take any affirmative steps to track and monitor audit partner rotation requirements. These failures contributed to the above-described violations of partner rotation requirements with respect to six issuers.

86. The Firm also failed to design and implement a process for monitoring its personnel's compliance with AS 7, paragraph 8, which requires a two year "cooling-off"

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[52] QC § 30.03.

[53] See id.

[54] The Firm's quality control policies and procedures stated that the managing partner assigned audit partners to audit engagements and was responsible for ensuring compliance with audit partner rotation requirements; however that statement was inaccurate. Audit partner assignments were determined as a group and the responsibility for compliance with audit partner rotation requirements was delegated to Bradford, the Firm's quality control partner.

ORDER

period before a partner who served as lead partner can assume the role of engagement quality reviewer. The Firm's quality control policies and procedures did not address the cooling-off requirement. In fact, the Firm was not aware of the requirements set forth in AS 7 until members of the Firm attended a training in 2014 conducted by a third-party. These failures contributed to the Firm's above-described violations of AS 7, paragraph 8.

87. In addition, the Firm failed to design and implement a process for confirming its independence with respect to potential new issuer audit clients prior to accepting the clients. The Firm failed to design and implement any such process despite its awareness that at least two of the Firm's senior personnel, including Beckstead, were permitted to provide non-audit services to issuers outside of their work for L.L. Bradford. During the 2012 inspection, the Board's Division of Registration and Inspections ("DRI") issued a comment noting that Bullinger and Beckstead were permitted to provide non-audit services to issuers outside of their work for L.L. Bradford and that the Firm had not put in place proper procedures to identify and evaluate relevant business relationships between the Firm's partners and its issuer audit clients. Despite DRI's comment, neither the Firm nor Bradford took any actions to implement procedures to identify and evaluate such relationships. In fact, the Firm failed to obtain from Beckstead a list of the services and issuers to whom he was providing non-audit services or otherwise apprise itself of the non-audit services he was providing. That failure, combined with the failure to implement a process to confirm the Firm's independence with respect to new audit clients, contributed to the Firm's violation of independence requirements during the 2012 Decision Diagnostics Audit.

88. The Firm also failed to implement policies and procedures to provide reasonable assurance that personnel maintain independence.[55] Specifically, despite a requirement to obtain annual independence confirmations in the Firm's quality control policies and procedures, the Firm failed to obtain and/or retain independence confirmations from its personnel for 2013.

Monitoring

89. The Firm also failed to appropriately implement the required quality control monitoring procedures. The Firm placed Bradford in charge of quality control; however, Bradford's prior audit experience was limited, and she lacked the relevant experience, knowledge, and proficiency necessary to carry out the monitoring function.[56] Moreover,

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[55] See QC § 20.09.

[56] See QC § 20.22.

PCAOB
Public Company Accounting Oversight Board

ORDER

Bradford failed, and the Firm did not require Bradford, to take sufficient steps to develop the requisite proficiency after becoming the Firm's quality control partner.

90. In August 2013, Bradford conducted an internal quality control inspection of the audits and reviews conducted on certain of the Firm's issuer audit clients. Because Bradford did not have the necessary experience, knowledge, and proficiency, she failed during the Firm's internal quality control inspection to identify multiple audit deficiencies and failures to comply with the Firm's own policies and procedures. For example, Bradford did not identify the Firm's violations of PCAOB standards that occurred during its review of WebXU's financial statements for the period ended June 30, 2012. In addition, with respect to her inspection of the interim review of another issuer client, Bradford failed to identify erroneous disclosure determinations.

91. In addition to the deficiencies in the Firm's 2013 internal inspection process, the Firm and Bradford's monitoring procedures failed to identify a pervasive failure by the Firm's personnel to use the standard audit and review work papers required by the Firm's quality control policies and procedures or to use the up-to-date version of such work papers and forms. As a result of these failures, the Firm violated PCAOB quality control standards requiring appropriate monitoring.[57]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), L.L. Bradford & Company, LLC is hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration L.L. Bradford & Company, LLC is revoked;

C. After five (5) years from the date of the Order, L.L. Bradford & Company, LLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

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[57] See QC § 20.20; QC § 30.03.

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D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $12,500 payable by L.L. Bradford & Company, LLC is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. L.L. Bradford & Company, LLC shall pay the $12,500 civil money penalty within 10 days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Services money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies the payor as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 3, 2015

PCAOB
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1666 K Street, N.W.
Washington, DC 20006
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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS

In the Matter of Vernon Oates,

Respondent.

PCAOB Release No. 105-2015-042

December 3, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Vernon Oates ("Respondent, "Firm," or "Oates"), temporarily suspending Respondent's registration for a period of one year from the date of the issuance of this Order, and imposing a civil money penalty in the amount of $3,000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in 2014.

I.

On June 10, 2015, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations (the "Division") consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Oates did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer, the Board finds[1] that:[2]

A. Respondent

1. Vernon Oates is a proprietorship located in Fontana, California. The Firm's owner, Vernon Dwayne Oates, is licensed by the California Board of Accountancy to engage in the practice of public accounting (License No. 82073). The Firm registered with the Board on July 26, 2012, pursuant to Section 102 of the Act and Board rules. During the 2014 reporting period, the Firm issued a broker-dealer certification for a broker-dealer which was filed with the U.S. Securities and Exchange Commission on March 18, 2014.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Oates failed to timely file an annual report for 2014.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The sanctions that the Board is imposing on Respondent in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

3. On September 5, 2014, the Division of Registration and Inspections ("DRI") sent a notice of non-compliance with PCAOB Rules to Oates that the Firm had not complied with the requirement to file an annual report for 2014 as required by PCAOB Rules 2200 and 2201. On October 17, 2014, DRI sent a second notice of non-compliance to Oates. On December 22, 2014, the Division sent a charging letter to Oates regarding the Firm's failure to file its 2014 annual report. Oates only filed its annual report for 2014 on July 4, 2015; three weeks after the Board instituted disciplinary proceedings against the Firm.

C. Subsequent Events

4. The Board instituted these proceedings on June 10, 2015.

5. On July 4, 2015, Oates filed its annual report for 2014.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Oates is censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), Oates' registration is temporarily suspended for a period of one year from the date of the issuance of this Order; and

C. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $3,000 is imposed upon Oates. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Oates shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies Oates as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states

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that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

December 3, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Stein & Company, LLP and Jon H. Stein, CPA,* *Respondents.*	PCAOB Release No. 105-2015-040 December 3, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Stein & Company, LLP ("Firm"), a registered public accounting firm, imposing a civil money penalty in the amount of $5,000 upon the Firm, and requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward ensuring compliance with the engagement quality review requirements applicable to audits and reviews of issuers; and censuring Jon H. Stein, CPA ("Stein"). The Board is imposing these sanctions on the basis of its findings that the Firm and Stein (collectively, "Respondents") violated PCAOB rules and standards in connection with two of the Firm's audits of an issuer client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted,

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:

A. Respondents

1. Stein & Company, LLP is, and at all relevant times was, a limited liability partnership organized under the laws of the state of California, and headquartered in Glendale, California. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules and is licensed by the state of California (license no. 7410). At all relevant times, the Firm was the external auditor for the issuer identified below.

2. Jon H. Stein, CPA, 56, of Glendale, California, is a certified public accountant licensed by the California Board of Accountancy (license no. 54438). At all relevant times, Stein was the sole owner of the Firm and was one of the Firm's two accountants. At all relevant times, he was an associated person of a registered public accounting firm, Stein & Company, LLP, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns the Firm's failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to two separate audits of one issuer client, HealthTalk Live, Inc. ("HealthTalk"). In the Firm's audit of HealthTalk's 2013 year-end financial statements and its audit of HealthTalk's 2014 year-end financial statements, the Firm failed to obtain an engagement quality review of the audits even though an engagement quality review was required under AS 7.

4. This matter also concerns Stein's failure to comply with PCAOB rules with respect to the same two audits. Stein took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of PCAOB standards.

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[1] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

ORDER

C. Respondents Violated PCAOB Rules and Auditing Standards

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[2]

6. For audits of financial statements for years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[3] AS 7 also provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance.[4]

7. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[5]

8. As described below, Respondents failed to comply with PCAOB rules and standards.

Audits of HealthTalk's Financial Statements

9. At all relevant times, HealthTalk was a Nevada corporation headquartered in Sparks, Nevada. HealthTalk's public filings disclose that it is in the business of providing traditional, plus natural, health and wellness information services through its real-time interactive website, HealthTalkLive.com, and through a live radio show. At all relevant times, HealthTalk was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[2] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[3] See AS 7 ¶ 1.

[4] Id. at ¶ 13.

[5] See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

ORDER

10. The Firm was engaged in 2013 to audit the financial statements of HealthTalk for the year ended March 31, 2013. The Firm issued its audit report dated June 20, 2013, which was included in HealthTalk's September 3, 2013 amended Form S-1 filing, September 24, 2013 amended Form S-1 filing, October 9, 2013 amended Form S-1 filing, and two October 10, 2013 amended Form S-1 filings. The Firm improperly issued that audit report without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

11. The Firm also was engaged to audit the 2014 year-end financial statements of HealthTalk. On July 7, 2014, HealthTalk filed a Form 10-K with the Securities and Exchange Commission. The Firm improperly issued its audit report dated July 3, 2014, which was included in HealthTalk's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

12. Stein knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7 when he caused the Firm to grant permission to the client to use the June 20, 2013 and July 3, 2014 engagement reports without obtaining an engagement quality review and concurring approval of issuance. As a result, Stein violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Stein & Company, LLP and Jon H. Stein, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $5,000 is imposed upon Stein & Company, LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Stein & Company, LLP shall pay this civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, certified check, bank cashier's check or bank money order (a) made payable to the Public Company

PCAOB
Public Company Accounting Oversight Board

ORDER

Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies Stein & Company, LLP as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or review and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with Auditing Standard No. 7, *Engagement Quality Review*;

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent basis, concerning Auditing Standard No. 7, of any Firm audit personnel who participate in any way in the planning or performing of any audit services (as defined in PCAOB Rule 1001(a)(vii));

3. within ninety (90) days from the date of this Order, and before the Firm's commencement of any audit services, to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order;

b. within (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform audit services;

c. before the commencement of any audit services, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such audit services; and

PCAOB
Public Company Accounting Oversight Board

ORDER

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

December 3, 2015

PCAOB
Public Company Accounting Oversight Board

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www.pcaobus.org

ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Craig M Harbsmeier, PSC,* *Respondent.*	PCAOB Release No. 105-2015-044 December 17, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Craig M. Harbsmeier, PSC ("Respondent" or "Harbsmeier") and imposing a civil money penalty in the amount of $1,000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in 2014 and timely pay an annual fee in 2014.

I.

On June 10, 2015, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Harbsmeier did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer, the Board finds[1] that:

A. Respondent

1. Craig M Harbsmeier, PSC is a proprietorship located in Louisville, Kentucky. Harbsmeier is licensed by the Kentucky Board of Accountancy to engage in the practice of public accounting (License No. 233). During the 2014 reporting period, the Firm issued a certification for a broker dealer, which was filed with the U.S. Securities and Exchange Commission on March 4, 2014. The Firm registered with the Board on March 1, 2010, pursuant to Section 102 of the Act and Board rules.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Harbsmeier failed to timely file an annual report for 2014.

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Harbsmeier failed to timely pay its annual fee in 2014.

C. Subsequent Events

4. The Board instituted these proceedings on June 10, 2015.

5. On June 17, 2015, Harbsmeier paid its annual fee for 2014.

6. On June 17, 2015, Harbsmeier filed its annual report for 2014.

7. On June 15, 2015, Harbsmeier filed a Form 1-WD to request leave to withdraw its registration from the Board.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Harbsmeier is censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000 is imposed upon Harbsmeier. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Harbsmeier shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies Harbsmeier as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

PCAOB
Public Company Accounting Oversight Board

ORDER

V.

Upon performance by Harbsmeier of Part IV above, pursuant to PCAOB Rule 2107, the Board shall consider Harbsmeier's Form 1-WD and whether to grant it leave to withdraw. In doing so, the Board shall not take into consideration its findings contained in Part III herein.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

December 17, 2015

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of David A. Levy, CPA, PC,* *Respondent.*	PCAOB Release No. 105-2015-043 December 17, 2015

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring David A. Levy, CPA, PC ("Respondent" or "Levy") and imposing a civil money penalty in the amount of $1,000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely file an annual report in 2011 and 2014.

I.

On June 10, 2015, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Levy filed an answer that did not include its consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer, the Board finds[1] that:

A. Respondent

1. David A. Levy, CPA, PC is a corporation located in Needham, Massachusetts. The firm registered with the Board on October 5, 2004, pursuant to Section 102 of the Act and Board rules. Levy is licensed by the Massachusetts Board of Accountancy to engage in the practice of public accounting (License No. 678). A search of public records indicates that the firm has not issued any audit reports or broker-dealer certifications since registering with the Board.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Levy failed to timely file an annual report for 2011 and 2014.

C. Subsequent Events

3. The Board instituted these proceedings on June 10, 2015.

4. On June 18, 2015, Levy filed its annual report for 2011 and 2014.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Levy is censured; and

---

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

B. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000 is imposed upon Levy. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Levy shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies Levy as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

December 17, 2015

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2016-003
In the Matter of Derek WAN Tak Shing,	January 12, 2016
Respondent.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Derek WAN Tak Shing ("Respondent") and barring him from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings concerning Respondent's noncooperation with a Board investigation, by failing to comply with an Accounting Board Demand requiring his testimony.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(3) against the Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

---

[1] Respondent may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

[2] The findings herein are made pursuant to the Respondent's Offer, and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer in this matter, the Board finds[3] that:

A. Respondent

1. Derek WAN Tak Shing, age 50, is a resident of the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong") and a Member of the Hong Kong Institute of Certified Public Accountants ("HKICPA") (License No. P04844). At all relevant times, Respondent was a partner with the registered public accounting firm of PKF, a partnership headquartered in Hong Kong ("PKF [Hong Kong]" or "the Firm"), and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondent Failed to Cooperate with a PCAOB Investigation.

2. Pursuant to Section 105(b) of the Act and PCAOB Rules, the Board conducts investigations into acts or practices of registered public accounting firms and their associated persons that may violate any provision of the Act, the Rules of the Board, the provisions of securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the U.S. Securities and Exchange Commission ("Commission") issued under the Act, or professional standards. Section 105(b)(3)(A) of the Act authorizes the Board to sanction an associated person of a registered public accounting firm for refusing to testify in connection with a Board investigation. Board rules include procedures for implementing that authority.[4] Noncooperation with a Board investigation includes failing to comply with an accounting board demand.[5]

3. As described below, Respondent failed to cooperate with the Board's investigation by failing to comply with an Accounting Board Demand, issued to Respondent pursuant to PCAOB Rule 5102(b), requiring Respondent to provide testimony as part of a Board investigation.

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[3] The sanctions that the Board is imposing on Respondent in this Order are imposed pursuant to Section 105(b)(3) of the Act, 15 U.S.C. § 7215(b)(3), and PCAOB Rule 5300(b).

[4] See PCAOB Rules 5110 and 5200(a)(3).

[5] See PCAOB Rule 5110(a)(1).

ORDER

Background

4. PKF [Hong Kong] audited the financial statements of a People's Republic of China ("PRC")-based issuer ("Issuer A"). At all relevant times, Issuer A was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. On January 9, 2014, the Board issued an Order of Formal Investigation regarding the Firm's audits and reviews of the financial statements of Issuer A.[6]

Respondent's Failure to Appear and Testify

6. Pursuant to the Board's Order of Formal Investigation, on January 10, 2014, the Board's Division of Enforcement and Investigations ("Division") issued an Accounting Board Demand ("ABD"), which required Respondent to appear for testimony.

7. After an attempt to accommodate Respondent with respect to the dates and location of testimony, including an accommodation to have the testimony take place in Hong Kong, Respondent, through counsel, informed the Division in April 2015 that Respondent would not comply with the ABD for testimony.

8. Respondent, through counsel, declared that he would not appear for the required testimony about the audits of Issuer A asserting that: (1) the Division was required to make a request for assistance under the May 2013 Memorandum of Understanding ("MOU") on Enforcement Cooperation between the Board, the China Securities Regulatory Commission ("CSRC") and the PRC Ministry of Finance ("MOF") in order to obtain the testimony[7] and (2) the testimony could not proceed without first obtaining the approval of the CSRC or the MOF. Respondent stated that this position was based on his understanding of MOF pronouncements.[8]

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[6] PKF [Hong Kong] had resigned as Issuer A's auditor more than a year prior to the Board's Order of Formal Investigation.

[7] Respondent also raised with the MOF the applicability of the MOU to the Division's request for testimony.

[8] During the investigation, Respondent cited as the basis for this position the following two MOF pronouncements: *Provisional Rules Regarding Foreign Accounting Firm to Conduct Audit Work Temporarily in China* (Caihui [2011] No. 4) and the *Notice Regarding the Delegation of Issues Related to the Combined Policies of*

ORDER

9. Respondent's reliance on the MOU was not a valid justification for refusing to provide testimony in a Board investigation. The MOU "sets forth the [parties'] intent with regard to mutual assistance and the exchange of information for the purpose of enforcing and securing compliance with the respective Laws and [r]egulations of [the parties'] jurisdictions...."[9] At the same time, the MOU states that it is "not intended to create legally binding obligations or ... supersede domestic laws" of the parties. By its unequivocal terms the MOU affords Respondent no legal rights.[10] What the MOU contemplates is that the parties to the agreement will use the mechanisms provided in the MOU in appropriate circumstances.[11]

10. The Division's personnel informed Respondent that his asserted grounds for refusing to testify were not valid, including through a letter from the Division pursuant to PCAOB Rule 5109(d) notifying Respondent of the Division's intention to recommend a disciplinary proceeding in the event of a continued refusal to testify. Respondent continued to assert that he was unable to testify for the reasons stated above. Respondent's failure to provide the required testimony impeded the Board's ability to determine if the Firm's audits of Issuer A were performed in accordance with PCAOB rules and standards, and whether violations occurred which justified sanctions.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(iii) of the Act and PCAOB Rule 5300(b)(1), Derek WAN Tak Shing is hereby censured;

Approval of Foreign Accounting Firms to Conduct Audit Work Temporarily in China (Caihui [2013] No. 25) (specifically paragraph 8).

[9] See MOU at 1.

[10] Id.

[11] In this case, the Chinese authorities were aware that the PCAOB did not seek testimony from Respondent through the MOU.

PCAOB
Public Company Accounting Oversight Board

ORDER

B. Pursuant to Section 105(b)(3)(A)(i) of the Act and PCAOB Rule 5300(b)(1), Derek WAN Tak Shing is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[12] and

C. After three (3) years from the date of this Order, Derek WAN Tak Shing may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

January 12, 2016

[12] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Respondent. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2016-002
In the Matter of Edith LAM Kar Bo,	January 12, 2016
Respondent.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Edith LAM Kar Bo ("Respondent") and barring her from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings concerning Respondent's noncooperation with a Board investigation, by failing to comply with an Accounting Board Demand requiring her testimony.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(3) against the Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

---

[1] Respondent may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

[2] The findings herein are made pursuant to the Respondent's Offer, and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer in this matter, the Board finds[3] that:

A. Respondent

1. Edith LAM Kar Bo, age 41, is a resident of the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong") and a Member of the Hong Kong Institute of Certified Public Accountants ("HKICPA") (License No. P05453). At all relevant times, Respondent was a partner with the registered public accounting firm of PKF, a partnership headquartered in Hong Kong ("PKF [Hong Kong]" or "the Firm"), and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondent Failed to Cooperate with a PCAOB Investigation.

2. Pursuant to Section 105(b) of the Act and PCAOB Rules, the Board conducts investigations into acts or practices of registered public accounting firms and their associated persons that may violate any provision of the Act, the Rules of the Board, the provisions of securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the U.S. Securities and Exchange Commission ("Commission") issued under the Act, or professional standards. Section 105(b)(3)(A) of the Act authorizes the Board to sanction an associated person of a registered public accounting firm for refusing to testify in connection with a Board investigation. Board rules include procedures for implementing that authority.[4] Noncooperation with a Board investigation includes failing to comply with an accounting board demand.[5]

3. As described below, Respondent failed to cooperate with the Board's investigation by failing to comply with an Accounting Board Demand, issued to Respondent pursuant to PCAOB Rule 5102(b), requiring Respondent to provide testimony as part of a Board investigation.

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[3] The sanctions that the Board is imposing on Respondent in this Order are imposed pursuant to Section 105(b)(3) of the Act, 15 U.S.C. § 7215(b)(3), and PCAOB Rule 5300(b).

[4] See PCAOB Rules 5110 and 5200(a)(3).

[5] See PCAOB Rule 5110(a)(1).

ORDER

Background

4. PKF [Hong Kong] audited the financial statements of a People's Republic of China ("PRC")-based issuer ("Issuer A"). At all relevant times, Issuer A was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. On January 9, 2014, the Board issued an Order of Formal Investigation regarding the Firm's audits and reviews of the financial statements of Issuer A.[6]

Respondent's Failure to Appear and Testify

6. Pursuant to the Board's Order of Formal Investigation, on January 10, 2014, the Board's Division of Enforcement and Investigations ("Division") issued an Accounting Board Demand ("ABD"), which required Respondent to appear for testimony.

7. After an attempt to accommodate Respondent with respect to the dates and location of testimony, including an accommodation to have the testimony take place in Hong Kong, Respondent, through counsel, informed the Division in April 2015 that Respondent would not comply with the ABD for testimony.

8. Respondent, through counsel, declared that she would not appear for the required testimony about the audits of Issuer A asserting that: (1) the Division was required to make a request for assistance under the May 2013 Memorandum of Understanding ("MOU") on Enforcement Cooperation between the Board, the China Securities Regulatory Commission ("CSRC") and the PRC Ministry of Finance ("MOF") in order to obtain the testimony[7] and (2) the testimony could not proceed without first obtaining the approval of the CSRC or the MOF. Respondent stated that this position was based on her understanding of MOF pronouncements.[8]

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[6] PKF [Hong Kong] had resigned as Issuer A's auditor more than a year prior to the Board's Order of Formal Investigation.

[7] Respondent also raised with the MOF the applicability of the MOU to the Division's request for testimony.

[8] During the investigation, Respondent cited as the basis for this position the following two MOF pronouncements: *Provisional Rules Regarding Foreign Accounting Firm to Conduct Audit Work Temporarily in China* (Caihui [2011] No. 4) and the *Notice Regarding the Delegation of Issues Related to the Combined Policies of*

ORDER

9. Respondent's reliance on the MOU was not a valid justification for refusing to provide testimony in a Board investigation. The MOU "sets forth the [parties'] intent with regard to mutual assistance and the exchange of information for the purpose of enforcing and securing compliance with the respective Laws and [r]egulations of [the parties'] jurisdictions...."[9] At the same time, the MOU states that it is "not intended to create legally binding obligations or ... supersede domestic laws" of the parties. By its unequivocal terms the MOU affords Respondent no legal rights.[10] What the MOU contemplates is that the parties to the agreement will use the mechanisms provided in the MOU in appropriate circumstances.[11]

10. The Division's personnel informed Respondent that her asserted grounds for refusing to testify were not valid, including through a letter from the Division pursuant to PCAOB Rule 5109(d) notifying Respondent of the Division's intention to recommend a disciplinary proceeding in the event of a continued refusal to testify. Respondent continued to assert that she was unable to testify for the reasons stated above. Respondent's failure to provide the required testimony impeded the Board's ability to determine if the Firm's audits of Issuer A were performed in accordance with PCAOB rules and standards, and whether violations occurred which justified sanctions.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(iii) of the Act and PCAOB Rule 5300(b)(1), Edith LAM Kar Bo is hereby censured;

Approval of Foreign Accounting Firms to Conduct Audit Work Temporarily in China (Caihui [2013] No. 25) (specifically paragraph 8).

[9] See MOU at 1.

[10] Id.

[11] In this case, the Chinese authorities were aware that the PCAOB did not seek testimony from Respondent through the MOU.

PCAOB
Public Company Accounting Oversight Board

ORDER

B. Pursuant to Section 105(b)(3)(A)(i) of the Act and PCAOB Rule 5300(b)(1), Edith LAM Kar Bo is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[12] and

C. After three (3) years from the date of this Order, Edith LAM Kar Bo may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

January 12, 2016

[12] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Respondent. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2016-004
In the Matter of Kim Wilfred Ti,	January 12, 2016
Respondent.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Kim Wilfred Ti ("Respondent") and barring him from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings concerning Respondent's noncooperation with a Board investigation, by failing to comply with an Accounting Board Demand requiring his testimony.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(3) against the Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

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[1] Respondent may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

[2] The findings herein are made pursuant to the Respondent's Offer, and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer in this matter, the Board finds[3] that:

A. Respondent

1. Kim Wilfred Ti, age 32, is a resident of the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong"). At all relevant times, Respondent was a manager with the registered public accounting firm of PKF, a partnership headquartered in Hong Kong ("PKF [Hong Kong]" or "the Firm"), and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondent Failed to Cooperate with a PCAOB Investigation.

2. Pursuant to Section 105(b) of the Act and PCAOB Rules, the Board conducts investigations into acts or practices of registered public accounting firms and their associated persons that may violate any provision of the Act, the Rules of the Board, the provisions of securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the U.S. Securities and Exchange Commission ("Commission") issued under the Act, or professional standards. Section 105(b)(3)(A) of the Act authorizes the Board to sanction an associated person of a registered public accounting firm for refusing to testify in connection with a Board investigation. Board rules include procedures for implementing that authority.[4] Noncooperation with a Board investigation includes failing to comply with an accounting board demand.[5]

3. As described below, Respondent failed to cooperate with the Board's investigation by failing to comply with an Accounting Board Demand, issued to Respondent pursuant to PCAOB Rule 5102(b), requiring Respondent to provide testimony as part of a Board investigation.

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[3] The sanctions that the Board is imposing on Respondent in this Order are imposed pursuant to Section 105(b)(3) of the Act, 15 U.S.C. § 7215(b)(3), and PCAOB Rule 5300(b).

[4] See PCAOB Rules 5110 and 5200(a)(3).

[5] See PCAOB Rule 5110(a)(1).

ORDER

Background

4. PKF [Hong Kong] audited the financial statements of a People's Republic of China ("PRC")-based issuer ("Issuer A"). At all relevant times, Issuer A was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. On January 9, 2014, the Board issued an Order of Formal Investigation regarding the Firm's audits and reviews of the financial statements of Issuer A.[6]

Respondent's Failure to Appear and Testify

6. Pursuant to the Board's Order of Formal Investigation, on January 10, 2014, the Board's Division of Enforcement and Investigations ("Division") issued an Accounting Board Demand ("ABD"), which required Respondent to appear for testimony.

7. After an attempt to accommodate Respondent with respect to the dates and location of testimony, including an accommodation to have the testimony take place in Hong Kong, Respondent, through counsel, informed the Division in April 2015 that Respondent would not comply with the ABD for testimony.

8. Respondent, through counsel, declared that he would not appear for the required testimony about the audits of Issuer A asserting that: (1) the Division was required to make a request for assistance under the May 2013 Memorandum of Understanding ("MOU") on Enforcement Cooperation between the Board, the China Securities Regulatory Commission ("CSRC") and the PRC Ministry of Finance ("MOF") in order to obtain the testimony[7] and (2) the testimony could not proceed without first obtaining the approval of the CSRC or the MOF. Respondent stated that this position was based on his understanding of MOF pronouncements.[8]

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[6] PKF [Hong Kong] had resigned as Issuer A's auditor more than a year prior to the Board's Order of Formal Investigation.

[7] Respondent also raised with the MOF the applicability of the MOU to the Division's request for testimony.

[8] During the investigation, Respondent cited as the basis for this position the following two MOF pronouncements: *Provisional Rules Regarding Foreign Accounting Firm to Conduct Audit Work Temporarily in China* (Caihui [2011] No. 4) and the *Notice Regarding the Delegation of Issues Related to the Combined Policies of*

ORDER

9. Respondent's reliance on the MOU was not a valid justification for refusing to provide testimony in a Board investigation. The MOU "sets forth the [parties'] intent with regard to mutual assistance and the exchange of information for the purpose of enforcing and securing compliance with the respective Laws and [r]egulations of [the parties'] jurisdictions...."[9] At the same time, the MOU states that it is "not intended to create legally binding obligations or ... supersede domestic laws" of the parties. By its unequivocal terms the MOU affords Respondent no legal rights.[10] What the MOU contemplates is that the parties to the agreement will use the mechanisms provided in the MOU in appropriate circumstances.[11]

10. The Division's personnel informed Respondent that his asserted grounds for refusing to testify were not valid, including through a letter from the Division pursuant to PCAOB Rule 5109(d) notifying Respondent of the Division's intention to recommend a disciplinary proceeding in the event of a continued refusal to testify. Respondent continued to assert that he was unable to testify for the reasons stated above. Respondent's failure to provide the required testimony impeded the Board's ability to determine if the Firm's audits of Issuer A were performed in accordance with PCAOB rules and standards, and whether violations occurred which justified sanctions.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(iii) of the Act and PCAOB Rule 5300(b)(1), Kim Wilfred Ti is hereby censured;

Approval of Foreign Accounting Firms to Conduct Audit Work Temporarily in China (Caihui [2013] No. 25) (specifically paragraph 8).

[9] See MOU at 1.

[10] Id.

[11] In this case, the Chinese authorities were aware that the PCAOB did not seek testimony from Respondent through the MOU.

PCAOB
Public Company Accounting Oversight Board

ORDER

B. Pursuant to Section 105(b)(3)(A)(i) of the Act and PCAOB Rule 5300(b)(1), Kim Wilfred Ti is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[12] and

C. After three (3) years from the date of this Order, Kim Wilfred Ti may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

January 12, 2016

[12] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Respondent. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2016-001
In the Matter of PKF [Hong Kong],	January 12, 2016
Respondent.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring the registered public accounting firm PKF, a partnership headquartered in the Hong Kong Special Administrative Region of the People's Republic of China (captioned as "PKF [Hong Kong]") (hereinafter, "Respondent" or "the Firm") and revoking the Firm's registration.[1] The Board is imposing these sanctions on the basis of its findings concerning Respondent's noncooperation with a Board investigation, by failing to comply with an Accounting Board Demand ("ABD") requiring the testimony of an associated person on behalf of the Firm.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(3) against the Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

[1] The Firm may reapply for registration after three (3) years from the date of this Order.

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer in this matter, the Board finds that[3]

A. Respondent

1. Respondent is, and at all relevant times was, a partnership headquartered in the Hong Kong Special Administrative Region of the People's Republic of China, and is a member of the PKF International network. The Firm is a Member of the Hong Kong Institute of Certified Public Accountants ("HKICPA") (License No. 0044). The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, the Firm was the external auditor for the issuer identified below.

B. Respondent Failed to Cooperate with a PCAOB Investigation.

2. Pursuant to Section 105(b) of the Act and PCAOB Rules, the Board conducts investigations into acts or practices of registered public accounting firms and their associated persons that may violate any provision of the Act, the Rules of the Board, the provisions of securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the U.S. Securities and Exchange Commission ("Commission") issued under the Act, or professional standards. Section 105(b)(3)(A) of the Act authorizes the Board to sanction a registered public accounting firm for refusing to testify in connection with a Board investigation. Board rules include procedures for implementing that authority.[4] Noncooperation with a Board investigation includes failing to comply with an accounting board demand.[5]

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[2] The findings herein are made pursuant to the Respondent's Offer, and are not binding on any other person or entity in this or any other proceeding.

[3] The sanctions that the Board is imposing on Respondent in this Order are imposed pursuant to Section 105(b)(3) of the Act, 15 U.S.C. § 7215(b)(3), and PCAOB Rule 5300(b).

[4] See PCAOB Rules 5110 and 5200(a)(3).

[5] See PCAOB Rule 5110(a)(1).

PCAOB
Public Company Accounting Oversight Board

ORDER

3. As described below, Respondent failed to cooperate with the Board's investigation by failing to comply with an Accounting Board Demand, issued to Respondent pursuant to PCAOB Rule 5102(b), requiring an associated person of the Firm to provide testimony on behalf of the Firm.

Background

4. Respondent audited the financial statements of a People's Republic of China ("PRC")-based issuer ("Issuer A"). At all relevant times, Issuer A was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. On January 9, 2014, the Board issued an Order of Formal Investigation regarding Respondent's audits and reviews of the financial statements of Issuer A.[6]

Respondent's Failure to Appear and Testify

6. Pursuant to the Board's Order of Formal Investigation, in early April 2015, the Board's Division of Enforcement and Investigations ("Division") issued an Accounting Board Demand ("ABD") requiring Respondent to make a representative of the Firm available for testimony on certain topics outlined in the ABD, including topics related to the Firm's audits of Issuer A.

7. After an attempt to accommodate Respondent with respect to the dates and location of testimony, including an accommodation to have the testimony take place in Hong Kong, Respondent, through counsel, informed the Division in late April 2015 that the Firm would not comply with the ABD for testimony relating specifically to the Firm's audits of Issuer A.

8. Respondent declared that it would not provide an associated person of the Firm to provide the required testimony about the audits of Issuer A asserting that: (1) the Division was required to make a request for assistance under the May 2013 Memorandum of Understanding ("MOU") on Enforcement Cooperation between the Board, the China Securities Regulatory Commission ("CSRC") and the PRC Ministry of Finance ("MOF") in order to obtain the testimony[7] and (2) the testimony could not

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[6] Respondent had resigned as Issuer A's auditor more than a year prior to the Board's Order of Formal Investigation.

[7] Respondent also raised with the MOF, the applicability of the MOU to the Division's request for testimony.

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Public Company Accounting Oversight Board

ORDER

proceed without first obtaining the approval of the CSRC or the MOF. Respondent stated that its position was based on its understanding of MOF pronouncements.[8]

9. Respondent's reliance on the MOU was not a valid justification for refusing to provide testimony in a Board investigation. The MOU "sets forth the [parties'] intent with regard to mutual assistance and the exchange of information for the purpose of enforcing and securing compliance with the respective Laws and [r]egulations of [the parties'] jurisdictions...."[9] At the same time, the MOU states that it is "not intended to create legally binding obligations or ... supersede domestic laws" of the parties. By its unequivocal terms the MOU affords Respondent no legal rights.[10] What the MOU contemplates is that the parties to the agreement will use the mechanisms provided in the MOU in appropriate circumstances.[11]

10. The Division's personnel informed Respondent that its asserted grounds for refusing to testify were not valid, including through a letter from the Division pursuant to PCAOB Rule 5109(d) notifying Respondent of the Division's intention to recommend a disciplinary proceeding in the event of a continued refusal to testify. Respondent continued to assert that a representative was unable to testify for the reasons stated above. Respondent's failure to provide the required testimony impeded the Board's ability to determine if Respondent's audits were performed in accordance with PCAOB rules and standards, and whether violations occurred which justified sanctions.

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[8] During the investigation, Respondent cited as the basis for its position the following two MOF pronouncements: *Provisional Rules Regarding Foreign Accounting Firm to Conduct Audit Work Temporarily in China* (Caihui [2011] No. 4) and the *Notice Regarding the Delegation of Issues Related to the Combined Policies of Approval of Foreign Accounting Firms to Conduct Audit Work Temporarily in China* (Caihui [2013] No. 25) (specifically paragraph 8)

[9] See MOU at 1.

[10] Id.

[11] In this case, the Chinese authorities were aware that the PCAOB did not seek testimony from Respondent through the MOU.

PCAOB
Public Company Accounting Oversight Board

ORDER

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(iii) of the Act and PCAOB Rule 5300(b)(1), PKF is hereby censured;

B. Pursuant to Section 105(b)(3)(A)(ii) of the Act and PCAOB Rule 5300(b)(1), the registration of PKF is revoked; and

C. After three (3) years from the date of this Order, PKF may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

January 12, 2016

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Kantor Akuntan Publik Jimmy Budhi,* *Respondent.*	PCAOB Release No. 105-2016-005 January 21, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Kantor Akuntan Publik Jimmy Budhi ("Respondent" or "Kantor"); temporarily suspending Respondent's registration for a period of one year from the date of the issuance of this Order, and imposing a civil money penalty in the amount of $1,000. The Board is imposing these sanctions on the basis of its findings concerning Respondent's failure to timely pay its annual fee for 2013 and 2014 and timely file an annual report for 2014.

I.

On June 10, 2014, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") (as amended) and PCAOB Rule 5200(a)(1) against Respondent. Pursuant to Section 105(c)(2) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Prior to submitting its Offer of Settlement, Respondent did not file an answer indicating the firm's consent or lack of consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction

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over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.

III.

On the basis of Respondent's Offer, the Board finds[1] that:[2]

A. Respondent

1. Kantor is a partnership located in Jakarta, Indonesia. Kantor is licensed by the Ministry of Finance ("MOF") of the Republic of Indonesia (Licenses No. KEP-155/KM.6/2003 and S.4226/LK/2003 (MOF Director of Accountants and Appraisers). The Firm registered with the Board on April 12, 2004, pursuant to Section 102 of the Act and Board rules.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Kantor failed to timely file an annual report for 2014.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The sanctions that the Board is imposing on Respondent in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

3. Pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Kantor failed to timely pay its annual fee for 2013 and 2014.

C. Subsequent Events

4. The Board instituted these proceedings on June 10, 2015.

5. On October 2, 2015, Kantor filed its annual report for 2014.

6. On October 6, 2015, Kantor paid its annual fees for 2013 and 2014.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Kantor is censured;

B. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(1), Kantor's registration is temporarily suspended for a period of one year from the date of the issuance of this Order; and

C. Pursuant to Section 105(c)(4)(D) of the Act, and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000 is imposed upon Kantor. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Kantor shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (e) submitted under a cover letter, which identifies Kantor as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary,

PCAOB
Public Company Accounting Oversight Board

ORDER

Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

January 21, 2016

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AMENDED ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, AND ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Clay Thomas, P.C., and Clay Thomas, CPA,* Respondents.	PCAOB Release No. 105-2016-006 February 18, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring Clay Thomas, P.C. (the "Firm") and Clay Thomas, CPA ("Thomas") (collectively, "Respondents"); (2) revoking the Firm's registration; and (3) barring Thomas from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on Respondents on the basis of its findings concerning their noncooperation with a Board investigation and violations of PCAOB rules and auditing standards in connection with the Firm's audits of two issuer audit clients.

I.

On November 3, 2015, the Board issued an Order Instituting Disciplinary Proceedings against Respondents pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(3). Pursuant to Section 105(c)(2) of the Act and PCAOB Rule 5203, these proceedings were not public. The Board determined, under Section 105(c)(2) of the Act and PCAOB Rule 5203 that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations (the "Division") consented to making the hearing in this proceeding public. Prior to submitting their Offers of Settlement (collectively, "Offers"), Respondents did not file an answer indicating their consent or lack of consent to making the hearing in this proceeding public.

Pursuant to Section 105(c) and PCAOB Rules 5200(a)(1) and (a)(3), the Board now deems it appropriate to issue this Amended Order Instituting Disciplinary Proceedings against Respondents that includes allegations that (1) the Firm violated Auditing Standard No. 7, *Engagement Quality Review* ("AS 7") because the Firm failed

PCAOB
Public Company Accounting Oversight Board

ORDER

to obtain an engagement quality review on three audits of two issuers from fiscal year ("FY") 2012 through 2013, (2) Thomas directly and substantially contributed to the Firm's violations of AS 7 concerning the requirement for engagement quality reviews, and (3) Respondents violated Auditing Standard No. 3, *Audit Documentation* ("AS 3"), by failing to retain audit documentation with respect to an issuer audit engagement for 2013.

II.

In anticipation of the issuance of this Amended Order Instituting Disciplinary Proceedings, and Order Making Findings and Imposing Sanctions ("Order"), and pursuant to PCAOB Rule 5205, Respondents have submitted their Offers, which the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds[2] that:

A. <u>Respondents</u>

1. Clay Thomas, P.C. is and, at all relevant times, was a professional corporation organized under the laws of the state of Texas. The Firm's office is located in Nacogdoches, Texas. The Firm is and, at all relevant times, was registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. The Firm was licensed to

[1] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2] The sanctions that the Board is imposing on Respondents in this Order are imposed pursuant to Sections 105(b)(3), 105(c)(4), and 105(c)(5) of the Act, 15 U.S.C. §§ 7215(b)(3), 7215(c)(4), and 7215(c)(5), and PCAOB Rules 5300(a) and (b). The Board finds that Respondents' conduct meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

PCAOB
Public Company Accounting Oversight Board

ORDER

practice public accountancy by the Texas State Board of Public Accountancy ("TSBPA") (License No. C04871). The Firm's license expired as of September 30, 2014. Public records indicate that the Firm issued two audit reports for issuer clients in 2015. As of its 2015 Annual Report on PCAOB Form 2, the Firm had one principal (Clay Thomas, CPA) and no audit staff.

2. Clay Thomas, CPA, 57, is and, at all relevant times, was the sole owner of the Firm and a certified public accountant licensed by the TSBPA (License No. 077520). In addition, in 2013, Thomas was admitted to the State Bar of Texas. Thomas is and, at all relevant times, was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Thomas was the engagement partner on the Firm's audits of the financial statements of Biofuels Power Corp. ("Biofuels") for FY 2012, 2013, and 2014 and on the Firm's audits of the financial statements of Woodgate Energy Corp. ("Woodgate") for FY 2013 and 2014.

B. Summary

3. This matter concerns Respondents' repeated failure to cooperate with a Board investigation and comply with PCAOB rules and standards in connection with the audits of two issuer audit clients.

4. First, Thomas failed to appear for testimony, and Respondents failed to produce certain documents and information, in response to Accounting Board Demands ("ABDs") the Division issued during a formal investigation concerning the Firm's audits of Biofuels and Woodgate. Those failures occurred despite the Division providing Respondents with numerous accommodations and extensions of deadlines.

5. Second, in violation of PCAOB standards, the Firm failed to obtain engagement quality reviews in connection with its audits of Biofuels for FY 2012 and FY 2013, and Woodgate for FY 2013.

6. Third, Thomas failed to comply with PCAOB rules with respect to the same Biofuels and Woodgate audits. Thomas took or omitted to take actions knowing, or recklessly not knowing, that his acts and omission would directly and substantially contribute to the Firm's violations of PCAOB standards.

7. Fourth, Respondents violated AS 3, by failing to retain audit documentation for the Biofuels FY 2013 audit for the required period of time.

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C. Respondents Failed to Cooperate with a PCAOB Investigation

8. Section 105(b)(3) of the Act authorizes the Board to impose disciplinary sanctions if a registered public accounting firm or associated person refuses to cooperate with a Board investigation. Board rules include procedures for implementing that authority.[3] Noncooperation with a Board investigation includes failing to comply with an ABD.[4] As described below, Thomas failed to comply with a May 18, 2015 ABD requiring him to appear for sworn testimony.[5] Further, Respondents failed to comply with ABDs issued on April 29, 2015, by failing to produce certain documents and information.[6]

Thomas's Failure to Appear for Testimony Pursuant to an ABD

9. On December 16, 2014, the Board issued an Order of Formal Investigation ("OFI") related to potential violations of PCAOB rules and standards involving the Firm's audits of the financial statements of Biofuels[7] and Woodgate.[8] Thomas was the sole auditor involved in those audits.

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[3] See PCAOB Rules 5110 and 5200(a)(3).

[4] See PCAOB Rule 5110(a)(1).

[5] See PCAOB Rules 5102(a) and 5110.

[6] See PCAOB Rules 5103(a) and 5110.

[7] At all relevant times Biofuels was a Texas corporation headquartered in Humble, Texas. Its public filings disclosed that it was a distributed energy company engaged in the building and operation of small-scale distributed electrical power generating plants and was engaged in refining, blending, and reprocessing biofuels for use in its electrical power generating facilities. At all relevant times, Biofuels' common stock was registered under Section 12(g) of the Securities Exchange Act of 1934; its common stock was quoted on the OTC Pink Marketplace under the symbol "BFLS.OB"; and Biofuels was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

[8] At all relevant times, Woodgate was a Delaware corporation headquartered in Houston, Texas. Its public filings disclosed that it was engaged in the business of coal bed methane energy and the production of associated natural gas. At all relevant times, Woodgate's common stock was registered under Section 12(g) of the Exchange Act; its common stock was issued pursuant to an exemption from registration

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10. Pursuant to the OFI, the Division issued an ABD to Thomas on May 18, 2015. The ABD required Thomas to appear for sworn testimony. The ABD set his testimony to begin on June 16, 2015, and continue day-to-day until completed, at the PCAOB's offices in Washington, D.C.

11. On May 18 and May 21, 2015, the Division left voicemails for Thomas at three different telephone numbers requesting Thomas to confirm receipt of the ABD and his appearance for testimony that was scheduled to commence on June 16, 2015. The Division also sent an e-mail to Thomas on May 21, 2015, again requesting that he confirm receipt of the ABD and whether he would be appearing for testimony. Thomas did not reply or otherwise respond to the voicemails or email.

12. On May 27, 2015, the Division sent an email requesting that Thomas provide a time when he was available for a telephone call on May 28, 2015 to discuss several issues, including his testimony. On May 27, 2015, the Division received a letter from Thomas informing the Division that he could not appear for testimony on the dates set forth in the May 18, 2015 ABD because, in his capacity as an attorney, he had a trial on those dates. Thomas did not provide alternative dates for testimony.

13. On June 1, 2015, the Division sent a letter to Thomas requesting that he provide alternative dates for testimony by June 3, 2015, reminding him of the importance of complying with the Board's ABDs and formal investigation, and explaining that the "PCAOB may institute a disciplinary proceeding for noncooperation with an investigation when a registered public accounting firm or a person associated with a registered public accounting firm fails to comply with an ABD." Thomas responded to the Division's June 1 letter in an email dated June 5, 2015, but declined to offer alternative dates for his testimony.

14. On June 8, 2015, the Division left voicemail messages at Thomas's telephone numbers and sent an email to Thomas asking him to contact the Division.

15. The Division did not receive any response from Thomas. On June 16, 2015, Thomas failed to appear for scheduled testimony.

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of the Securities Act of 1933, as amended, as part of a private placement of securities; and Woodgate was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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Respondents' Failure to Respond to Certain Demands for Documents and Information

16. Following the issuance of the OFI, on December 19, 2014, the Division issued an ABD directed to the Firm for documents and information (the "December ABD"). The December ABD required the Firm to produce responsive documents and information by January 9, 2015. The demanded documents and information were relevant to the Board's investigation. Specifically, the December ABD required the Firm to produce, among other things, documents relating to the Firm's audits and reviews of Biofuels and Woodgate, peer reviews, and the Firm's system of quality control.

17. On February 2, 2015, the Division issued a separate ABD to Thomas (the "February ABD") for, among other things, the same documents and information demanded from the Firm in the December ABD. The February ABD required Thomas to produce responsive documents and information by February 17, 2015.

18. Respondents failed to produce certain documents and information, including documents concerning the Firm's FY 2013 audit of Biofuels, by the deadlines for the December ABD and February ABD.

19. In a March 17, 2015 letter to the Firm, the Division detailed the omissions in the Firm's and Thomas's productions, including their failure to produce audit documentation concerning the Firm's FY 2013 audit of Biofuels. In the letter, the Division staff reminded Respondents of the importance of their cooperation with the Board's ABDs and formal investigation.

20. In subsequent communications, Thomas stated that he had provided the original FY 2013 Biofuels audit documentation to Respondents' former counsel ("Former Counsel") for production to the Division and had not retained a copy. Thomas indicated that he would contact Former Counsel and request that Former Counsel send the FY 2013 Biofuels audit documentation to the Division.

21. After the Division continued unsuccessfully to obtain further information concerning the status of the FY 2013 Biofuels audit documentation, Thomas sent the Division an email on April 24, 2015. Thomas's April 24 email to the Division forwarded an email he had received from Former Counsel on the same day. Former Counsel's email stated that Thomas "never provided the documents in question" (the FY 2013 Biofuels audit documentation) to Former Counsel.

22. On April 29, 2015, the Division issued Thomas and the Firm separate ABDs (the "April ABDs") for documents and information regarding their assertion that they had provided the FY 2013 Biofuels audit documentation to Former Counsel. The

ORDER

April ABDs required Thomas and the Firm to produce responsive documents and information by May 13, 2015.

23. Aside from demands that Thomas and the Firm provide (a) a description of the search they performed in response to the April ABDs; and (b) a certification that they had produced all responsive documents, the April ABDs contained only three demands. Respondents failed to produce any documents or information in response to two of those three demands.

24. One of the two demands with which Respondents failed to comply (Item III.A.1) required them to provide a detailed description of all documents shipped by Respondents to Former Counsel. Respondents never produced the demanded information.

25. The other demand with which Respondents failed to comply (Item III.A.3) required them to provide "a sworn written declaration or affidavit describing in reasonable detail Clay Thomas's shipment to [Former Counsel] of the original complete and final set of audit documentation assembled for retention in connection with the Firm's audits and reviews of Biofuels Power Corporation's consolidated financial statements . . ." Respondents never responded to this demand.

26. In a June 1, 2015 letter, the Division advised Respondents that they had missed the May 13, 2015 deadline to respond to Items III.A.1 and 3 in the April ABDs. The Division informed Respondents that those documents and information should be provided immediately, again reminded Respondents of the importance of complying with the Board's ABDs and formal investigation, and again explained "that the PCAOB may institute a disciplinary proceeding for noncooperation with an investigation when a registered public accounting firm or a person associated with a registered public accounting firm fails to comply with an ABD." In addition, along with the April ABDs, the Division staff enclosed copies of an informational PCAOB Form ENF-1, detailing the consequences of a refusal to comply with an ABD.

The Charging Letter and Respondents' Statement of Position

27. On June 19, 2015, the Division sent Respondents a letter (the "Charging Letter") outlining the Division's intent to recommend that the Board commence a disciplinary proceeding to determine whether Thomas had failed to cooperate with a Board investigation, by failing to comply with the May 18, 2015 ABD for testimony, and whether both he and the Firm had failed to cooperate with a Board investigation by failing to comply with the April ABDs for documents and information.

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28. The Charging Letter detailed the events surrounding (a) Thomas's failure to appear for sworn testimony; and (b) Respondents' failure to comply with two specific demands for documents and information in the April ABDs.

29. The Division notified Respondents that they could submit, by July 6, 2015, a written statement to the Division, pursuant to PCAOB Rule 5109(d), setting forth their position regarding whether a disciplinary proceeding should be commenced.

30. On July 6, 2015, Respondents submitted a brief statement of position to the Charging Letter (the "SOP"). The SOP did not offer any alternative dates for the testimony of Thomas, and Respondents did not produce any documents or information requested in Items III.A.1 and 3 of the April ABDs.

31. In the SOP, Respondents provided two responses with respect to Thomas's failure to appear for testimony or provide alternative dates. First, the SOP asserted that Thomas had "several jury trials . . . converging on the same several weeks for quite some time" and that, if the Division had "pinpointed a date," Thomas "might have been capable of scheduling a day for testimony to be taken in Texas but little more." Second, the SOP asserted that it is "beyond [Thomas's] financial reach to come to Washington for several days."

32. With respect to the April ABDs for documents and information, the SOP did not address Respondents' failure to provide a list of all documents they had shipped to their Former Counsel, including materials that Respondents' claim were original documents that were lost in shipment (Item III.A.1 of the April ABDs). And although the SOP stated that Respondents would be "happy to reaffirm" the facts surrounding their shipment of documents to Former Counsel, they did not enclose any sworn written affidavit or declaration, as demanded by Item III.A.3 of the April ABDs.

33. On July 14, 2015, the Division sent Respondents a letter addressing their SOP. That letter (a) noted Thomas's continuing failure to provide alternative testimony dates; and (b) pointed out that Thomas was continuing to audit public companies and issue audit reports while contending that he was unavailable for testimony. In addition, the July 14 letter advised Thomas that the Division was willing, under the circumstances, to either reimburse his reasonable costs associated with traveling to Washington, D.C. to testify, or conduct his testimony at the PCAOB's office in Texas, where Thomas lives. The letter further advised Thomas that the Division was willing to conduct his testimony over four consecutive days in either August or September 2015 in either Washington, D.C. or Irving, Texas, so long as he identified dates for his testimony by no later than July 17, 2015.

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34. On July 22, 2015, the Division received an email from Thomas in which he stated that he has "been attending several hearings around the state and have not been home to receive the Fedex [containing the Division's July 14, 2015 letter]. I will check back through my emails and respond as soon as possible."

35. Respondents never responded to the July 14, 2015 letter from the Division, Thomas never offered alternative dates for his testimony, and Respondents never produced documents and information demanded in Items III.A.1 and 3 of the April ABDs.

* * * * *

36. As a result of the foregoing conduct, Thomas failed to cooperate with a Board investigation by failing to comply with an ABD demanding his sworn testimony. Further, both Respondents failed to cooperate with a Board investigation by failing to comply with ABDs requiring the production of certain documents and information to the Division.

D. Respondents Violated PCAOB Rules and Auditing Standards

37. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[9] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards. Those standards provide, among other things, that for each audit an engagement quality review and concurring approval of issuance are required in accordance with AS 7 and audit documentation is to be prepared and retained in accordance with AS 3.

The Firm Failed to Obtain Engagement Quality Reviews

38. For audits of financial statements for years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[10] AS 7 also

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[9] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*. This Order applies PCAOB auditing standards in effect at the time of the conduct described herein.

[10] See AS 7 ¶ 1.

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provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance of the report.[11]

39. As described below, the Firm failed to obtain an engagement quality review for each of the audits described below even though an engagement quality review was required to be performed.

Audits of Biofuels for FY 2012 and FY 2013

40. The Firm was engaged to audit the financial statements of Biofuels for the years ended December 31, 2012 and 2013. The Firm issued an audit report, dated April 22, 2013, on Biofuels' FY 2012 financial statements. That audit report was included in Biofuels' Form 10-K filed with the Securities and Exchange Commission ("Commission") on April 24, 2013, and in Biofuels' Forms 10-K/A filed December 30, 2013, and January 22, 2014. The next year, the Firm issued an audit report, dated April 11, 2014, on Biofuels' FY 2013 financial statements. That audit report was included in Biofuels' Form 10-K filed with the Commission on April 15, 2014. The Firm improperly issued the audit reports on Biofuels' FY 2012 and FY 2013 financial statements without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

Audit of Woodgate for FY 2013

41. The Firm was engaged to audit the financial statements of Woodgate for the year ended December 31, 2013. The Firm issued an audit report, dated April 11, 2014, on Woodgate's December 31, 2013 financial statements. That audit report was included in Woodgate's Form 10-K filed with the Commission on April 15, 2014 and also in a Form 10-K/A filed July 29, 2014. As a result of Woodgate's restatement of its FY 2013 financial statements, the Firm issued an audit report for FY 2013, dated August 19, 2014, which was included in Woodgate's Form 10-K/A filed with the Commission on August 29, 2014. The Firm improperly issued the audit reports without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

Thomas Contributed to the Firm's Violations of PCAOB Rules and Standards

42. PCAOB rules prohibit an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not

[11] Id. at ¶ 13.

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knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[12]

43. Thomas, the sole owner and only member of the Firm, was principally responsible for the audits conducted by the Firm. Accordingly, Thomas had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Thomas knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7 when he caused the Firm to grant permission to Biofuels and Woodgate to use audit reports without the Firm having obtained the required engagement quality reviews and concurring approvals of issuance. As a result, Thomas violated PCAOB Rule 3502.

Respondents Failed to Comply with AS 3

44. Respondents also failed to comply with PCAOB audit documentation standards in connection with the FY 2013 Biofuels audit. Pursuant to AS 3, an "auditor must prepare audit documentation in connection with each engagement conducted pursuant to the standards of the PCAOB."[13] AS 3 further requires the auditor to "retain audit documentation for seven years from the date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements (*report release date*), unless a longer period of time is required by law."[14]

45. As described above, Thomas informed the Division, in a letter dated April 14, 2015, that he had sent the original FY 2013 Biofuels audit documentation to Respondents' Former Counsel without retaining a copy of that audit documentation. Respondents thereby violated AS 3[15] and were unable to provide the FY 2013 Biofuels audit documentation to the Division in response to demands made during its investigation.

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[12] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

[13] AS 3 ¶ 4.

[14] AS 3 ¶ 14.

[15] See id.

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Public Company Accounting Oversight Board

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Sections 105(b)(3)(A)(iii) and 105(c)(4)(E) of the Act and PCAOB Rules 5300(a)(5) and 5300(b)(1), Clay Thomas, P.C. and Clay Thomas, CPA are hereby censured;

B. Pursuant to Section 105(b)(3)(A)(ii) and 105(c)(4)(A) of the Act and PCAOB Rules 5300(a)(1) and 5300(b)(1), the registration of Clay Thomas, P.C. is revoked; and

C. Pursuant to Section 105(b)(3)(A)(i) and 105(c)(4)(B) of the Act and PCAOB Rules 5300(a)(2) and 5300(b)(1), Clay Thomas, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[16]

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 18, 2016

[16] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Thomas. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Mark K. Nelson, CPA*, *Respondent.*	PCAOB Release No. 105-2016-008 February 18, 2016

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Mark K. Nelson ("Respondent" or "Nelson") and barring him from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings that, in connection with the audit of the financial statements of Anchor Funding Services, Inc. ("AFS") for the fiscal year ended December 31, 2012 (the "Audit"), Nelson violated PCAOB rules and standards, as well as Section 10A(g) of the Securities Exchange Act of 1934 ("Exchange Act") and Exchange Act Rule 10A-2 concerning auditor independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

[1] Nelson may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. Mark K. Nelson ("Nelson"), age 50, of Matthews, North Carolina, is a certified public accountant licensed by the North Carolina State Board of Certified Public Accountant Examiners (License No. 19066). At all relevant times, he was a partner at a public accounting firm that was not registered with the PCAOB ("Nelson's non-PCAOB registered Firm"). Scott and Company LLC ("Scott"), a registered public accounting firm,[4] engaged Respondent to assist with the Audit. In connection with the Audit, Nelson performed audit procedures in certain audit areas. Because of his role on the Audit, Nelson was, at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Nelson's violations of PCAOB rules and standards that require a registered public accounting firm and its associated persons to be independent of the firm's issuer audit clients throughout the audit, as well as Nelson's violations of Section 10A(g) of the Exchange Act and Exchange Act Rule 10A-2

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] Scott has filed a Form 1-WD seeking leave to withdraw from registration with the Board. See Scott and Company LLC and Michael J. Slapnik, CPA, PCAOB Release No. 105-2016-007 (Feb. 18, 2016).

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concerning auditor independence. During the Audit, Nelson was not independent with respect to AFS because he prepared certain accounting records for AFS, and then performed audit procedures on those very records.[5] Specifically, Nelson prepared AFS's tax provision and the informational tables in AFS's financial statement tax footnote for the year under audit contemporaneous with his work on the Audit, which included performing audit procedures on the tax provision and footnote information that he had prepared.

C. Nelson Violated PCAOB Rules and Standards and the Exchange Act

3. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] PCAOB rules and standards also require that a registered public accounting firm be independent of an issuer audit client throughout the audit and professional engagement period.[7] A registered public accounting firm's or associated person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Securities and Exchange Commission ("Commission") under the federal securities laws.[8]

4. Section 10A(g) of the Exchange Act provides that it shall be unlawful for a registered public accounting firm (and any associated person of that firm, to the extent determined appropriate by the Commission) that performs an audit for an issuer "to provide to that issuer, contemporaneously with the audit, any non-audit service, including

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[5] See Section 10A(g) of the Exchange Act; Exchange Act Rule 10A-2, *Auditor Independence*; PCAOB Rule 3520, *Auditor Independence*; and AU §§ 220.01-02, *Independence*.

[6] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB standards are to the versions of those standards in effect at the time of the Audit.

[7] See PCAOB Rule 3520; see also AU §§ 220.01-.02.

[8] See PCAOB Rule 3520, Note 1.

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. . . [b]ookkeeping or other services related to the accounting records or financial statements of the audit client."

5. Exchange Act Rule 10A-2 states that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the prohibited non-audit services provisions of Commission Regulation S-X. Rule 2-01 of Regulation S-X provides that an accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides certain non-audit services for an audit client, including bookkeeping and financial statement preparation services.[9]

6. As described below, Nelson failed to comply with PCAOB rules and auditing standards, the Exchange Act, and Exchange Act rules in connection with the Audit.

Nelson's Work on the Audit of AFS's 2012 Financial Statements

7. On or about February 11, 2013, AFS engaged Scott as its auditor for the year ended December 31, 2012.[10] Scott engaged Nelson to assist with the audit of AFS's 2012 financial statements. Nelson's work on the Audit was to include performing audit procedures concerning AFS's 2012 tax provision and the tax footnote for AFS's 2012 financial statements. During the Audit, Nelson provided Scott with a signed letter representing that he was independent of AFS, and he also signed off on a Supervision, Review, and Approval work paper affirming that he had maintained his independence throughout the performance of the Audit.

8. However, during the Audit, Nelson obtained source data from AFS – such as payroll, depreciation schedules, revenue by state, asset additions – and then prepared AFS's tax provision for 2012. He also created a document that contained the tax provision, the informational tables that appear in the tax footnote for AFS's 2012

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[9] See 17 C.F.R. §§ 210.2-01(b), (c)(4)(i).

[10] At all relevant times, AFS was a Delaware corporation headquartered in Charlotte, North Carolina. AFS's public filings disclose that its business objective was to create a national financial services firm for small businesses providing services such as accounts receivable funding (factoring), purchase order finance, and outsourcing of accounts receivable management. At all relevant times, AFS's common stock was registered under Section 12(g) of the Exchange Act, and the company was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). In October 2013, AFS changed its name to FlexShopper, Inc.

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financial statements filed with the Commission, and source data as support for those tables.[11] Scott received this document (the "Tax Support") and included it as a work paper in its documentation for the Audit.

9. During the Audit, both Nelson and the engagement partner for the Audit signed off as having reviewed the Tax Support work paper. Although the Tax Support work paper contained the header, "Tax provision has been provided by client by way of [Nelson's non-PCAOB-registered Firm]. All S+C [Scott and Company] comments in red," Nelson did not inform Scott that he had prepared that document.

10. On March 27, 2013, Scott issued its unqualified audit report on AFS's financial statements for the fiscal year ended December 31, 2012. On that same day, AFS filed those financial statements and Scott's audit report with the Commission.

11. As a result of Nelson's work in both preparing and performing audit procedures on AFS's tax provision and tax footnote, he was not independent of AFS during the Audit, in violation of PCAOB rules and auditing standards, the Exchange Act, and Exchange Act rules.[12]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Nelson's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Nelson is hereby censured;

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[11] AFS disclosed in the tax footnote of its 2012 Form 10-K that its income tax provision was $0 for the year, after applying net operating loss carryforwards to the current-year taxable income of $161,000. The tax footnote also disclosed that AFS had recognized a valuation allowance in the full amount of the company's $1,547,000 in gross deferred tax assets for 2012, to adjust the deferred tax assets to the amount of net operating losses that AFS expected to be realized.

[12] See Section 10A(g) of the Exchange Act; Exchange Act Rule 10A-2; PCAOB Rule 3520; and AU §§ 220.01-.02.

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B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Nelson is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[13] and

C. After one (1) year from the date of this Order, Nelson may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

February 18, 2016

[13] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Nelson. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Scott and Company LLC and Michael J. Slapnik, CPA*, *Respondents.*	PCAOB Release No. 105-2016-007 February 18, 2016

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is (1) censuring Scott and Company LLC (the "Firm" or "Scott"), (2) imposing upon the Firm a civil money penalty in the amount of $10,000, (3) in the event that the Board grants any future registration application by the Firm,[1] requiring the Firm to undertake certain remedial measures, including to establish policies and procedures directed toward satisfying independence criteria applicable to audits of issuers, brokers, and dealers; and (4) censuring Michael J. Slapnik, CPA ("Slapnik"). The Board is imposing these sanctions on the basis of its findings that, in connection with the audit of the financial statements of Anchor Funding Services, Inc. ("AFS") for the fiscal year ended December 31, 2012 (the "Audit"): (1) the Firm and Slapnik violated PCAOB rules and standards; and (2) the Firm also violated Section 10A(g) of the Securities Exchange Act of 1934 ("Exchange Act") and Exchange Act Rule 10A-2 concerning auditor independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against the Firm and Slapnik (together "Respondents").

[1] The Firm has filed a Form 1-WD seeking leave to withdraw from registration with the Board, which the Board has determined to grant as of the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondents' Offers, the Board finds that:

A. Respondents

1. Scott and Company LLC is a limited liability company organized under the laws of the State of South Carolina, and is headquartered in Columbia, South Carolina. The Firm registered with the Board on October 8, 2003, pursuant to Section 102 of the Act and PCAOB rules.[3] The Firm is licensed to practice public accountancy by the South Carolina Department of Labor, Licensing, and Regulation (License No. AFI 3038), and by the North Carolina State Board of Certified Public Accountant Examiners. At all relevant times, the Firm was the external auditor for AFS.[4] At the time of the Audit, AFS was the Firm's only issuer audit client. Currently, the Firm has no issuer audit clients.

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[2] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[3] Scott and Company LLP, which originally registered with the Board, is the predecessor firm to Scott and Company LLC. On November 12, 2013, Scott and Company LLC filed a Form 4 with the Board to succeed to the registration status of the predecessor firm.

[4] At all relevant times, AFS was a Delaware corporation headquartered in Charlotte, North Carolina. AFS's public filings disclose that its business objective was to create a national financial services firm for small businesses providing services such as accounts receivable funding (factoring), purchase order finance, and outsourcing of accounts receivable management. At all relevant times, AFS's common stock was

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2. Michael J. Slapnik, age 39, of Lexington, South Carolina, is, and at all relevant times was, a partner in the Columbia, South Carolina office of the Firm and a certified public accountant licensed by the South Carolina Department of Labor, Licensing, and Regulation (License No. 6239). At all relevant times, Slapnik was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Slapnik served as the engagement partner for the Audit.

B. Other Relevant Individual

3. Mark K. Nelson ("Nelson"), age 50, of Matthews, North Carolina, is a certified public accountant that Scott engaged to assist with the Audit.[5] At the time of the Audit, Nelson was also a partner in another public accounting firm that was not registered with the PCAOB ("Nelson's non-PCAOB registered Firm"). In connection with the Audit, Nelson performed audit procedures in certain audit areas. Because of his role on the Audit, Nelson was, at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[6]

C. Summary

4. This matter concerns the Firm's violations of PCAOB rules and standards that require a registered public accounting firm and its associated persons to be independent of the firm's issuer audit clients throughout the audit, as well as the Firm's violations of Section 10A(g) of the Exchange Act and Exchange Act Rule 10A-2 concerning auditor independence. During the Audit, the Firm was not independent with respect to AFS because Nelson provided prohibited non-audit services to AFS, while at

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registered under Section 12(g) of the Exchange Act, and the company was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

[5] At all relevant times, Nelson was a certified public accountant licensed by the North Carolina State Board of Certified Public Accountant Examiners (License No. 19066).

[6] See Mark K. Nelson, CPA, PCAOB Release No. 105-2016-008 (Feb. 18, 2016).

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the same time serving on the Firm's audit engagement team.[7] Specifically, Nelson prepared AFS's tax provision and the informational tables in AFS's financial statement tax footnote for the year under audit contemporaneous with his work on the Audit, which included performing audit procedures on the tax provision and footnote information that he had prepared.

5. This matter also concerns Slapnik's violation of PCAOB rules concerning the engagement partner's responsibility to determine compliance with independence requirements. During the Audit, Slapnik failed to respond properly to indications that Nelson, and thus the Firm, was not independent of AFS because Nelson had prepared AFS's tax provision and tax footnote for the year under audit.

D. The Firm Violated PCAOB Rules and Standards and the Exchange Act

6. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[8] PCAOB rules and standards also require that a registered public accounting firm be independent of an issuer audit client throughout the audit and professional engagement period.[9] A registered public accounting firm's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Securities and Exchange Commission ("Commission") under the federal securities laws.[10]

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[7] See Section 10A(g) of the Exchange Act; Exchange Act Rule 10A-2, *Auditor Independence*; PCAOB Rule 3520, *Auditor Independence*; and AU §§ 220.01-02, *Independence*.

[8] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB standards are to the versions of those standards in effect at the time of the Audit.

[9] See PCAOB Rule 3520; see also AU §§ 220.01-.02.

[10] See PCAOB Rule 3520, Note 1.

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7. Section 10A(g) of the Exchange Act provides that it shall be unlawful for a registered public accounting firm (and any associated person of that firm, to the extent determined appropriate by the Commission) that performs an audit for an issuer "to provide to that issuer, contemporaneously with the audit, any non-audit service, including . . . [b]ookkeeping or other services related to the accounting records or financial statements of the audit client."

8. Exchange Act Rule 10A-2 states that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the prohibited non-audit services provisions of Commission Regulation S-X. Rule 2-01 of Regulation S-X provides that an accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides certain non-audit services for an audit client, including bookkeeping and financial statement preparation services.[11]

9. As described below, the Firm failed to comply with PCAOB rules and auditing standards, the Exchange Act, and Exchange Act rules in connection with the Audit.

The Firm's Audit of AFS's 2012 Financial Statements

10. On or about February 11, 2013, AFS engaged the Firm as its auditor for the year ended December 31, 2012.[12] The Firm engaged Nelson to assist with the audit of AFS's 2012 financial statements. His work on the Audit was to include performing audit procedures concerning AFS's 2012 tax provision and the tax footnote for AFS's 2012 financial statements. During the Audit, Nelson provided the Firm with a signed letter representing that he was independent of AFS, and he also signed off on a Supervision, Review, and Approval work paper affirming that he had maintained his independence throughout the performance of the Audit.

11. During the Audit, the Firm received the AFS tax provision and source data for AFS's Form 10-K tax footnote in a document containing the header, "Tax provision has been provided by client by way of [Nelson's non-PCAOB-registered Firm]. All S+C [Scott and Company] comments in red." This document (the "Tax Support") was included as a work paper in the Firm's documentation for the Audit. The Tax Support work paper contained the informational tables that appear in the tax footnote for AFS's 2012 financial statements filed with the Commission, and contained source data as

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[11] See 17 C.F.R. §§ 210.2-01(b), (c)(4)(i).

[12] In October 2013, AFS changed its name to FlexShopper, Inc.

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support for those tables.[13] During the Audit, both Nelson and Slapnik signed off as having reviewed the Tax Support work paper.

12. Despite the header noting that Nelson's non-PCAOB-registered Firm had been involved in preparing the Tax Support document, neither the Firm nor Slapnik asked Nelson if he personally had any involvement in the preparation of the document.[14] In fact, Nelson himself had prepared the Tax Support document on which he and Slapnik subsequently signed off as reviewers.

13. On March 27, 2013, Slapnik authorized the Firm's issuance of its unqualified audit report on AFS's financial statements for the fiscal year ended December 31, 2012. On that same day, AFS filed those financial statements and the Firm's audit report with the Commission.

14. As a result of Nelson's work in both preparing and performing audit work on AFS's tax provision and tax footnote, the Firm was not independent of AFS during the Audit, in violation of PCAOB rules and auditing standards, the Exchange Act, and Exchange Act rules.[15]

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[13] AFS disclosed in the tax footnote of its 2012 Form 10-K that its income tax provision was $0 for the year, after applying net operating loss carryforwards to the current-year taxable income of $161,000. The tax footnote also disclosed that AFS had recognized a valuation allowance in the full amount of the company's $1,547,000 in gross deferred tax assets for 2012, to adjust the deferred tax assets to the amount of net operating losses that AFS expected to be realized.

[14] During the prior year (2011) audit, Nelson had served on the engagement team and had offered either to prepare AFS's tax provision, or to get another firm to prepare it. Slapnik informed Nelson that he should get another firm to prepare the 2011 tax provision because Nelson was on the 2011 engagement team. Based on this interaction, and Nelson's written affirmations referenced above, Respondents assumed during the 2012 Audit that another member of Nelson's firm, rather than Nelson himself, had prepared the Tax Provision document. But even if that assumption had been correct, such circumstances would have resulted in the Firm not being independent of AFS during the 2012 Audit. See 17 C.F.R. §§ 210.2-01(b), (c)(4).

[15] See Section 10A(g) of the Exchange Act; Exchange Act Rule 10A-2; PCAOB Rule 3520; and AU §§ 220.01-.02.

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E. Slapnik Violated PCAOB Rules and Standards Concerning Determining Compliance with Independence

15. PCAOB auditing standards provide that the engagement partner "is responsible for the engagement and its performance."[16] That responsibility includes determining compliance with independence requirements at the beginning of the audit and reevaluating that determination with changes in circumstances during the audit.[17]

16. As described above, Slapnik failed to properly determine compliance with independence requirements in connection with the Audit. During the Audit, he became aware of circumstances indicating that Nelson's non-PCAOB registered Firm, and thus, perhaps Nelson, was involved in preparing the work on which Nelson was performing audit procedures. Nevertheless, Slapnik failed to take reasonable steps to reevaluate whether Nelson, and thus the Firm, complied with PCAOB standards requiring auditors to be independent of the audit client during the audit and professional engagement period. Accordingly, Slapnik violated AS 9 by failing to properly determine Nelson's, and the Firm's, compliance with independence requirements during the Audit.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Firm's and Slapnik's Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm and Slapnik are hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty is imposed in the amount of $10,000 upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay the $10,000 civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check

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[16] Auditing Standard No. 9, *Audit Planning*, ("AS 9") ¶ 3.

[17] Id. at ¶ 6(b) and Note.

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(a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies the payor as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm, should the Board grant any future application of the Firm for registration, is required:

1. within ninety (90) days from the date the Board grants any future application of the Firm for registration ("Future Registration Date"), to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including the requirements of Rule 2-01 of Regulation S-X;

2. within ninety (90) days from the Future Registration Date, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including the requirements of Rule 2-01 of Regulation S-X, of any Firm audit personnel who participate in any way in the planning or performing of any audit or interim review of an issuer or any SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Exchange Act Rule 17a-5, 17 C.F.R. § 240.17a-5, as amended);

3. within ninety (90) days from the Future Registration Date and before the Firm's commencement of any audit or interim review of an issuer or commencement of any SEC Registered Broker-Dealer Engagement, to ensure training pursuant to the policy described in paragraph IV.C.2. above on at least one occasion; and

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4. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs IV.C.1 through C.3 above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the Future Registration Date. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

February 18, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Carnaghi & Schwark, PLLC,* *Respondent.*	PCAOB Release No. 105-2016-009 March 15, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Carnaghi & Schwark, PLLC ("Carnaghi & Schwark," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission" or "SEC") as a result of having prepared financial statements that were filed with the Commission for a registered broker-dealer audit client, which impaired the Firm's independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

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Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Carnaghi & Schwark is a registered public accounting firm located in Roseville, Michigan. At all relevant times, the Firm was licensed by the Michigan State Board of Accountancy (license no. 1102003710). The Firm, formed in 1971, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. The Firm prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended May 31, 2014. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[5] apply to

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[3] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

[5] 17 C.F.R. Part 210.

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audits of brokers and dealers.[6] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's May 31, 2014 financial statements ("Audit"). At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In July 2014, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended May 31, 2014. Included in that filing was an audit report signed by the Firm dated July 26, 2014. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

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[6] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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10. In June and July 2014, Firm staff obtained from the Broker-Dealer various documents including a trial balance and balance sheet as of May 31, 2014 and a cash flow schedule for the year ended May 31, 2014.

11. Firm staff used the above documents obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of May 31, 2014, as well as the Statement of Income, Statement of Cash Flows, and Statement of Changes in Stockholders' Equity for the year ended May 31, 2014, filed by the Broker-Dealer with the Commission in July 2014.

12. In preparing those financial statements, Firm staff added, aggregated, and disaggregated line items, changed line item descriptions, and added captions as compared to corresponding information in the documents obtained from the Broker-Dealer.

13. Firm staff also prepared the notes to the Broker-Dealer's financial statements by updating the notes to the Broker-Dealer's financial statements for the prior year as well as incorporating material provided by the Broker-Dealer.

14. In August 2014, the Firm sent the Broker-Dealer an invoice reflecting charges for (i) "Examination of books of account and preparation of Financial Statements for the period June 1, 2013 to May 31, 2014" and (ii) "Preparation of Financial Statements and Supporting Schedules Pursuant to Rule 17a-5 of the Securities and Exchange Commission at May 31, 2014 . . . . ."

15. As a result of the Firm's conduct in preparing the financial statements, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the Audit. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[7]

16. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the Audit in accordance with GAAS when in fact, because of the independence impairment described above, the Audit had not been performed in

[7] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-

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X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within thirty (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within thirty (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in

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the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

March 15, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Steven G. Hirshenson, Chartered,* *Respondent.*	PCAOB Release No. 105-2016-012 March 15, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Steven G. Hirshenson, Chartered ("Firm" or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission") as a result of having prepared financial statements that were filed with the Commission for a registered broker-dealer audit client and thus impairing its independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings,

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ORDER

Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Steven G. Hirshenson, Chartered is a registered public accounting firm located in Rockville, Maryland. At all relevant times, the Firm was licensed by the Maryland Board of Public Accountancy (license no. 519). The Firm, formed in 2005, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. The Firm prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended December 31, 2012. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. Rule 17a-5(i) at the time required the audit report to state whether the audit was made in accordance with Generally Accepted Auditing Standards ("GAAS"). In the audit report, the Firm instead represented that the audit had been performed in accordance with the auditing standards of the Public Company Accounting

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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Oversight Board ("PCAOB standards").[3] That representation violated Rule 17a-5(i), because the Firm did not and—as GAAS requires independence—could not state that the audit was made in accordance with GAAS.

C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[4] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[5]

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[3] GAAS, not PCAOB standards, applied to this and other broker-dealer audits of periods ending before June 1, 2014. The July 2013 amendments to Rule 17a-5 required that such audits be performed in accordance with PCAOB standards effective for audits of fiscal years ending on or after June 1, 2014. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013).

[4] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards

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7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[6] apply to audits of brokers and dealers.[7] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

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that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[5] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013). PCAOB standards, applicable to broker-dealer audits of periods ending on or after June 1, 2014, also require auditor independence—including an obligation to satisfy the independence criteria set out in the rules and regulations of the Commission under the federal securities laws. See PCAOB Rule 3520, *Auditor Independence*; AU 220, *Independence*.

[6] 17 C.F.R. Part 210.

[7] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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8. The Firm served as the auditor of the Broker-Dealer's December 31, 2012 financial statements. At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In February 2013, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2012. Included in that filing was an audit report signed by the Firm dated February 4, 2013. That report did not state that the audit was performed in accordance with GAAS, and instead stated, among other things, that the audit was conducted in accordance with PCAOB standards.

10. The engagement letter for the audit of the Broker-Dealer's December 31, 2012 financial statements ("Audit") stated in part (emphasis added): "We will advise you about appropriate accounting principles and their application and will assist in the preparation of your financial statements . . . ."

11. Firm staff obtained from the Broker-Dealer in December 2012 and January 2013 various documents including a "Statement of Condition" and trial balances as of December 31, 2012; a schedule of capital transactions; and a Form X-17A-5 Part IIA that Firm staff understood had been filed by the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA") and that bore the header "FOCUS Report (Financial and Operational Combined Uniform Single Report)." That Form X-17A-5 Part IIA contained, among other things, three financial statements: a Statement of Financial Condition as of December 31, 2012, a Statement of Income (Loss) for the period October 1, 2012 to December 31, 2012, and a Statement of Changes in Ownership Equity for the period October 1, 2012 to December 31, 2012.

12. Firm staff used the above documents obtained from the Broker-Dealer to prepare the "Statement of Financial Position" as of December 31, 2012, as well as the Statement of Operations and Statement of Changes in Stockholders' Equity, filed by the Broker-Dealer with the Commission in February 2013.

13. In preparing those financial statements, Firm staff added line items and columns, aggregated and disaggregated line items, and changed line item descriptions and amounts, as compared to corresponding information in the documents obtained from the Broker-Dealer.

14. Firm staff also prepared the Statement of Cash Flows for the year ended December 31, 2012, as well as the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in February 2013.

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15. On February 12, 2013, Firm staff sent a set of draft financial statements to a partner at another registered public accounting firm for review and suggestions. After receiving back comments, Firm staff revised the notes to the financial statements. On February 17, 2013, Firm staff provided the Broker-Dealer with the revised set of draft financial statements for management approval.

16. As a result of the Firm's conduct in preparing the financial statements, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audit of the Broker-Dealer's financial statements. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[8]

17. The Firm violated Rule 17a-5(i) because it did not and could not state in its audit report that it had performed the audit of the Broker-Dealer's December 31, 2012 financial statements in accordance with GAAS. In fact, because of the independence impairment described above, the audit had not and could not have been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,500 is imposed upon the Firm.

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[8] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's

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release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within thirty (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within thirty (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

March 15, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Holt & Patterson, LLC,* *Respondent.*	PCAOB Release No. 105-2016-010 March 15, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Holt & Patterson, LLC ("Holt & Patterson," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission" or "SEC") as a result of having maintained and prepared accounting records, and having prepared financial statements that were filed with the Commission, for a registered broker-dealer audit client, which impaired the Firm's independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

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ORDER

Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Holt & Patterson is a registered public accounting firm located in Chesterfield, Missouri. At all relevant times, the Firm was licensed by the Missouri State Board of Accountancy (license no. 2005022844). The Firm, formed in 2005, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. The Firm maintained and prepared accounting records and prepared financial statements for the year ended December 31, 2013 for a broker-dealer audit client ("Broker-Dealer"). As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[5] apply to

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[3] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

[5] 17 C.F.R. Part 210.

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audits of brokers and dealers.[6] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> (A) Maintaining or preparing the audit client's accounting records;
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's December 31, 2013 financial statements ("Audit"). At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In March 2014, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2013. Included in that filing was an audit report signed by the Firm dated February 21, 2014. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

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[6] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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10. The Firm prepared the Broker-Dealer's annual depreciation expense journal entry for the year ended December 31, 2013, using the fixed asset subledger that the Firm maintained for the Broker-Dealer.

11. The Firm also prepared the Broker-Dealer's December 31, 2013 financial statements. In a work paper titled "Evaluating and Communicating Internal Control Deficiencies," the Firm noted that the Broker-Dealer "lacks the ability to prepare GAAP basis financial statements and footnotes," and further noted that although Holt & Patterson had "previously communicated [this] deficiency" to the Broker-Dealer, the issue "ha[d] not yet been remediated."

12. In a work paper titled "Summary of Risk Assessment," the Firm identified as a risk the Broker-Dealer's "[i]nability to generate financial statements and footnote disclosures in accordance with GAAP." The Firm also noted that as part of its "[a]udit approach" to this risk, the Firm would "prepare the footnote disclosures and give [them] to [the Broker-Dealer's president] for review."

13. The Firm obtained from the Broker-Dealer various documents including a balance sheet and trial balance as of December 31, 2013 and an income statement for the year ended December 31, 2013.

14. The Firm used the above documents obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of December 31, 2013, as well as the Statement of Income and Statement of Changes in Stockholders' Equity for the year ended December 31, 2013, filed by the Broker-Dealer with the Commission in March 2014.

15. In preparing those financial statements, the Firm added and aggregated line items, deleted a line item, changed line item descriptions and amounts, and added, deleted, and changed captions as compared to corresponding information in the documents obtained from the Broker-Dealer.

16. The Firm also prepared the Statement of Cash Flows for the year ended December 31, 2013, as well as drafted the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in March 2014.

17. Included in the Form X-17A-5 Part III filed with the Commission in March 2014 was an Auditors' Report on Internal Control in which the Firm noted that the Broker-Dealer "does not have in place controls that would assure the preparation of internal financial statements and related note disclosures in accordance with generally

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accepted accounting principles." The Firm also noted that the Broker-Dealer engaged the Firm "to draft the audited financial statements."

18. As a result of the Firm's conduct in maintaining and preparing accounting records and in preparing the financial statements, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the Audit. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[7]

19. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the Audit in accordance with GAAS when in fact, because of the independence impairment described above, the Audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions

[7] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

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4. to provide a copy of this Order—

a. within thirty (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within thirty (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

March 15, 2016

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Keiter, Stephens, Hurst, Gary & Shreaves, P.C.,* *Respondent.*	PCAOB Release No. 105-2016-011 March 15, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Keiter, Stephens, Hurst, Gary & Shreaves, P.C. ("Keiter," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission" or "SEC") as a result of having prepared financial statements that were filed with the Commission for a registered broker-dealer audit client, which impaired the Firm's independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

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Public Company Accounting Oversight Board

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Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Keiter is a registered public accounting firm located in Glen Allen, Virginia. At all relevant times, the Firm was licensed by the Virginia Board of Accountancy (license no. 131975). The Firm, formed in 1978, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. The Firm prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended December 31, 2013. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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ORDER

C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[5] apply to

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[3] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

[5] 17 C.F.R. Part 210.

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audits of brokers and dealers.[6] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's December 31, 2013 financial statements ("Audit"). At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In February 2014, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2013. Included in that filing was an audit report signed by the Firm dated February 26, 2014. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States."

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[6] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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10. Firm staff completed an "Engagement Acceptance and Continuance Form" in connection with the Audit. That form included a pre-printed item reading, "What services does the entity desire from our firm?" The Firm typed a checkmark under "Yes" alongside the pre-printed sub-item reading, "Preparation of financial statements?"

11. Firm staff obtained from the Broker-Dealer various documents including a trial balance as of December 31, 2013. Firm staff used the trial balance obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of December 31, 2013, as well as the Statement of Income and Statement of Changes in Stockholders' Equity for the year ended December 31, 2013, filed by the Broker-Dealer with the Commission in February 2014.

12. In preparing those financial statements, Firm staff input line items and amounts from the trial balance into the Firm's audit software. Firm staff then used the Firm's audit software to convert the trial balance into financial statements that incorporated preset formats and groupings contained in that software.

13. Firm staff also prepared the Statement of Cash Flows for the year ended December 31, 2013, as well as drafted the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in February 2014.

14. As a result of the Firm's conduct in preparing the financial statements, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the Audit. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[7]

15. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the Audit in accordance with GAAS when in fact, because of the independence impairment described above, the Audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

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[7] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

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2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within thirty (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within thirty (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning

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compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

March 15, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of WJB & Co., P.C.,* *Respondent.*	PCAOB Release No. 105-2016-013 March 15, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm WJB & Co., P.C. ("WJB," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) in the event the Board grants any future registration application by the Firm,[1] requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission" or "SEC") as a result of having prepared financial statements that were filed with the Commission for a registered broker-dealer audit client, which impaired the Firm's independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has

[1] The Firm has filed a Form 1-WD seeking leave to withdraw from registration with the Board, which the Board has determined to grant as of the date of this Order.

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determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. WJB is a registered public accounting firm located in Athens, Georgia. At all relevant times, the Firm was licensed by the Colorado State Board of Accountancy (license no. FRM-5000032). The Firm, formed in 2012, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. The Firm prepared the financial statements for a broker-dealer audit client ("Broker-Dealer") for the year ended December 31, 2013. As a result, the Firm was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[3] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[4] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[5]

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[4] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[5] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

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7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[6] apply to audits of brokers and dealers.[7] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. The Firm served as the auditor of the Broker-Dealer's December 31, 2013 financial statements ("Audit"). At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[6] 17 C.F.R. Part 210.

[7] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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9. In March 2014, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2013. Included in that filing was an audit report signed by the Firm dated February 22, 2014. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

10. On February 4, 2014, Firm staff emailed the Broker-Dealer's president a draft set of financial statements, including notes, for the year ended December 31, 2013. The Firm prepared these draft financial statements based on the content and presentation of the previous year's financial statements filed by the Broker-Dealer with the Commission. The draft financial statements were facially complete except they did not include dollar amounts. In addition, certain of the financial statement notes contained outdated amounts and percentages that had not been modified to reflect information applicable to the reporting period and, in some instances, blank spaces in place of such amounts.

11. Later in February 2014, the Broker-Dealer emailed to Firm staff a revised version of the draft financial statements. In the revised financial statements, the Broker-Dealer had inserted dollar amounts into line items contained in the Statements of Financial Condition, Income, and Changes in Stockholders' Equity. The Broker-Dealer also had modified the financial statement notes with updated amounts and percentages reflecting current reporting period information. The Broker-Dealer had failed, however, to populate most of the line items in the Statement of Cash Flows with dollar amounts.

12. Also in February 2014, Firm staff obtained from the Broker-Dealer various documents including a trial balance and balance sheet as of December 31, 2013; an income statement for the month ending December 31, 2013; and four Forms X-17A-5 Part IIA—one for each of the four quarters of 2013—that Firm staff understood had been filed by the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA"), that bore the header "FOCUS Report (Financial and Operational Combined Uniform Single Report)," and that contained quarterly financial statements.

13. Firm staff used the above documents to complete its preparation of the Statement of Financial Condition as of December 31, 2013, the Statements of Income, Cash Flows, and Changes in Stockholders' Equity for the year ended December 31, 2013, and the notes to the financial statements, all of which were filed by the Broker-Dealer with the Commission in March 2014.

14. In completing its preparation of these financial statements, Firm staff aggregated and disaggregated line items, added and deleted line items, added line item amounts, and changed line item descriptions and amounts as compared to the revised financial statements received in February 2014 from the Broker-Dealer.

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15. As a result of the Firm's conduct in preparing the financial statements, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the Audit. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[8]

16. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the Audit in accordance with GAAS when in fact, because of the independence impairment described above, the Audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered

[8] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm, should the Board grant any future application of the Firm for registration, is required:

1. within ninety (90) days from the date the Board grants any future application of the Firm for registration ("Future Registration Date"), to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the Future Registration Date, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the Future Registration Date and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement, to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

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4. to provide a copy of this Order—

a. within thirty (30) days from the Future Registration Date, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the Future Registration Date,

b. within thirty (30) days from the Future Registration Date, to any client of the Firm as of the Future Registration Date for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the Future Registration Date. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

March 15, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Moss, Krusick & Associates, LLC; and Joseph M. Krusick, CPA*, *Respondents.*	PCAOB Release No. 105-2016-014 April 12, 2016

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Moss, Krusick & Associates, LLC ("Moss Krusick" or the "Firm"), revoking the Firm's registration,[1] and imposing a civil money penalty in the amount of $10,000 upon the Firm; and censuring Joseph M. Krusick, CPA ("Krusick"), barring him from being an associated person of a registered public accounting firm,[2] and imposing on him a civil money penalty in the amount of $5,000. The Board is imposing these sanctions on the basis of its findings that (a) the Firm violated PCAOB rules and standards concerning auditor independence, Section 10A(g) of the Securities and Exchange Act of 1934 ("Exchange Act"), and Exchange Act Rule 10A-2 because it was not independent with respect to an issuer audit client during several audit and professional engagement periods, and (b) Krusick violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, because he took or omitted to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violations.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against the Firm and Krusick (collectively, "Respondents").

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Krusick may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, the Respondents have each submitted an Offer of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Moss, Krusick & Associates, LLC is a limited liability company organized under the laws of the State of Florida, headquartered in Winter Park, Florida, and at all relevant times was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm has been licensed to practice public accountancy by (a) the Florida Board of Accountancy (License No. AD0017790) since 1990, (b) the Nevada State Board of Accountancy (License No. LLC-0252) since 2010, and (c) the Texas State Board of Public Accountancy (License No. C07868) since 2011, and at all relevant times was the external auditor for the issuer identified below.

[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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2. Joseph M. Krusick, CPA, age 57, of Orlando, Florida, is a certified public accountant licensed by the Florida Board of Accountancy (License No. AC0022686) since 1991 and the Nevada State Board of Accountancy (License No. CPA-4742R) since 2008. Krusick is a partner at Moss Krusick and served as the engagement partner for the audits and reviews discussed below. Krusick is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. The Firm was not independent of an issuer audit client, Credit One Financial, Inc. ("Credit One"), throughout a five-year period because it prepared the issuer's financial statements that were filed with the Securities and Exchange Commission ("SEC" or "Commission") in violation of PCAOB rules and auditing standards concerning auditor independence,[5] Section 10A(g) of the Exchange Act, and Exchange Act Rule 10A-2.

4. During the Firm's audit of Credit One's financial statements for fiscal year 2010 ("2010 Annual Financial Statements") and its reviews of Credit One's interim financial statements for the first three quarters of fiscal year 2011 ("2011 Interim Financial Statements"), the Firm provided prohibited bookkeeping services to Credit One by obtaining subsidiary trial balances from Credit One and preparing Credit One's financial statements that were filed with the Commission.

5. Thereafter, during the Firm's audits of Credit One's financial statements for each of fiscal years 2011, 2012, 2013, and 2014 ("2011-2014 Annual Financial Statements") and its reviews of Credit One's interim financial statements for the first three quarters of each of 2012, 2013, and 2014 ("2012-2014 Interim Financial Statements"), the Firm provided prohibited bookkeeping services to Credit One by directing and profiting from the work of a local certified public accountant whom it selected and paid to prepare Credit One's financial statements filed with the Commission.

6. Krusick, the engagement partner for each of the Credit One audits and reviews at issue, violated PCAOB Rule 3502 because he took or omitted to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violations of PCAOB rules and auditing standards, Section 10A(g) of the Exchange Act, and Exchange Act Rule 10A-2.

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[5] See PCAOB Rule 3520, *Auditor Independence*; AU § 220, *Independence*.

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C. Respondents Violated PCAOB Rules and Auditing Standards, and the Exchange Act

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] PCAOB rules and auditing standards also require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[7] A registered public accounting firm or associated person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[8]

8. Section 10A(g) of the Exchange Act provides that it shall be unlawful for a registered public accounting firm that performs an audit for an issuer "to provide to that issuer, contemporaneously with the audit, any non-audit service, including . . . bookkeeping or other services related to the accounting records or financial statements of the audit client".[9]

9. Exchange Act Rule 10A-2 provides that it shall be unlawful for an auditor not to be independent under certain provisions of Regulation S-X, including Rule 2-01(c)(4).[10] Rule 2-01(c)(4) of Regulation S-X states in part:

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[6] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB standards are to the versions of those standards in effect at the time of the relevant audits.

[7] See PCAOB Rule 3520, *Auditor Independence*; AU § 220, *Independence*.

[8] See PCAOB Rule 3520, Note 1.

[9] 15 U.S.C. § 78j-1(g).

[10] 17 C.F.R. § 240.10A-2.

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> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .[11]

Moss Krusick's Audit of Credit One's 2010 Annual Financial Statements and Reviews of Credit One's 2011 Interim Financial Statements

10. Credit One is a Florida corporation with principal executive offices in New York and no operations in the United States. Credit One's public filings with the Commission disclosed that all of its assets, officers, and directors were located outside the United States, including in the People's Republic of China ("PRC") and Macau. Credit One used the services of an outsourced CFO in New York to assist with its financial reporting obligations ("Outsourced CFO"). In 2009 and 2010, Credit One produced and sold mineral products, primarily graphite, in the PRC through a wholly owned subsidiary. In 2010, Credit One ceased producing and selling mineral products and, through a different wholly owned subsidiary, entered into a ten-year agreement to be the exclusive advertising agent for a Macau-based television company. Credit One's common stock is registered under Section 12(g) of the Exchange Act and quoted on the OTCQB marketplace. At all relevant times, Credit One was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

11. Moss Krusick audited Credit One's 2010 and 2011-2014 Annual Financial Statements, and reviewed its 2011 and 2012-2014 Interim Financial Statements. Krusick was the engagement partner for each of those audits and reviews. With respect

[11] 17 C.F.R. § 210.2-01(c)(4)(i).

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to the audits, Krusick signed and authorized the release of each of Moss Krusick's audit reports, which were included in Form 10-Ks Credit One filed with the Commission.

12. During the audit of the 2010 Annual Financial Statements ("2010 Audit"), Respondents obtained subsidiary trial balances and a draft of Credit One's 2010 Form 10-K containing financial statements with blank account balances from the Outsourced CFO. Respondents prepared Credit One's consolidating and adjusting journal entries, and consolidated balance sheet, income statement, and cash flow statement ("Consolidated Financial Statements"), using the subsidiary trial balances.

13. Then, Respondents sent a handwritten, marked up version of the 2010 Form 10-K back to the Outsourced CFO with the financial statement account balances filled in based on the Consolidated Financial Statements prepared by Respondents. Respondents also drafted language for certain financial statement disclosures. The Outsourced CFO updated the electronic version of the 2010 Form 10-K with the financial statement amounts and disclosures provided by Respondents. The Outsourced CFO then filed the 2010 Form 10-K, including the 2010 Annual Financial Statements, with the Commission. Respondents prepared similar documents and information that were included in or formed the basis for Credit One's 2011 Interim Financial Statements, which Respondents reviewed ("2011 Reviews") and Credit One filed with the Commission.

14. By preparing Credit One's financial statements in connection with the 2010 Audit and 2011 Reviews as described above, the Firm was not independent of Credit One during the 2010 Audit and 2011 Reviews and violated PCAOB rules and standards concerning auditor independence, Section 10A(g) of the Exchange Act, and Exchange Act Rule 10A-2.

15. Krusick, the engagement partner for the 2010 Audit and 2011 Reviews, was aware that the Firm was providing bookkeeping services to Credit One. As a result, Krusick violated PCAOB Rule 3502 by taking or omitting to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of PCAOB rules and standards, Section 10A(g) of the Exchange Act, and Exchange Act Rule 10A-2.

Moss Krusick's Audits of Credit One's 2011 Through 2014 Annual Financial Statements and Reviews of Credit One's 2012 Through 2014 Interim Financial Statements

16. In October 2011, Krusick, who expressed concerns that Moss Krusick's assistance to Credit One could be viewed as impairing the Firm's independence and the PCAOB could inspect Moss Krusick's Credit One audits, asked Credit One to prepare its own financial statements for fiscal year 2011, and suggested that Credit One engage a

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firm in China to assist it. In response, Credit One asked Respondents to find a local accountant in Florida to do this work. Respondents subsequently identified a solo practitioner accountant in Orlando, Florida (the "Accountant") and negotiated with her an agreement under which she would prepare Credit One's annual and interim financial statements for a capped fee of no more than $2,500 per quarter, or $10,000 per year. The agreement was memorialized in an engagement letter between the Accountant and Credit One dated March 3, 2012. The engagement letter provided, among other things, that the Accountant would submit her invoices to Moss Krusick and be paid by Moss Krusick, which in turn would bill Credit One for the Accountant's services.

17. Thereafter, the Accountant prepared the 2011-2014 Annual Financial Statements in the same manner that Respondents had prepared the 2010 Annual Financial Statements. Respondents audited the 2011-2014 Annual Financial Statements ("2011-2014 Audits") that Credit One filed with the Commission. The Accountant similarly prepared Credit One's 2012-2014 Interim Financial Statements, which Respondents reviewed ("2012-2014 Reviews") and Credit One filed with the Commission.

18. Krusick, as well as other members of the Moss Krusick engagement team, provided direction to the Accountant in connection with her preparation of Credit One's 2011-2014 Annual Financial Statements and 2012-2014 Interim Financial Statements. In performing her work, the Accountant had no direct communications with Credit One. Instead, she relied on Moss Krusick to provide her with all of Credit One's financial information and sent all of her work to Moss Krusick for review, comment, and approval. For example, on a quarterly basis Moss Krusick received subsidiary trial balances from the Outsourced CFO that Moss Krusick sent to the Accountant directing her to prepare a balance sheet and income statement. The Accountant prepared balance sheets and income statements that she sent to the Firm and on which the Firm noted: "Auditor takes full responsibility for all work performed by [the Accountant] . . . ."

19. In addition to directing the Accountant's work, Respondents determined how much she was paid, and Moss Krusick profited from her work. Pursuant to Moss Krusick's understanding with Credit One, Moss Krusick billed, and was paid by Credit One, $2,500 per quarter for the Accountant's work, irrespective of the amounts Moss Krusick paid the Accountant. Krusick decided to pay the Accountant $1,250 or $1,500 per quarter and the Firm kept the difference.

20. In February 2014, an accountant newly employed by the Firm and assigned to the audit of Credit One's fiscal year 2013 annual financial statements raised concerns with Krusick regarding the Firm's independence from Credit One in light of the Firm's arrangement with the Accountant. In response, the Firm initiated telephone consultations with the national SEC consultant referred by the association of accounting

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firms to which the Firm belonged at the time. During the consultations, Krusick and others at the Firm explained the pass-through billing arrangement with the Accountant, but did not disclose that the Firm profited from the Accountant's work or discuss other aspects of the arrangement. Although the consultant apparently concluded the pass-through billing arrangement did not impair the Firm's independence, the consultant did not assess whether the Firm's independence was impaired as a result of other aspects of its relationship with the Accountant. Following the consultations, the Firm did not alter its arrangement with the Accountant and the new accountant resigned from the Firm.

21. As a result of the conduct described above, the Firm provided Credit One with prohibited bookkeeping services in connection with the 2011-2014 Audits and 2012-2014 Reviews in violation of PCAOB rules and standards concerning auditor independence, Section 10A(g) of the Exchange Act, and Exchange Act Rule 10A-2.

22. Krusick, the engagement partner for the 2011-2014 Audits and 2012-2014 Reviews, was aware of the arrangement with the Accountant. Krusick selected her to provide bookkeeping services to Credit One; negotiated her agreement with Credit One; decided how much Moss Krusick paid her and how much Moss Krusick profited from her services; administered her requests for Credit One's information; determined what information about Credit One she received; and directed her work preparing Credit One's financial statements. As a result, Krusick violated PCAOB Rule 3502 by taking or omitting to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of PCAOB rules and standards, Section 10A(g) of the Exchange Act, and Exchange Act Rule 10A-2.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Moss, Krusick & Associates, LLC and Joseph M. Krusick, CPA are censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Moss, Krusick & Associates, LLC is revoked;

C. After two (2) years from the date of this Order, Moss, Krusick & Associates, LLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

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D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Joseph M. Krusick, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[12]

E. After two (2) years from the date of this Order, Joseph M. Krusick, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Moss, Krusick & Associates, LLC, and a separate and additional civil money penalty in the amount of $5,000 is imposed upon Joseph M. Krusick, CPA. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Moss, Krusick & Associates, LLC and Joseph M. Krusick, CPA shall each pay the civil money penalty imposed within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter that identifies, as applicable, Moss, Krusick & Associates, LLC or Joseph M. Krusick as one of the Respondents in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of said cover

[12] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Krusick. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

April 12, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of The Hall Group, CPAs and David S. Hall, CPA,* *Respondents.*	PCAOB Release No. 105-2016-015 April 26, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring The Hall Group, CPAs ("THG" or the "Firm"), revoking the Firm's registration, and imposing a civil money penalty in the amount of $10,000 upon the Firm;[1] and censuring David S. Hall, CPA ("Hall") and barring Hall from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that: (1) the Firm and Hall (collectively, "Respondents") violated PCAOB rules and auditing standards in connection with the audits of the financial statements of three issuer clients; (2) Respondents violated PCAOB rules and auditing standards in connection with the Board's 2013 inspection of the Firm; and (3) the Firm violated PCAOB rules in connection with its failure, in 2014, to file an annual report and to pay an annual fee to the Board.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act") and PCAOB Rule 5200(a)(1) against Respondents.

[1] The Firm may reapply for registration after three (3) years from the date of this Order.

[2] Hall may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

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II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. The Hall Group, CPAs is, and at all relevant times was, a professional corporation organized under the laws of the state of Texas, and headquartered in Lewisville, Texas. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm previously was licensed to practice public accountancy by the Texas State Board of Public Accountancy ("TSBPA") (license no. C06240). The Firm's license with the TSBPA expired on May 31, 2014. At all relevant times, the Firm was the external auditor for the three issuers discussed below.

2. David S. Hall, age 58, of Lewisville, Texas, is a certified public accountant licensed by the TSBPA (license no. 037991). At all relevant times, Hall was the president and sole owner of the Firm, and he served as the engagement partner for the three audits discussed below. Hall is an associated person of a registered public

[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and auditing standards in connection with the audits of the June 30, 2012 ("FY 2012") financial statements of Seven Arts Entertainment Inc. ("Seven Arts") and Freestone Resources, Inc. ("Freestone"), and the December 31, 2012 financial statements of Medient Studios, Inc. ("Medient") (collectively, the "Audits"). Respondents repeatedly failed to obtain sufficient appropriate audit evidence and to exercise due care and professional skepticism in connection with the Audits.

4. This matter also concerns Respondents' failures to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS7"). The engagement quality reviewer ("EQR") assigned to two of the Audits did not possess the level of knowledge and competence required to perform engagement quality reviews. In addition, Hall served as the EQR for the third Audit, while simultaneously serving as the engagement partner.

5. This matter also concerns Respondents' violations of PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, and Auditing Standard No. 3, *Audit Documentation* ("AS3"). In advance of the Board's 2013 inspection of the Firm, Hall, and others acting at his direction improperly altered, added to, and backdated archived work papers. Respondents made these misleading work papers available to the Board's inspectors in violation of PCAOB Rule 4006. Respondents also failed to comply with AS3 because Hall, and others acting at his direction, did not indicate the date that the work papers were modified, the names of the persons who made the modifications, and the reason for doing so.

6. This matter also concerns the Firm's failure, in 2014, to file an annual report with the Board and to pay an annual fee to the Board. See Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report;* PCAOB Rule 2202, *Annual Fee*.

7. Finally, this matter concerns Hall's violation of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*. At all relevant times, Hall was the sole owner of the Firm and the engagement partner for each of the Audits. Hall was in charge of the Firm's issuer audit practice, and he was the Firm's contact with the Board. Hall took or omitted to take actions knowing, or recklessly not knowing, that his acts and/or omissions would directly and substantially contribute to the Firm's violations of PCAOB rules and auditing standards.

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C. Respondents Violated PCAOB Rules and Auditing Standards in Connection with the Audits.

8. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6] Among other things, those standards require that an auditor exercise due professional care and professional skepticism in performing the audit.[7]

9. PCAOB standards require auditors to take certain steps in connection with the identification and assessment of risks of material misstatement. An auditor should evaluate whether the company's selection and application of accounting principles are appropriate for its business and consistent with the applicable financial reporting framework and accounting principles used in the relevant industry.[8] Also, "[t]he auditor should evaluate whether the information gathered from the risk assessment procedures indicates that one or more fraud risk factors are present and should be taken into account in identifying and assessing fraud risks."[9] The improper recognition of revenue is a presumed fraud risk.[10]

10. To determine whether an identified and assessed risk is a significant risk, the auditor should evaluate whether the risk requires special audit consideration because of the nature of the risk or the likelihood and potential magnitude of

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[6] See AU § 508.07, *Reports on Audited Financial Statements.*

[7] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*.

[8] See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS12") ¶¶ 12-13.

[9] Id. ¶ 65.

[10] Id. ¶ 68.

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misstatement related to the risk.[11] Relevant factors in determining whether a risk is a significant risk include: (a) whether the identified risk is a fraud risk; and (b) whether the risk involves significant transactions with related parties.[12] The assessment of risk should continue throughout the audit and, when the auditor obtains audit evidence that contradicts audit evidence on which the original risk assessment was made, "the auditor should revise the risk assessment and modify planned audit procedures or perform additional procedures in response to the revised risk assessments."[13]

11. PCAOB auditing standards require auditors to design and implement appropriate audit responses to the risks of material misstatement.[14] The auditor should determine whether it is necessary to make pervasive changes to the nature, timing, or extent of audit procedures to adequately address the assessed risks of material misstatement.[15] "The auditor's responses to the assessed risks of material misstatement, particularly fraud risks, should involve the application of professional skepticism in gathering and evaluating audit evidence."[16] Also, the auditor should gain an understanding of the business rationale for significant unusual transactions and evaluate whether that rationale (or the lack thereof) suggests that the transactions may have been entered into to engage in fraud.[17]

12. The auditor must plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[18] The "auditor should take into account all relevant audit evidence, regardless of whether it appears to corroborate or to contradict the assertions in the financial statements."[19]

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[11] Id. ¶ 70.

[12] Id. ¶ 71.

[13] Id. ¶ 74.

[14] Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS13") ¶ 3.

[15] Id. ¶ 6.

[16] Id. ¶ 7.

[17] AU § 316.66, *Consideration of Fraud in a Financial Statement Audit*.

[18] Auditing Standard No. 15, *Audit Evidence* ("AS15") ¶ 4.

[19] Auditing Standard No. 14, *Evaluating Audit Results* ("AS14") ¶ 3.

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The auditor must evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[20] "If the auditor has not obtained sufficient appropriate audit evidence about a relevant assertion . . . the auditor should perform procedures to obtain further audit evidence to address the matter."[21] The auditor must evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[22]

13. As described below, Respondents failed to comply with the above PCAOB rules and auditing standards in connection with the Audits.

Seven Arts

14. At all relevant times, Seven Arts Entertainment Inc. was a Nevada corporation headquartered in Los Angeles, California. The public filings of Seven Arts disclosed that it was a motion picture production company. At all relevant times, its common stock was registered under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act")[23] and was quoted on the OTC Pink marketplace. At all relevant times, Seven Arts was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

15. Hall was the engagement partner for the Firm's audit of the June 30, 2012 financial statements of Seven Arts, and he supervised the work of the engagement team. On October 14, 2012, Hall authorized the Firm's issuance of an audit report expressing an unqualified opinion on Seven Arts' financial statements. The audit report was included in the Form 10-K that Seven Arts filed with the Commission on October 15, 2012.

16. At the time of the audit, Respondents understood that the majority of the revenue recognized by Seven Arts resulted from a significant unusual transaction between the company and a related party. Seven Arts disclosed in its public filings that

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[20] Id. ¶ 4.

[21] Id. ¶ 35.

[22] Id. ¶¶ 30-31.

[23] On February 27, 2015, Seven Arts filed a Form 15, *Certification and Notice of Termination of Registration*, with the U.S. Securities and Exchange Commission ("Commission") terminating the company's registration.

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it was a motion picture production and distribution company. Ninety percent of the revenue that the company recognized in FY 2012, however, related to applications for tax credits for rehabilitating a house in New Orleans. The house was owned by a related party; namely, a company formed by the wife of the CEO of Seven Arts. Seven Arts guaranteed construction loans for the related party and, in exchange, the related party assigned to Seven Arts the proceeds of the tax credits. The company recognized revenue on this transaction in the amount of approximately $7.5 million.

17. Respondents failed to obtain sufficient appropriate audit evidence to evaluate whether an earnings process had taken place such that revenue could be recognized on this transaction. Respondents failed to evaluate whether Seven Arts had substantially accomplished what the company must do to be entitled to the benefits represented by the proceeds of the tax credits. More specifically, Respondents failed to evaluate whether goods had been delivered, services rendered, or other activities that constituted the company's ongoing major or central operations had been performed, as required by U.S. Generally Accepted Accounting Principles ("GAAP").[24]

18. Respondents also failed to obtain sufficient appropriate audit evidence to evaluate whether the proceeds of the tax credits were collectible.[25] Respondents ignored contrary audit evidence that called into question the collectability of these proceeds. Respondents were aware, at the time of the audit, of the following matters: (a) none of the proceeds had been received, either by the related party or by Seven Arts; (b) there was a lack of third-party evidence supporting that the applications for the tax credits had received final approval; (c) the FBI had subpoenaed Firm work papers in connection with an investigation involving the related party's applications for certain of the tax credits; (d) the U.S. Attorney in New Orleans was investigating a potential fraud in connection with the related party's application for certain of the tax credits; and (e) the Louisiana State Auditor was investigating the related party in connection with its application for certain of the tax credits.

19. Respondents were aware of these red flags; however, Respondents failed to perform procedures to obtain further audit evidence to address these matters.

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[24] Financial Accounting Standards Board Accounting Standards Codification ("ASC") Topic 605-10-25-1, *Revenue Recognition*.

[25] Id.

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Medient

20. At all relevant times, Medient Studios, Inc.[26] was a Nevada corporation headquartered in Los Angeles, California. Medient's public filings disclosed that it was a film production and distribution company. At all relevant times, its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTCQB marketplace.[27] At all relevant times, Medient was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

21. Hall was the engagement partner for the Firm's audit of the December 31, 2012 financial statements of Medient, and he supervised the work of the engagement team. On April 15, 2013, Hall authorized the Firm's issuance of an audit report expressing an unqualified opinion, with a going concern explanatory paragraph, on Medient's financial statements. The audit report was included in the Form 10-K that Medient filed with the Commission on April 16, 2013.

Tax Credit Proceeds

22. In 2012, Medient recognized revenue in the amount of $1.4 million, or 43 percent of reported revenue, which consisted of Medient's right to the proceeds of certain United Kingdom film tax credits. Medient disclosed in its public filings that a United Kingdom taxing authority was expected to issue the tax credits to a related party of the company. Medient's CEO was a significant shareholder of that related party. At

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[26] On September 9, 2014, Medient filed a Form DEF-14C, *Definitive Information Statement,* with the Commission stating that Medient had changed its name to Moon River Studios, Inc.

[27] The Commission suspended the trading of Medient stock during the period June 25, 2014 through July 9, 2014, because of questions "about the accuracy and adequacy of publicly disseminated information concerning, among other things, the company's total shares outstanding and its operations." Medient Studios, Inc., TISO, Exchange Act Rel. No. 72462, 79 Fed. Reg. 36569 (June 25, 2014). After the expiration of the trading suspension, OTC Markets Group Inc. discontinued displaying quotes for Medient, and began identifying Medient as a Grey Market security. On March 12, 2015, the company filed with the Commission a Form 25, *Notification of Removal from Listing and/or Registration,* stating that the company had complied with the rules and requirements governing the voluntary withdrawal of the company's common stock from listing and registration on the OTC Markets.

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the time of the audit, Respondents determined that there was a significant risk of material misstatement for this transaction because the proceeds of the tax credits were due from a related party.

23. Respondents failed to obtain sufficient appropriate audit evidence to evaluate whether an earnings process had taken place. More specifically, Respondents failed to evaluate whether goods had been delivered, services rendered, or other activities that constituted the company's ongoing major or central operations had been performed.[28]

24. Respondents also failed to obtain sufficient appropriate audit evidence to evaluate whether the proceeds from the film tax credits were collectible.[29] Respondents ignored contrary audit evidence that called into question the collectability of these proceeds. Among other things, the Firm's work papers contained information related to the following matters: (a) the asset purchase agreement between the related party and the prior owner of the tax credits excluded "[a]ll refunds, credits, or overpayments with respect to Taxes" from the sale; (b) no tax credits had been received, either by Medient or by the related party, at the time of the audit; and (c) there was no evidence that the application for the tax credits had been filed with, or approved by, the taxing authority.

25. Respondents were aware of these red flags; however, Respondents failed to perform procedures to obtain further audit evidence to address these matters.

Advance from License Agreement

26. In 2012, Medient also recognized revenue in the amount of $1.3 million, or 41 percent of total reported revenue, arising out of an advance purportedly due from a motion picture studio. The agreement that entitled Medient to this advance was executed on September 4, 2012. The 2012 agreement was the second amendment to an earlier agreement between the parties. The earlier agreement was dated May 20, 2011. The 2012 agreement increased the original advance amount from approximately $1.1 million to approximately $1.3 million.

27. Respondents failed to obtain sufficient appropriate evidence to evaluate whether it was appropriate for Medient to recognize the advance as revenue. Respondents ignored contrary audit evidence that called into question the

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[28] ASC Topic 605-10-25-1.

[29] Id.

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collectability[30] of the purported revenue, including the following matters: (a) none of the original $1.1 million advance from May 2011 had been paid; and (b) none of the additional advance from September 2012 had been paid. Respondents were aware of these red flags; however, Respondents failed to perform procedures to obtain further audit evidence to address these matters.

Freestone

28. At all relevant times, Freestone Resources, Inc. was a Nevada corporation headquartered in Dallas, Texas. Freestone's public filings disclosed that it was an oil and gas technology development company. At all relevant times, its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTCQB marketplace. At all relevant times, Freestone was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

29. Hall was the engagement partner for the Firm's audit of the June 30, 2012 financial statements of Freestone, and he supervised the work of the engagement team. On September 19, 2012, Hall authorized the Firm's issuance of an audit report expressing an unqualified opinion, with a going concern explanatory paragraph, on Freestone's financial statements. The audit report was included in the Form 10-K that Freestone filed with the Commission on September 24, 2012.

Asset Retirement Obligation

30. Respondents failed to gather sufficient appropriate audit evidence to evaluate whether Freestone's accounting for an asset retirement obligation ("ARO") complied with GAAP. During FY 2012, Freestone recognized an increase in the liability for the cost to plug and abandon oil and gas properties. The ARO liability equaled 43 percent of total reported liabilities. Freestone failed to capitalize this additional cost to the related oil and gas assets. Instead, Freestone applied this cost to current expenses. Respondents failed to evaluate whether this complied with GAAP.[31]

Financial Statement Disclosures

31. Freestone failed to make the supplemental financial statement disclosures required of oil and gas producing companies. Supplemental disclosures are required when a company's revenues from oil and gas production equal or exceed 10 percent of

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30 Id.

31 See ASC Topic 410, *Asset Retirement and Environmental Obligations*.

total revenues.[32] In FY 2012, 100 percent of Freestone's revenues resulted from oil or gas production. Respondents failed to gather sufficient appropriate audit evidence to evaluate whether Freestone's omission of supplemental disclosures complied with GAAP.

D. Respondents Failed to Comply with PCAOB Auditing Standards in Connection with the Engagement Quality Reviews for the Audits.

32. AS7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[33] The EQR must possess the level of knowledge and competence related to accounting, auditing, and financial reporting required to serve as the engagement partner on the engagement under review.[34] An EQR of a firm must be a partner or another individual in an equivalent position.[35] An EQR should not make decisions on behalf of the engagement team, or assume any of the responsibilities of the engagement team.[36]

33. In connection with the FY 2012 audits of the financial statements of Seven Arts and Freestone, the Firm failed to comply with AS7. Hall assigned an auditor of the Firm to serve as the EQR for both audits. The auditor was not a partner or another individual in an equivalent position at the Firm. The highest level that the auditor had held on an engagement team was to serve as an audit senior. The auditor, as well, was not a licensed certified public accountant. This auditor did not possess the level of knowledge and competence required to serve as the engagement partner on the engagements under review.

34. In connection with the Firm's audit of the 2012 financial statements of Medient, Hall served as the EQR. At the same time that Hall served as the EQR, he also served as the engagement partner for this audit. Hall, therefore, made decisions and assumed responsibilities on behalf of the audit engagement team at the same time that he was serving as the EQR, in violation of AS7.

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[32] See ASC Topic 932-235-50-2, *Extractive Activities – Oil and Gas*.

[33] AS7 ¶ 1.

[34] Id. ¶ 5.

[35] Id. ¶ 3.

[36] Id. ¶ 7.

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E. Respondents Violated PCAOB Rule 4006 and AS3.

35. PCAOB rules require that registered public accounting firms and their associated persons "shall cooperate with the Board in the performance of any Board inspection."[37] This cooperation obligation "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes."[38] PCAOB auditing standards require auditors to make certain written disclosures when they add information to work papers after the documentation completion date for an audit.[39] As described below, Respondents violated PCAOB Rule 4006 and AS3.

36. October 14, 2012 was the report release date for the audit of the FY 2012 financial statements of Seven Arts.[40] The documentation completion date for the audit was November 28, 2012.[41]

37. On or before June 17, 2013, Respondents learned that the Board would inspect the Firm's audit of the FY 2012 financial statements of Seven Arts. After learning that this audit would be inspected, Hall, and others acting at his direction, improperly altered, added to, and backdated archived work papers without making the disclosures required by AS3. The altered work papers were made available to the Board's inspectors in connection with the inspection. At no time did Respondents advise the inspectors that these work papers were altered shortly before the inspection.

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[37] PCAOB Rule 4006.

[38] See *Henry Mendoza, CPA*, PCAOB Rel. No. 105-2014-004, ¶ 6 (May 6, 2014).

[39] AS3 ¶ 16 (requiring auditor to disclose the date that information was added to the work papers, the name of the person who prepared the additional documentation, and the reason for adding the information to the work papers after the documentation completion date).

[40] See id. ¶ 14 (defining report release date as the "date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements").

[41] See id. ¶ 15 (defining documentation completion date as "a date not more than 45 days after the report release date").

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38. Hall, and others acting at his direction, added sign-offs to critical work papers that lacked such sign-offs at the time of the audit. The sign-offs were backdated to the time of the audit. Also, Hall added audit conclusions to existing work papers without indicating that the conclusions were added shortly before the Board's inspection. And an engagement team member, acting at Hall's direction, drafted and backdated certain work papers shortly before the inspection. These work papers did not exist, in any form, at the time of the audit. This conduct violated PCAOB Rule 4006.

39. Hall, and others acting at his direction, failed to indicate the dates that the alterations were made to the work papers, the names of the persons making the alterations, and the reason for making the alterations after the documentation completion date. This conduct failed to comply with AS3.

F. The Firm Violated PCAOB Rules 2200 and 2202.

40. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200 provides that "[e]ach registered public accounting firm must file with the Board an annual report[.]" PCAOB Rule 2201, *Time for Filing of Annual Report*, states that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and PCAOB Rule 2200, the Firm failed to file an annual report for 2014.

41. Pursuant to Section 102(f) of the Act, PCAOB Rule 2202 provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31" of any year that the firm is required to file an annual report. In violation of PCAOB Rule 2202, the Firm failed to pay its annual fee for 2014.

G. Hall Substantially Contributed to the Firm's Violations of Relevant Laws, Rules, and Professional Standards.

42. PCAOB rules prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that firm of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.[42]

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[42] PCAOB Rule 3502.

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43. At all relevant times, Hall was the: (a) sole owner of the Firm; (b) partner in charge of the Firm's issuer audit practice; (c) engagement partner for each of the Audits; and (d) contact person with the Board. Hall had overall responsibility for assuring that the Firm complied with relevant laws, rules, and professional standards. Hall knew, or was reckless in not knowing, that his acts and omissions directly and substantially contributed to the Firm's violations of relevant laws, rules, and professional standards in connection with the Firm's performance of engagement quality reviews, and the Firm's failure to file an annual report with the Board and to pay an annual fee to the Board, as described above. As a result, Hall violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), The Hall Group, CPAs and David S. Hall are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), David S. Hall is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[43]

C. After three (3) years from the date of this Order, David S. Hall may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of The Hall Group, CPAs is revoked;

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[43] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Hall. Section 105(c)(7)(B) of the Act provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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E. After three (3) years from the date of the Order, The Hall Group, CPAs may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon The Hall Group, CPAs. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Hall Group, CPAs shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies The Hall Group, CPAs as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

April 26, 2016

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2016-016
In the Matter of AWC (CPA) Limited, WONG Chi Wai, CPA, and WONG Fei Cheung, CPA,	May 18, 2016
Respondents.	

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring AWC (CPA) Limited ("AWC" or the "Firm"), revoking the Firm's registration, and imposing a civil money penalty in the amount of $10,000 upon the Firm;[1] censuring WONG Chi Wai, CPA, also known as Albert Wong ("Albert Wong"), barring him from being an associated person of a registered public accounting firm, imposing a civil money penalty of $10,000;[2] and censuring WONG Fei Cheung, CPA, also known as Martin Wong ("Martin Wong"), barring him from being an associated person of a registered public accounting firm, and imposing a civil money penalty in the amount of $5,000.[3] The Board is imposing these sanctions on the basis of its findings that in connection with the audits of one issuer client: (a) the Firm, Albert Wong, and Martin Wong violated PCAOB rules and standards and Section 10A(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act"); (b) the Firm violated Section 10A(g) of the Exchange Act, Exchange Act Rule 10A-2, and PCAOB rules and standards; and (c) the Firm violated PCAOB quality control standards and Albert Wong directly and substantially contributed to the Firm's violation of PCAOB quality control standards.

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Albert Wong may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

[3] Martin Wong may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against the Firm, Albert Wong, and Martin Wong (collectively "Respondents").

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions (the "Order") as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds[5] that:

A. Respondents

1. **AWC (CPA) Limited** ("AWC" or the "Firm"), a public accounting firm incorporated in the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong"), is registered with the Hong Kong Institute of Certified Public Accountants ("HKICPA") as a certified public accounting firm (License No. 1186). AWC

[4] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB Rules.[6] At all relevant times, AWC was the external auditor of Kandi Technologies Group, Inc.

2. **WONG Chi Wai**, also known as Albert Wong ("Albert Wong"), 49, of Hong Kong, is a certified public accountant (practising) registered with the HKICPA (License No. P2231) and the managing director of AWC. At all relevant times, he was the sole proprietor of AWC and the engagement partner on the audits of the consolidated financial statements of Kandi Technologies Group, Inc. for the years ended December 31, 2010, December 31, 2011, and December 31, 2012 (collectively, the "Kandi Audits"). Albert Wong is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **WONG Fei Cheung**, also known as Martin Wong ("Martin Wong"), 45, of Hong Kong, is a certified public accountant (practising) registered with the HKICPA (License No. A18467) and a certified practising accountant licensed by CPA Australia (License No. 1878973). At all relevant times, Martin Wong was the Director of Audit at AWC and reported to Albert Wong. Martin Wong is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Other Relevant Entity and Individuals

4. **AWC LLP**[7] is a limited liability partnership organized under New York law, headquartered in New York, New York and is licensed by New York State Education Department (License No. 67333) to practice public accountancy.[8] AWC LLP is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, AWC LLP was an affiliate and associated entity of AWC.

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[6] In January 2015, AWC (CPA) Limited succeeded to the registration status of its predecessor, Albert Wong & Co., a Hong Kong sole proprietorship.

[7] In October 2015, AWC LLP changed its legal name from Albert Wong & Co. LLP.

[8] See AWC LLP, Mun Leung CHUNG, CPA, and Lam Shan MUI, CPA, PCAOB Release No. 105-2016-017 (May 18, 2016).

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5. **Mun Leung CHUNG**, also known as Clive Chung ("Chung"), 55, of New York, New York and Hong Kong, is a certified public accountant licensed by New York State Education Department (License No. 076306) and is also a certified public accountant (practising) registered with the HKICPA (License No. A37788). Chung is, and at all relevant times was, the managing partner of AWC LLP. Chung also served as the engagement quality reviewer for the Kandi Audits. Chung is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

6. **Lam Shan MUI** ("Mui"), 67, of New York, New York, is a certified public accountant licensed by New York State Education Department (License No. 072623). At all relevant times, Mui was a partner of AWC LLP and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

C. Summary

7. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the issuance of audit reports on the consolidated financial statements of Kandi Technologies Group, Inc. ("Kandi" or the "Company") for the years ended December 31, 2010, 2011, and 2012. As detailed below, Respondents, among other things, failed repeatedly to exercise due professional care and professional skepticism, to obtain sufficient appropriate audit evidence with respect to financial statement assertions, to include procedures designed to provide reasonable assurance of detecting fraud or illegal acts that would have a direct and material effect on the determination of financial statement amounts, and to prepare and maintain adequate audit documentation.

8. As the auditor with final responsibility and the engagement partner on the Kandi Audits, Albert Wong also failed to supervise the engagement staff.

9. Throughout the Kandi Audits, the Firm repeatedly violated PCAOB Auditing Standard No. 7, *Engagement Quality Review* ("AS No. 7"), by failing to have an engagement quality review performed with objectivity. As described below, the engagement quality reviewer in the Kandi Audits did not maintain objectivity because while serving in this capacity, he was an active member of the engagement team and performed audit procedures with respect to the audit of Kandi's deferred taxes and related disclosures.

10. In addition, the Firm and Albert Wong violated Section 10A(g) of the Exchange Act, Exchange Act Rule 10A-2, and PCAOB rules and standards that require a registered public accounting firm and its associated persons to be independent of the

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firm's audit client throughout the audit and professional engagement period. The Firm and Albert Wong were not independent of Kandi for the 2012 audit because a partner of AWC LLP, an affiliate and associated entity of the Firm, provided prohibited non-audit services to Kandi by accepting a Power-of-Attorney from Kandi and representing Kandi before a New York State regulatory agency.

11. Finally, the Firm failed to comply with PCAOB quality control standards in connection with the audits described herein, when it did not establish policies and procedures to provide the Firm with reasonable assurance that its personnel maintained independence in all required circumstances;[9] the work performed by the engagement personnel met applicable professional standards, regulatory requirements, and the firm's standards of quality;[10] and the policies and procedures established by the firm for the elements of quality control were suitably designed and were being effectively applied.[11] Albert Wong, as the sole-proprietor and person ultimately responsible for the design, implementation and maintenance of the Firm's system of quality control took, or omitted to take, actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of PCAOB quality control standards, in contravention of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations.*

D. Respondents' Violations of PCAOB Rules and Standards and the Exchange Act

12. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[12] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor

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[9] QC §§ 20.09–.10, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[10] QC §§ 20.07 and 20.17–.19.

[11] QC §20; see also QC §§ 30.02 – .03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[12] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB standards are to the versions of those standards in effect at the time of the audits.

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has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[13]

13. For audits of fiscal years beginning before December 15, 2010, the standards require, among other things, that the auditor obtain sufficient competent evidential matter to provide a reasonable basis for forming an opinion regarding the financial statements.[14] For audits of fiscal years beginning on or after December 15, 2010, the standards require, among other things, that the auditor plan and perform the audit to obtain appropriate audit evidence that is sufficient to support the opinion expressed in the auditor's report.[15] Those standards also state that the engagement partner is responsible for proper supervision of engagement team members. Supervision includes, among other things, informing the engagement team of matters that could affect the procedures to be performed or the evaluation of the results of those procedures; and reviewing the engagement team's work to evaluate whether it was properly performed and documented, the objectives of the procedures were achieved, and the results of the work support the conclusion reached.[16]

14. PCAOB standards further require that an auditor exercise due professional care and professional skepticism, in the performance of the audit and preparation of the report.[17] PCAOB standards also require that auditors perform procedures to identify, assess, and respond to risks of material misstatement due to fraud.[18] The Exchange Act further requires a registered public accounting firm to include procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts in public company audits.[19]

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[13] See AU § 508.07, *Reports on Audited Financial Statements*.

[14] See AU § 326, *Evidential Matter*.

[15] See Auditing Standard No. 15, *Audit Evidence* ("AS No. 15").

[16] See Auditing Standard No. 10, *Supervision of the Audit Engagement* ("AS No. 10").

[17] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work.*

[18] See AU § 316, *Consideration of Fraud in a Financial Statement Audit*.

[19] See Section 10A(a)(1) of the Exchange Act.

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15. In addition, PCAOB standards require audit documentation to contain sufficient information to enable an experienced auditor, having no previous connection with the engagement: (a) to understand the nature, timing, extent and results of the procedures performed, evidence obtained, and conclusions reached; and (b) to determine who performed the work and the date the work was completed as well as the person who reviewed the work and the date of such review.[20]

16. An engagement quality review and concurring approval of issuance are required for an audit conducted pursuant to PCAOB standards. The engagement quality reviewer must be independent of the company, perform the engagement quality review with integrity, and maintain objectivity in performing the review.[21]

17. As described below, Respondents failed to comply with PCAOB rules and standards during the Kandi Audits. In addition, Respondents failed to comply with applicable Exchange Act requirements in the audit of Kandi's 2010 financial statements.

i. Audit of Kandi's 2010 Financial Statements

18. Kandi Technologies Group, Inc. is, and at all relevant times was, a Delaware corporation with its headquarters and primary operations in Zhejiang Province, People's Republic of China ("PRC"). Kandi's public filings disclose that it is a manufacturer of electric vehicles, go-karts, all-terrain vehicles and other specialty vehicles for sale domestically and abroad. Its common stock is registered under Section 12(b) of the Exchange Act, and is quoted on the NASDAQ Stock Market. At all relevant times, Kandi was an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

19. AWC issued an audit report, dated March 31, 2011, expressing an unqualified opinion on Kandi's financial statements for the year ended December 31, 2010. The report was included in Kandi's Form 10-K, filed with the Securities and Exchange Commission ("Commission") on March 31, 2011. Albert Wong, as the auditor with final responsibility for the audit of Kandi's financial statements for the year ended December 31, 2010 ("Kandi 2010 Audit"), authorized the issuance of the audit report.

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[20] See Auditing Standard No. 3, *Audit Documentation* ("AS No. 3"), ¶ 6.

[21] See Auditing Standard No. 7, *Engagement Quality Review* ("AS No. 7"), ¶¶ 1, 6 and 7.

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Cash Testing

20. In its consolidated financial statements for the year ended December 31, 2010, Kandi reported cash and restricted cash balances of $25.2 million representing approximately 34% of $74.3 million in total current assets. For $7.1 million[22] of cash and restricted cash accounts, representing 28% of the total cash and restricted cash balances, Respondents failed to exercise due professional care and skepticism and to obtain sufficient competent evidential matter in relying primarily on management representations that the funds held in the personal accounts of a staff person in Kandi's finance department ("Cashier") and Kandi's Chairman ("Chairman") met all of the relevant financial statement assertions to be presented as Kandi's cash or restricted cash as of December 31, 2010.

21. For example, $3.0 million of the cash reported by Kandi in the financial statements was held in a personal account of the Cashier at year end. To support the assertions for this balance, Respondents inappropriately relied on management's written representations that the Cashier was authorized to hold this amount on Kandi's behalf without obtaining any additional evidence to support that the cash existed at year end or that Kandi had the rights to it. Despite contradictory evidence in Kandi's records indicating that this amount might have been a loan to the Cashier, Respondents failed to investigate the circumstances or otherwise consider the reliability of management's representations.[23]

22. The Cashier also held $2.5 million of cash, reported as restricted cash in the financial statements, in two of her personal accounts at year end, for which Respondents failed to obtain sufficient competent evidential matter regarding the relevant financial statement assertions. Respondents relied on the Cashier's written representations, dated in September and October of 2010, that these amounts existed in these two personal accounts, and Kandi had the rights to them at year end.

23. With respect to $1.6 million of Kandi's cash reported as restricted and held in personal accounts of the Chairman, Respondents also placed inappropriate reliance on management representations and ignored contradictory audit evidence. For $0.8 million of cash reported as restricted in Kandi's financial statements as of December 31,

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[22] Amounts presented in this Order in U.S. dollars ($) that were originally denominated in Chinese Yuan (Renminbi) have been converted per the applicable exchange rates used for financial statement reporting purposes in the respective Kandi Audits.

[23] See AU § 333.04, *Management Representations*.

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2010, Respondents placed improper reliance on the Chairman's written representation that he held this amount on behalf of Kandi as of May 5, 2010, without corroborating this representation. With regard to an additional $0.8 million of cash reported as restricted, Respondents obtained no corroborating audit evidence after management represented, in response to a discrepancy in a bank confirmation reply, that amount was instead held by the Chairman in a personal account. Respondents failed to perform sufficient audit procedures to resolve the confirmation exception and failed to perform sufficient tests to address the relevant financial statement assertions concerning the balances.

24. During the 2010 Audit, Respondents identified as a significant unusual transaction the aforementioned $3.0 million of cash held in the Cashier's personal account and reported this transaction to the audit committee as evidence of a key internal control weakness. However, for the remaining $4.1 million of restricted cash held in the Cashier and Chairman's personal accounts, Respondents failed to consider whether these amounts, which were similar in nature to the $3.0 million transaction reported to the audit committee as a key control weakness, were also significant unusual transactions and to report them to the audit committee.

25. Kandi management represented to Respondents that the $3.0 million temporarily held by the Cashier in her personal account was at the request of Kandi's bank. However, for all of the cash and restricted cash balances held in the personal accounts of the Cashier and Chairman, Respondents failed to consider management's rationale of having Company funds held in the personal bank accounts of the Cashier and Chairman, and whether the stated business rationale (or lack thereof) suggested that the transaction may have been entered into to engage in fraudulent financial reporting or conceal the misappropriation of assets.[24]

26. At no time during the Kandi 2010 Audit did Respondents consider whether the cash amounts reported as restricted and held in the Chairman's personal accounts represented personal loans from Kandi that might constitute illegal acts, or for which disclosure would have been required as related party transactions. As a result, Respondents violated Section 10A(a)(1) of the Exchange Act by failing to include in the audit procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts.[25]

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[24] See AU § 316.66–.67.

[25] See 15 U.S.C. § 78j-1(a)(1).

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The Kandi USA Inc. Transactions

27. In its 2010 financial statements, Kandi reported accounts receivable of approximately $17 million, which represented 23% of total reported current assets. The Respondents knew that prior to the adjustment described below, Kandi's accounting records originally recorded total sales to Kandi USA Inc. ("Kandi USA") of $2.1 million at year end.[26] Further, Kandi USA was one of the top five largest outstanding accounts receivable balances at year end and was Kandi's fifth largest customer by revenue, representing 5% of Kandi's reported net revenue and 8% of the reported accounts receivable.

28. In planning the audit, Respondents had identified related party transactions and revenue as key audit risks. Additionally, in assessing control risks, Respondents identified an internal control deficiency, related to the identification, monitoring and review of related party transactions and conflicts of interests, as a key control weakness.

29. After learning that transactions involving Kandi USA had been recorded under a pseudonym, Respondents inquired several times of management whether Kandi USA was a related party of Kandi and, when management did not adequately respond to their inquiries, failed to take those responses into consideration in the audit. Five days before Kandi's Form 10-K filing deadline, Respondents ultimately received an email that included a suggestion from Kandi's Chairman that revenue from the Kandi USA sales had been incorrectly recorded, and should be changed to reflect the revenue as being from sales to Zhejiang Yongkang Top Import & Export Co. ("Dingji"). Respondents understood that, until 2008, Dingji had been Kandi's subsidiary. At the time of the Kandi 2010 Audit, they further understood that Dingji was Kandi's second largest customer, and was owned, in part, by the "legal representative" of Kandi's largest supplier, Zhejiang Mengdeli Electric Co. Ltd ("Mengdeli").[27] Respondents also

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[26] References to Kandi USA amounts as originally recorded refer to amounts relating to transactions recorded under a pseudonym used by Kandi during 2010 for its transactions involving Kandi USA.

[27] In the PRC, a "legal representative" is a natural person appointed to act on a company's behalf, and who is authorized to perform all acts regarding general administration of a company, including the authority to enter into contractual agreements and assume responsibilities for the company. See, e.g., Daisy Xu & Matthew McKee; Legal Representatives: Understanding the Risks and Responsibilities; (February 24, 2016); http://www.lehmanlaw.com/fileadmin/lehmanlaw_com/Publications/Briefing_Paper_Series/Legal_Representatives-Understanding_the_Risks_and_Responsibilities.pdf.

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knew that Kandi had pledged fixed assets of $11.5 million as collateral to guarantee Mengdeli's bank loans and that Mengdeli had also acted as the guarantor on a $15.1 million bank loan taken out by Kandi.

30. Attached to the emailed suggestion from Kandi's Chairman were a sample sales contract, which was between Kandi and Dingji, and its related official export invoices issued and filed by Kandi with the relevant governmental authorities. The export invoices, which were required to ship goods overseas, show the seller as Kandi and the buyer as Kandi USA, with Los Angeles USA as the shipping destination. Notwithstanding contradictory audit evidence and based primarily on a review of those sample documents, Respondents agreed with the Chairman's suggestion to adjust the revenue and related receivable from Kandi USA to Dingji. At the time Respondents agreed with the Chairman's suggestion to adjust all of Kandi USA transactions to Dingji, the engagement team had additional contradictory audit evidence, including: (i) a confirmation response from Kandi USA confirming its account receivable balance as of year-end; (ii) an initial confirmation response from Dingji, confirming an account receivable that did not include the amounts relating to the transactions with Kandi USA; and (iii) cash receipt transactions showing that Kandi USA had paid Kandi for a selection of these sales.

31. Respondents failed to perform sufficient procedures to corroborate management's last-minute assertions that revenue originally recorded as being from Kandi USA should have been from Dingji. And they failed to exercise due professional care and professional skepticism by ignoring red flags and failing to address the contradictory audit evidence that indicated Kandi USA was the actual purchaser of Kandi's vehicles.[28]

32. The auditor's assessment of the risks of material misstatement due to fraud should be ongoing throughout the audit and include conditions, such as last-minute adjustments, that significantly affect financial results.[29] When audit test results identify misstatements in the financial statements, the auditor should consider whether such misstatements may be indicative of fraud.[30] Despite the aforementioned red flags, Respondents failed to assess the risk of fraud related to these last-minute adjustments to reflect the Kandi USA revenue as being from Dingji, including whether

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[28] See AU § 411.06, *The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles*.

[29] See AU § 316.68.

[30] See AU § 316.75.

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these adjustments were motivated by management's desire to conceal Kandi's transactions with Kandi USA in order to avoid related party disclosures. Furthermore, despite their knowledge that Mengdeli's legal representative was one of Dingji's two owners and thus able to exert some control over both entities, Respondents failed to determine whether Dingji might be a related party.[31]

33. Significantly, Respondents failed to document their rationale for concluding that the sales transactions to Kandi USA be adjusted to Dingji.[32] Respondents, in preparing the final set of audit documentation, also eliminated all references to Kandi USA, in violation of audit documentation requirements.

Subsequent Discovery that Kandi USA was a Related Party

34. PCAOB standards require that when an auditor becomes aware of information related to financial statements previously reported on by him, but which was not known to him at the date of his report, and which is of such a nature and from such a source that he would have investigated it had it come to his attention during the course of his audit, he should, as soon as practicable, undertake to determine whether the information is reliable and whether the facts existed at the date of his report. The auditor should also discuss the matter with his client at whatever management levels he deems appropriate, including the board of directors, and request cooperation in whatever investigation may be necessary.[33]

35. In May 2011, less than six weeks after the Firm issued its report on Kandi's 2010 consolidated financial statements, Kandi filed a Form 8-K. The Form 8-K included a letter from Kandi's Chairman stating, among other things, that the son of Kandi's Chairman was the owner of Kandi USA. After becoming aware of this disclosure, Respondents failed to take appropriate steps to address this new information. Specifically, they failed to determine whether the nature and effect of that information were such that it would have affected AWC's previously released audit report, including whether management's evasive responses regarding Kandi USA during the audit and the Chairman's suggestion to adjust the revenue from Kandi USA,

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[31] See FASB Accounting Standards Codification ("ASC") Master Glossary, *Related Parties*.

[32] See AS No. 3 ¶ 8.

[33] See AU § 561.04, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*.

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among other things, were fraud risks factors,[34] or otherwise cast doubt on management's integrity and the reliability of the representations made during the Kandi 2010 Audit.[35]

ii. Audit of Kandi's 2011 Financial Statements

36. The Firm issued an audit report, dated March 30, 2012, expressing an unqualified opinion on Kandi's financial statements for the year ended December 31, 2011. The report was included in Kandi's Form 10-K, filed with the Commission on March 30, 2012. Albert Wong authorized the issuance of the report.

37. As the engagement partner for the audit of Kandi's financial statements for the year ended December 31, 2011 ("Kandi 2011 Audit"), Albert Wong was responsible for supervision of the engagement team. Albert Wong failed to evaluate whether the work of engagement team was properly performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached. For example, Albert Wong failed to address instances in which the engagement team did not document procedures performed, evidence obtained and conclusions reached during the Kandi 2011 audit.

38. In the financial statements filed with its Form 10-K, Kandi reported a notes receivable balance of $37.9 million as of December 31, 2011, of which $33.1 million was a note due from Yongkang HuiFeng Guarantee Co., Ltd. ("Huifeng"). In planning the Kandi 2011 Audit, Respondents identified the collectability of notes receivable as a key audit risk. Respondents also noted as a "major issue" that the Huifeng note receivable balance had increased significantly, and that in 2011, Kandi had received no payments on interest accrued in that year. Notwithstanding these identified risks, the engagement team failed to gain an appropriate understanding of the terms of the note, and to perform procedures, including sufficient tests of details, that were specifically responsive to the assessed risks.

39. Respondents failed to obtain sufficient appropriate evidence to support the valuation and disclosure assertion for notes receivable, in part, because the engagement team did not evaluate Huifeng's financial condition or credit worthiness, or adequately address audit evidence it obtained that contradicted management representations regarding the rationale for, and collectability of, the Huifeng note

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[34] See AU § 316.31–.33.

[35] See AU § 333.04.

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receivable.[36] Among other things, Respondents and the engagement team failed to demonstrate an understanding of the existence of any collateral and whether the loan was subject to any covenants, and that the subsequent settlements of the note disclosed in the financial statements were sufficiently supported by appropriate audit evidence.

iii. Audit of Kandi's 2012 Financial Statements

40. The Firm issued an audit report, dated April 1, 2013, expressing an unqualified opinion on Kandi's financial statements for the year ended December 31, 2012. The report was included in Kandi's Form 10-K, filed with Commission on April 1, 2013. Albert Wong authorized the issuance of the audit report. As the engagement partner for the audit of Kandi's financial statements for the year ended December 31, 2012 ("Kandi 2012 Audit"), Albert Wong was responsible for the supervision of the engagement team.

41. During the Kandi 2012 Audit, as in previous years, Respondents identified related party transactions as a key audit risk. However, Respondents and the engagement team failed to address red flags regarding related party transactions and failed to place emphasis on testing material transactions with a related party.[37]

42. Eliteway Motorsports ("Eliteway"), which was a trade name for Kandi USA, was Kandi's fifth largest customer for 2012, and its sales represented more than 8% of Kandi's 2012 net revenues. Although Respondents had known since May 2011 that Kandi USA was a related party to Kandi, Albert Wong failed to properly inform the other Kandi 2012 Audit engagement team members of this fact so that they could identify, and place appropriate emphasis on, testing material transactions with parties known to be related to Kandi.[38]

43. During the Kandi 2012 Audit, the engagement team traced subsequent settlements of the Eliteway receivable to documents showing that Kandi USA had paid such amounts to Kandi, and that, in fact, Kandi USA was doing business as Eliteway. The engagement team also saw invoices issued to Kandi USA for transactions Kandi recorded as Eliteway's. Yet, there is no evidence in the Kandi 2012 Audit that the

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[36] See AS No. 13, *The Auditor's Responses to the Risks of Material Misstatement*, ¶ 11, and AS No. 15.

[37] See AU § 334.07, *Related Parties*.

[38] See AU § 334.07, .08.

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engagement team appropriately identified these transactions as being with a related party. Consequently, Respondents failed to identify that the Eliteway transactions, which were material, were not properly disclosed as related party transactions in the financial statements in Kandi's 2012 Form 10-K filing.[39]

iv. Respondents Violated Audit Documentation Requirements during the Kandi Audits

44. PCAOB standards require that the "auditor must document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions. Audit documentation must clearly demonstrate that the work was in fact performed…. Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement… [t]o determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review."[40]

45. Throughout the Kandi Audits, Respondents failed to comply with these documentation requirements. Albert Wong and Martin Wong repeatedly failed to document their review of the work of the engagement team members, in order to evaluate whether the teams' work was performed and documented, and to ensure that the engagement team complied with audit documentation requirements, including indicating who performed the work and the date such work was completed.[41] In addition to the audit documentation failures noted above, Respondents failed to document the required details of the discussion amongst engagement team members in planning the audit regarding the susceptibility of Kandi's financial statements to material misstatement due to fraud.[42]

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[39] In the course of the audit of Kandi's December 31, 2013 financial statements, Albert and Martin Wong learned that Kandi USA was doing business as Eliteway Motorsports. In Kandi's Form 10-K filed with the Commission for the year ended December 31, 2013, the disclosures for the 2012 transactions with Eliteway were then corrected as being with a related party.

[40] AS No. 3 ¶ 6.

[41] See AS No. 10 ¶ 5(c)(1), AS No. 3 ¶ 6(b).

[42] AU § 316.83.

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v. Albert Wong and the Firm Failed to Comply with Engagement Quality Review Requirements during the Kandi Audits

46. PCAOB standards require an engagement quality review and concurring approval of issuance for each audit engagement, and that the engagement quality reviewer perform the review with integrity, and maintain objectivity in performing the review.[43] To maintain objectivity, the engagement quality reviewer should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team.[44]

47. Throughout the Kandi Audits, Chung served as the engagement quality reviewer. Yet, because he was also concurrently responsible in those same audits for performing audit procedures on the deferred tax balances and related tax disclosures in Kandi's financial statements, his objectivity as engagement quality reviewer was impaired. As a result, AWC failed to obtain concurring approvals of issuance from an engagement quality reviewer who had maintained objectivity during the Kandi Audits.

48. Albert Wong, despite being aware of Chung's dual roles, took, or omitted to take, actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's engagement quality review violation by failing to determine that Chung's performance of these procedures impaired Chung's objectivity, in contravention of PCAOB Rule 3502.

E. Albert Wong and the Firm Failed to Comply with Auditor Independence Requirements in the Kandi 2012 Audit

49. PCAOB rules and standards require a registered public accounting firm and its associated persons to be independent of the firm's audit client throughout the audit and professional engagement period. That requirement includes an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB and all other independence criteria set out in the Commission's rules and regulations under the federal securities laws.[45]

50. Section 10A(g) of the Exchange Act provides that it shall be unlawful for a registered public accounting firm (and any associated person of that firm, to the extent

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[43] See AS No. 7 ¶¶ 1, 6.

[44] See AS No. 7 ¶ 7.

[45] See PCAOB Rule 3520, *Auditor Independence*; AU §220, *Independence.*

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determined appropriate by the Commission) to provide to an issuer, contemporaneously with the audit, certain non-audit services, including those involving management functions.[46]

51. Exchange Act Rule 10A-2 states that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the prohibited non-audit services of Commission Regulation S-X. Rule 2-01 of Regulation S-X provides an accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides certain non-audit services for audit clients, including performing any decision-making, supervisory, or ongoing monitoring function for the audit client, or performing services that place the accountant in a position of being an advocate for the audit client.[47]

52. The independence requirements in Rule 2-01 of Regulation S-X, including those prohibiting certain non-audit services, apply to a registered public accounting firm performing services in connection with an engagement for which independence is required, and include any accounting firm with which the certified public accountant or public accountant is affiliated.[48] As the auditor of Kandi's 2012 financial statements, the Firm and its associated persons and entities were required to be independent of Kandi during the audit and professional engagement period. During the 2012 audit and professional engagement period, AWC LLP was an affiliate and associated entity of AWC, and Chung and Mui were partners and associated persons of AWC LLP. Thus, Mui, and Chung, who also served as the engagement quality reviewer during the Kandi 2012 Audit, were required to be independent of Kandi.

53. During the audit and professional engagement period of the Kandi 2012 Audit, Chung obtained from Kandi a Power-of-Attorney naming Mui as Kandi's attorney-in-fact for the purpose of representing Kandi in all matters with a New York State regulatory agency. Mui accepted the Power-of-Attorney from Kandi and proceeded to represent Kandi before that agency, which resulted in a reduction of a penalty from Kandi's failure to comply with certain state laws. In the fall of 2012, Mui resolved the matter and executed an offer of settlement with that agency on Kandi's behalf. These activities, in violation of applicable independence rules, impaired the independence of AWC and its associated persons, including Albert Wong, of Kandi, because AWC LLP

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[46] See Section 10A(g)(6) of the Exchange Act.

[47] See 17 C.F.R. § 210.2-01(b), (c)(4)(vi).

[48] See Rule 2-01(f)(1) and (2) of Regulation S-X; 17 CFR §210.2-01.

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and its associated persons, including Mui and Chung, were not independent during the audit and professional engagement period of the Kandi 2012 Audit.

54. As the engagement partner, Albert Wong was responsible for AWC's compliance with independence requirements. Although Albert Wong knew at the time of the Kandi 2012 Audit that Mui had accepted a Power-of-Attorney from Kandi in order to handle the New York State agency matter, he failed to evaluate whether Mui's activities on Kandi's behalf constituted prohibited non-audit services that would impair Mui's independence, as well as AWC's and its associated persons. Albert Wong took, or omitted to take, actions during the Kandi 2012 Audit, that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of independence requirements, in contravention of PCAOB Rule 3502.

F. Albert Wong and the Firm Violated PCAOB Rules and Standards Related to Quality Control

55. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[49] PCAOB quality control standards require that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[50] PCAOB quality control standards state that policies and procedures should be established to provide the firm with reasonable assurance that "personnel maintain independence … in all required circumstances" and "that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[51] Additionally, PCAOB quality control standards provide that policies and procedures "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control ... are suitably designed and are being effectively applied," and that "its system of quality control is effective."[52]

56. Throughout the relevant time period, the Firm failed to have in place procedures providing reasonable assurance that the work performed by the engagement personnel met applicable professional standards, regulatory requirements,

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[49] PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[50] QC § 20.01.

[51] QC §§ 20.09-.10, and 20.17.

[52] QC § 20.20; see also QC § 30.03.

and the firm's standards of quality.[53] As described above, Firm personnel failed to perform procedures necessary to comply with PCAOB standards and regulatory requirements on multiple instances during the course of the audits described herein, including that Firm personnel failed to comply with PCAOB audit documentation requirements.

57. The Firm failed to adopt and implement appropriate quality control policies and procedures governing the Firm's independence with respect to its issuer audit clients. For example, the Firm failed to maintain its independence in at least one audit.

58. The Firm also failed to establish and implement quality control policies and procedures to provide reasonable assurance that engagement quality reviews were obtained by reviewers who were independent and maintained objectivity in performing the review.

59. Further, the Firm's system of quality control also failed to provide reasonable assurance that engagement personnel complied with PCAOB audit documentation requirements.

60. Overall, the Firm's monitoring procedures, taken as a whole, did not enable the Firm to obtain reasonable assurance that its system of quality control was effective. The Firm did not take appropriate steps to monitor whether its associated persons were, in fact, complying with policies and procedures related to engagement performance.

61. Albert Wong, as the Firm's sole-proprietor, had responsibility for the development, maintenance, communication, and monitoring of the Firm's quality control policies and procedures. In connection with that role, Albert Wong took, or omitted to take, actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of PCAOB quality control standards, in contravention of PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Respondents' Offers. Accordingly, it is hereby ORDERED that:

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[53] QC § 20.17-.19.

ORDER

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), AWC (CPA) Limited, WONG Chi Wai, CPA, and WONG Fei Cheung, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration AWC (CPA) Limited is revoked;

C. After two (2) years from the date of the Order, AWC (CPA) Limited may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of US $10,000 is imposed jointly and severally upon AWC (CPA) Limited and WONG Chi Wai. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. AWC (CPA) Limited shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies AWC (CPA) Limited, as a Respondent in this proceeding, sets forth the title and PCAOB Release Number of this proceeding, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), WONG Chi Wai, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[54]

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[54] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to WONG Chi Wai. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a

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F. After two (2) years from the date of this Order, WONG Chi Wai may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of US $10,000 is imposed upon WONG Chi Wai. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. WONG Chi Wai shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies WONG Chi Wai, as a Respondent in this proceeding, sets forth the title and PCAOB Release Number of this proceeding, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

H. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), WONG Fei Cheung, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[55]

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financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[55] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to WONG Fei Cheung. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

PCAOB
Public Company Accounting Oversight Board

ORDER

I. After one (1) year from the date of this Order, WONG Fei Cheung may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

J. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of US $5,000 is imposed upon WONG Fei Cheung. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. WONG Fei Cheung shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies WONG Fei Cheung, as a Respondent in this proceeding, sets forth the title and PCAOB Release Number of this proceeding, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

May 18, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of AWC LLP, Mun Leung CHUNG, CPA, and Lam Shan MUI, CPA,* *Respondents.*	PCAOB Release No. 105-2016-017 May 18, 2016

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring AWC LLP (the "Firm"), suspending AWC LLP's registration for a period of one year from the date of the issuance of this Order; censuring Mun Leung Chung, CPA ("Chung"), barring him from being an associated person of a registered public accounting firm, imposing a civil money penalty of $5,000;[1] and censuring Lam Shan Mui, CPA ("Mui") and for a period of one year, limiting his activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), by prohibiting him from serving in the role of an engagement partner and requiring that he complete ten (10) additional hours of continuing professional education in subjects directly related to ethics with a minimum of six (6) hours related to PCAOB and U.S. Securities and Exchange Commission ("Commission") auditor independence requirements. The Board is imposing these sanctions on the basis of its findings that in connection with the audits of an issuer: (a) the Firm violated Section 10A(g) of the Securities Exchange Act of 1934 ("Exchange Act"), Exchange Act Rule 10A-2, and PCAOB rules and auditing standards; (b) Mui directly and substantially contributed to the Firm's violations; (c) Chung violated PCAOB rules and standards; and (d) the Firm violated PCAOB quality control standards and Chung directly and substantially contributed to the Firm's violation of those standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted

[1] Chung may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against AWC LLP, Chung and Mui (collectively, "Respondents").

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions (the "Order") as set forth below.[2]

III.

On the basis of Respondents' Offers, the Board finds[3] that:

A. Respondents

1. **AWC LLP** (the "Firm") is and, at all relevant times, was a limited liability partnership organized under New York law and headquartered in New York, New York.[4] AWC LLP is licensed by the New York State Education Department (License No.

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[2] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[3] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] In October 2015, AWC LLP changed its legal name from Albert Wong & Co. LLP.

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67333) to practice public accountancy. At all relevant times, AWC LLP was an affiliate and an associated entity of AWC (CPA) Limited, the auditor of the consolidated financial statements of Kandi Technologies Group, Inc. ("Kandi") for the years ended December 31, 2010, December 31, 2011, and December 31, 2012 (collectively, the "Kandi Audits").[5] AWC LLP is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Mun Leung CHUNG**, also known as Clive Chung ("Chung"), 55, of New York, New York and the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong"), is a certified public accountant licensed by New York State Education Department (License No. 076306) and is a certified public accountant (practising) registered with the Hong Kong Institute of Certified Public Accountants ("HKICPA") (License No. A37788). Chung is, and at all relevant times was, the managing partner of AWC LLP and responsible for AWC LLP's system of quality control. Chung was the engagement quality reviewer for each of the Kandi Audits. Chung is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **Lam Shan MUI** ("Mui"), 67, of New York, New York, is a certified public accountant licensed by New York State Education Department (License No. 072623). Mui is, and at all relevant times was, a partner of AWC LLP and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Other Relevant Entity

4. **AWC (CPA) Limited** ("AWC") is a public accounting firm incorporated in Hong Kong, and registered with the HKICPA as a certified public accounting firm (License No. 1186). AWC is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB Rules.[6] At all relevant times, AWC was

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[5] At all relevant times, Kandi was a Delaware corporation with its primary operations in the People's Republic of China. Kandi's public filings disclose that it was a manufacturer of electric vehicles, go-carts, all-terrain and other specialty vehicles. At all relevant times, Kandi was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

[6] In January 2015, AWC (CPA) Limited succeeded to the registration status of its predecessor, Albert Wong & Co., a Hong Kong sole proprietorship.

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Kandi's external auditor and issued audit reports expressing unqualified opinions on Kandi's consolidated financial statements for 2010, 2011 and 2012. At all relevant times, AWC was an affiliate and an associated entity of AWC LLP.[7]

C. Summary

5. This matter concerns Respondents' failure to comply with Section 10A(g) of the Exchange Act and Exchange Act Rule 10A-2, and PCAOB rules and standards that require a registered public accounting firm, its associated entities, and their associated persons be independent of the firm's audit client throughout the audit and professional engagement period. Specifically, with respect to AWC's audit of Kandi's December 31, 2012 financial statements ("Kandi 2012 Audit"), Respondents were not independent during the audit and professional engagement period because Mui performed prohibited non-audit services on Kandi's behalf by accepting a Power-of-Attorney from Kandi and representing Kandi in a matter before a New York State regulatory agency.

6. In addition, Chung failed to comply with PCAOB Auditing Standard No. 7, *Engagement Quality Review* ("AS No. 7"). By providing his concurring approval of the issuance of AWC's audit reports for the Kandi audits while acting as an active member of the engagement team, he failed to maintain objectivity. In the Kandi 2012 Audit, Chung was not independent of Kandi because his partner, Mui, performed prohibited non-audit services for Kandi. Chung also failed to comply with documentation requirements for audit services he performed in the Kandi Audits.

7. This matter also concerns AWC LLP's violations of PCAOB quality control standards. Specifically, the Firm failed to establish policies and procedures to provide it with reasonable assurance that personnel maintain independence and failed to establish monitoring procedures sufficient to provide the Firm with reasonable assurance that its policies and procedures were suitably designed and were being effectively applied.[8] Chung, as the managing partner and person responsible for

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[7] See AWC (CPA) Limited, WONG Chi Wai, CPA, and WONG Fei Cheung, CPA, PCAOB Release No. 105-2016-016 (May 18, 2016).

[8] See QC §§ 20.06, .09, .20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*; QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

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designing, implementing and maintaining the Firm's system of quality control, took, or omitted to take, actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of PCAOB quality control standards, in contravention of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

D. Respondents' Violations of PCAOB Rules and Standards, the Exchange Act, and Independence Standards

8. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[9] PCAOB rules and standards also require that a registered public accounting firm and its associated persons to be independent of the firm's audit client throughout the audit and professional engagement period.[10] A registered public accounting firm or associated person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[11]

9. Section 10A(g) of the Exchange Act provides that it shall be unlawful for a registered public accounting firm (and any associated person of that firm, to the extent determined appropriate by the Commission) to provide to an issuer, contemporaneously with the audit, certain non-audit services, including those involving management functions.[12]

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[9] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB standards are to the versions of those standards in effect at the time of the audits.

[10] See PCAOB Rule 3520, *Auditor Independence*, and AU § 220, *Independence*.

[11] See PCAOB Rule 3520, Note 1.

[12] See Section 10A(g)(6) of the Exchange Act.

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10. Exchange Act Rule 10A-2 states that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the prohibited non-audit services of Commission Regulation S-X. Rule 2-01 of Regulation S-X provides an accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides certain non-audit services for audit clients, including performing any decision-making, supervisory, or ongoing monitoring function for the audit client, or performing services that place the accountant in a position of being an advocate for the audit client.[13]

11. The independence requirements in Rule 2-01 of Regulation S-X apply to a registered public accounting firm performing services in connection with an engagement for which independence is required, including its associated entities, and any accounting firm with which the certified public accountant or public accountant performing services is affiliated.[14]

12. PCAOB rules prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.[15]

13. As described below, Respondents failed to comply with PCAOB rules and standards, as well as applicable independence requirements, during the audit and professional engagement period of the Kandi 2012 Audit. In addition, Chung failed to comply with PCAOB rules and standards during the Kandi Audits.

Independence Violations

14. During the audit and professional engagement period of the Kandi 2012 Audit, AWC LLP, as an affiliate and associated entity of AWC, was required to be

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[13] See 17 C.F.R. § 210.2-01(b), (c)(4)(vi).

[14] See Rule 2-01(f)(1) and (2) of Regulation S-X; 17 CFR §210.2-01. See also PCAOB Rule 3520.

[15] PCAOB Rule 3502.

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independent of Kandi. AWC LLP's partners and associated persons were also required to be independent of Kandi.

15. During the audit and professional engagement period of the Kandi 2012 Audit, Chung obtained from Kandi a Power-of-Attorney naming Mui as Kandi's attorney-in-fact for the purpose of representing Kandi in all matters with a New York State regulatory agency. Mui accepted the Power-of-Attorney from Kandi and proceeded to represent Kandi before that agency, which resulted in a reduction of a penalty from Kandi's failure to comply with certain state laws. In the fall of 2012, Mui resolved the matter and executed an offer of settlement with that agency on Kandi's behalf.

16. Because of these actions, Mui was not independent of Kandi during the 2012 audit and professional engagement period. Furthermore, as a result of these actions, AWC LLP and Chung were not independent of Kandi during the 2012 audit and professional engagement period, in violation of PCAOB rules and standards, the Exchange Act, and Exchange Act rules.[16]

17. Mui took, or omitted to take, actions during the Kandi 2012 Audit, that he knew, or was reckless in not knowing, would directly and substantially contribute to AWC LLP's violations of PCAOB rules and standards, in contravention of PCAOB Rule 3502.

Chung Failed to Comply with Engagement Quality Review and Documentation Requirements during the Kandi Audits

18. AS No. 7, *Engagement Quality Review*, provides that an engagement quality review and concurring approval of issuance are required for each engagement, and the engagement quality reviewer must be independent of the company and perform the review with integrity, and maintain objectivity in performing the review.[17] To maintain objectivity, the engagement quality reviewer should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team.[18] In

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[16] See Section 10A(g)(6) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520, AU § 220; and AS No. 7 ¶ 6, *Engagement Quality Review*.

[17] See AS No. 7 ¶¶ 1, 6.

[18] See AS No. 7 ¶ 7.

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addition, the engagement quality reviewer must comply with PCAOB audit documentation requirements.[19]

19. Throughout the Kandi Audits, Chung served as the engagement quality reviewer. While serving in this role, Chung also was concurrently responsible in those same audits for performing audit procedures on the deferred tax balances and related tax disclosures in Kandi's financial statements which impaired his objectivity as the engagement quality reviewer in violation of AS No. 7.

20. In addition, as the engagement quality reviewer of the Kandi 2012 Audit, Chung knew that he and AWC LLP were required to be independent of Kandi. Yet, as previously described, Chung obtained the Power-of-Attorney from Kandi for Mui and failed to evaluate whether Mui's activities on Kandi's behalf constituted prohibited non-audit services that would impair the independence of AWC LLP and himself. Nevertheless, Chung provided concurring approval of issuance of AWC's audit report on the Kandi 2012 financial statements even though he and AWC LLP were not independent of Kandi during the audit and professional engagement period.

21. AS No. 7 states that documentation of an engagement quality review should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the engagement quality reviewer, the documents reviewed, and the date concurring approval of issuance was given.[20] While serving as the engagement quality reviewer during the Kandi Audits, Chung failed to document certain of the procedures he performed and, on numerous occasions, Chung reviewed the engagement team's documentation without evidencing his review in the audit documentation, in violation of AS No. 7.

22. In addition, when Chung was assuming certain responsibilities of the engagement team, he failed to comply with audit documentation requirements. Specifically, Chung failed to document audit procedures he performed on the deferred tax balances and related tax disclosures.[21]

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19 See AS No. 7 ¶¶ 19–21.

20 AS No. 7 ¶ 19.

21 See AS No. 3 ¶¶ 4–9.

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Public Company Accounting Oversight Board

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E. Chung and the Firm Violated PCAOB Rules and Standards Related to Quality Control

23. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[22] PCAOB quality control standards require that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[23] PCAOB quality control standards state that policies and procedures should be established to provide the firm with reasonable assurance that "personnel maintain independence in all required circumstances" and "that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[24] PCAOB quality control standards also provide that policies and procedures "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control … are suitably designed and are being effectively applied," and that "its system of quality control is effective."[25]

24. Throughout the relevant time period, AWC LLP failed to have policies and procedures providing reasonable assurance that its personnel maintain independence. For example, AWC LLP's quality control policies and procedures failed to address prohibited non-audit services and made no reference whatsoever to Rule 2-01 of Commission Regulation S-X or the provisions therein. Further, AWC LLP policies and procedures failed to provide any guidance to its personnel with respect to independence requirements as an affiliate and associated entity of AWC.

25. AWC LLP also failed to establish monitoring procedures sufficient to enable it to obtain reasonable assurance that its system of quality control was effective.[26] Indeed, the Firm had no monitoring procedures at the time and relied on its partners to monitor whether its associated persons, including themselves, were complying with firm policies and procedures.

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[22] PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[23] QC § 20.01.

[24] QC §§ 20.09-.10, and 20.17.

[25] QC § 20.20; see also QC § 30.03.

[26] QC § 30.02.

ORDER

26. Chung, as AWC LLP's managing partner, was responsible for the design, development, implementation, maintenance and monitoring of AWC LLP's quality control policies and procedures. Yet Chung took, or omitted to take, actions that he knew, or was reckless in not knowing, would directly and substantially contribute to AWC LLP's violation of PCAOB quality control standards, in contravention of PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), AWC LLP, Mun Leung CHUNG, CPA, and Lam Shan MUI, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of AWC LLP is suspended for a period of one (1) year;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Mun Leung CHUNG, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[27]

[27] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Mun Leung CHUNG. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

D. After two (2) years from the date of this Order, Mun Leung CHUNG, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $5,000 is imposed upon Mun Leung CHUNG. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Mun Leung CHUNG shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Mun Leung CHUNG, as a Respondent in this proceeding, sets forth the title and PCAOB Release Number of this proceeding, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

F. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one (1) year from the date of the issuance of this Order, Lam Shan MUI, CPA's role in an "audit" as that term is defined in Section 110(1) of the Act, shall be restricted as follows: MUI shall not serve as an "engagement partner," as that term is used in the Board's Auditing Standard No. 10, *Supervision of the Audit Engagement*; or (2) exercise authority either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker or dealer; and

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G. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Lam Shan MUI, CPA, is required to complete, within one (1) year from the date of the issuance of this Order, ten (10) hours of continuing professional education ("CPE") in subjects directly related to ethics with a minimum of six (6) hours related to PCAOB and Commission auditor independence requirements (such hours shall be in addition to, and shall not be counted in, the CPE that he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

May 18, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Michael F. Albanese, CPA and Michael F. Albanese, CPA*, *Respondents.*	PCAOB Release No. 105-2016-018 June 14, 2016

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Michael F. Albanese, CPA (the "Firm"), revoking the Firm's registration and imposing a civil money penalty in the amount of $10,000 upon the Firm;[1] and censuring Michael F. Albanese ("Albanese") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Albanese (collectively, "Respondents") violated PCAOB rules and standards in connection with two audits of one issuer client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Albanese may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the facts contained in paragraphs 15 through 18 and the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of this Order and Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Michael F. Albanese, CPA is, and at all relevant times was, a proprietorship organized under the laws of the state of New Jersey, with an office in Parsippany, New Jersey. The Firm registered with the Board on August 3, 2004, pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accountancy by the New Jersey Department of Business & Professional Regulation (License No. 20CB00418800). At all relevant times the Firm was the external auditor for the issuer identified below.

2. Michael F. Albanese, CPA, 62, of Parsippany, New Jersey, is a certified public accountant licensed by the state of New Jersey (License No. 20CC01888000). At all relevant times, Albanese was the managing partner and sole owner of the Firm, and served as the engagement partner on the audit discussed below. Albanese is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the issuance of audit reports on the financial statements of ColorStars Group ("ColorStars") over a two year period. As detailed below, Respondents failed to obtain sufficient appropriate audit evidence and exercise due professional care and professional skepticism in connection with the audits of the December 31, 2012 and December 31, 2013 financial statements of ColorStars (the "2012 audit" and "2013 audit"), respectively.

4. This matter also concerns the Firm's failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"). In the Firm's audits of ColorStars' 2012 and 2013 year-end financial statements, the Firm failed to obtain an engagement quality review of the audits even though an engagement quality review was required under AS 7.

5. Additionally, Albanese took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of AS 7.

C. Respondents Violated PCAOB Rules and Auditing Standards

6. In connection with the preparation or issuance of any audit report, PCAOB rules and standards require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6] Those standards require among other things, that an auditor plan and perform the audit to obtain appropriate audit evidence that is sufficient to support the opinion expressed in the auditor's report.[7] PCAOB standards further require that an auditor exercise due professional care and professional

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[6] See AU § 508.07, *Reports on Audited Financial Statements.*

[7] See Auditing Standard No. 15, *Audit Evidence* ("AS 15") at ¶4.

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skepticism in performing the audit.[8] In addition, PCAOB standards require the auditor's evaluation of audit results to include an evaluation of conditions identified during the audit that relate to the assessment of the risk of material misstatement due to fraud.[9]

7. As described below, Respondents failed to comply with PCAOB rules and standards in connection with the Firm's audits of ColorStars' 2012 and 2013 financial statements.

Audits of ColorStars' 2012 and 2013 Financial Statements

8. ColorStars Group ("ColorStars") is a Nevada corporation headquartered in Irvine, California. ColorStars' public filings disclose that, at all relevant times, it was in the light-emitting diode ("LED") lighting industry, and that its LED lighting application development activity ranged from lighting fixture design to special packaging methods designed for general lighting applications. At all relevant times, ColorStars' common stock was quoted on the OTC Bulletin Board. At all relevant times, ColorStars was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. Albanese, as engagement partner, authorized the Firm's issuance of audit reports, dated March 25, 2013, and March 28, 2014, respectively, expressing an unqualified audit opinion on ColorStars' financial statements for the years ended December 31, 2012 and December 31, 2013. The audit reports were included in ColorStars' Forms 10-K filed with the Commission on April 1, 2013 and April 11, 2014, respectively.

10. For the audits of ColorStars' financial statements for 2012 and 2013, a Taiwanese subsidiary's revenue and assets constituted approximately 92 percent and 80 percent of ColorStars' consolidated revenue and assets in 2012, and 93 percent and 84 percent of ColorStars' consolidated revenue and assets in 2013.

11. Respondents failed to comply with applicable professional standards in connection with the ColorStars' audits. They failed to establish an audit strategy and to develop an audit plan.[10] In addition, they failed to identify and assess the risks of

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[8] See AU § 150, *Generally Accepted Auditing Standards* and AU § 230, *Due Professional Care in the Performance of Work*.

[9] See Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14") at ¶ 4.d.

[10] See Auditing Standard No. 9, *Audit Planning* ("AS 9") at ¶¶ 8-10.

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material misstatements. For example, Respondents failed to identify revenue recognition as a fraud risk.[11]

12. In its 2012 and 2013 financial statements, ColorStars reported net sales from a subsidiary located in Taiwan of approximately $2,512,000 and $1,575,000, respectively. These amounts represented 92% and 93% of the total net sales for ColorStars through the end of each of the respective years. Respondents failed to perform sufficient appropriate procedures over net sales of the Taiwanese subsidiary. Other than obtaining management representations, inspecting a limited number of sales invoices, recalculating net sales schedules and tracing the net sales to the consolidated trial balance, Respondents failed to perform any other procedures regarding net sales of the Taiwanese subsidiary during the 2012 and 2013 audits. As a result, Respondents failed to sufficiently test whether net sales transactions actually took place and were recorded during the proper period, and whether amounts included in the financial statements were appropriately valued.[12]

13. In its 2012 and 2013 financial statements, ColorStars reported inventory from its Taiwanese subsidiary of approximately $591,000 and $596,000, respectively. These asset balances represented 26% and 39% of the total assets for ColorStars at the end of each of the respective years. Respondents failed to perform sufficient appropriate procedures over inventory balances of the Taiwanese. Other than obtaining management representations, visiting ColorStars' inventory facilities in Taiwan during the 2012 audit, inspecting a limited number of inventory purchase invoices, recalculating inventory schedules and tracing the inventory balance to the consolidated trial balance, Respondents failed to perform any other procedures over the inventory of the Taiwanese subsidiary during the 2012 and 2013 audits. As a result, Respondents failed to sufficiently test whether inventory existed, was owned by ColorStars, and was appropriately valued.[13]

14. In its 2012 and 2013 financial statements, ColorStars reported cash and equivalents from its Taiwanese subsidiary of approximately $289,000 and $112,000, respectively. These asset balances represented 13% and 7% of the total assets for

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[11] See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* at ¶ 68.

[12] See Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* at ¶¶ 8-15; see also AS 14 at ¶¶ 32-36; and AS 15 at ¶¶ 4-6.

[13] Id.

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ColorStars at the end of each of the respective years. Respondents failed to perform sufficient appropriate procedures over cash and cash equivalents balances of the Taiwanese subsidiary. Other than obtaining management representations, inspecting certain bank statements, recalculating cash and cash equivalent schedules and tracing the total cash balances from those schedules to the consolidated trial balance, Respondents failed to perform any other procedures related to cash and cash equivalents during the 2012 and 2013 audits. As a result, Respondents failed to sufficiently test whether cash and cash equivalents existed, were owned by ColorStars, and were appropriately valued.[14]

D. The Firm Violated PCAOB Rules and Standards Relating to Engagement Quality Reviews

15. For audits of financial statements for years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[15] AS 7 also provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance.[16] In connection with the audits of ColorStars' financial statements for 2012 and 2013, the Firm failed to comply with these requirements.

16. For each of these audit engagements, the Firm improperly permitted the issuance of its audit reports which were included in ColorStars' 2012 and 2013 Forms 10-K filings with the Commission, without obtaining an engagement quality review and concurring approval of issuance as required by AS 7. As a result, the Firm violated AS 7.

E. Albanese Contributed to the Firm's Violations of PCAOB Rules and Standards relating to Engagement Quality Reviews

17. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports

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[14] Id.

[15] See AS 7 at ¶ 1.

[16] See AS 7 at ¶ 13.

ORDER

and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."

18. Albanese, the sole owner of the Firm, was the engagement partner for the audits conducted by the Firm and was responsible for them. Accordingly, he had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Albanese knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of AS 7, described above. As a result, Albanese violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Michael F. Albanese, CPA, and Michael F. Albanese are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Michael F. Albanese is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[17]

C. After two (2) years from the date of this Order, Michael F. Albanese may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Michael F. Albanese, CPA is revoked;

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[17] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Albanese. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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E. After two (2) years from the date of the Order, Michael F. Albanese, CPA may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Michael F. Albanese, CPA. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Michael F. Albanese, CPA shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies Michael F. Albanese, CPA as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

June 14, 2016

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Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Donahue Associates LLC and Brian D. Donahue, CPA,* *Respondents.*	PCAOB Release No. 105-2016-020 June 14, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Donahue Associates LLC ("Firm"), a registered public accounting firm, revoking the Firm's registration and imposing a civil money penalty in the amount of $5,000 upon the Firm;[1] and censuring Brian D. Donahue, CPA ("Donahue"), and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Donahue (collectively, "Respondents") violated PCAOB rules and standards in connection with audits of three issuer clients and Section 10A(b)(2) of the Securities Exchange Act of 1934 ("Exchange Act") in connection with the Firm's audit of one issuer client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

[1] The Firm may reapply for registration after one (1) year from the date of this Order.

[2] Donahue may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the facts contained in paragraphs 9 through 17 below and the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Donahue Associates LLC is, and at all relevant times was, a limited liability corporation organized under the laws of New Jersey, and headquartered in Monmouth Beach, New Jersey. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accountancy in New Jersey (Lic. No. 20CB00407600). At all relevant times, the Firm was the external auditor for each of the issuers identified below.

2. Brian D. Donahue, CPA, age 58, is, and at all relevant times was, a certified public accountant licensed by the State of New Jersey (Lic. No. 20CC01355000). At all relevant times, Donahue was the sole partner and President of the Firm. Donahue is, and at all relevant times was, an associated person of a

[3] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns the Firm's failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to three issuer audit clients, by failing to obtain an engagement quality review of each audit, even though it was required, and despite being on notice from PCAOB inspectors.

4. Additionally, in connection with the Firm's audit report for one of the above audits, the Firm failed to take the steps required by Section 10A(b)(2) of the Exchange Act after becoming aware that an apparent illegal act had occurred.

5. With respect to each of the three audits in which the Firm failed to have an engagement quality review and with respect to the discovery of an illegal act, Donahue took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of AS 7 and Exchange Act Section 10A(b)(2) in violation of PCAOB Rule 3502.

C. Respondents Violated Section 10A(b)(2) of the Exchange Act and PCAOB Rules and Standards

6. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5]

The Firm Failed to Obtain Engagement Quality Reviews

7. For audits of financial statements for fiscal years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits, interim reviews, and certain attestation engagements conducted pursuant to PCAOB standards.[6] AS 7 also provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance of the report.[7]

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[5] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*.

[6] See AS 7 ¶ 1.

[7] Id. at ¶ 13, 18 and 18c.

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8. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the [Securities and Exchange] Commission issued under the Act, or professional standards."[8]

9. As described below, the Firm failed to obtain an engagement quality review for each of the audits described below even though an engagement quality review was required to be performed and Donahue directly and substantially contributed to those violations.

The Firm Failed to Obtain Engagement Quality Reviews Even After the PCAOB's Inspection Staff Put the Firm on Notice of the Standard

10. In connection with an October 2012 inspection of the Firm, the PCAOB's Inspections staff reminded the Firm that it needed to comply with AS 7 for all audits and interim reviews performed by the Firm for fiscal years beginning on or after December 15, 2009. Despite being on notice, the Firm failed to comply with AS 7 regarding the performance of engagement quality reviews in connection with the audits described below.

Audit of Universal Resources' FY 2013

11. At all relevant times, Universal Resources (f/k/a Global Immune Technologies, Inc.) ("Universal") was a Wyoming corporation headquartered in Burlington, Vermont. Universal's public filings disclosed that it was a development stage company that intended to be a holding company of an American-based food distribution company serving direct delivery to customers in their homes. At all relevant times, Universal was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

12. The Firm was engaged as Universal's external auditor for fiscal year ended March 31, 2013. On June 19, 2013, Universal filed a Form 10-K for fiscal year ended March 31, 2013 with the Commission. The Firm improperly permitted the issuance of its audit report dated June 11, 2013, which was included in Universal's

[8] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations.*

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Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.[9]

Audit of CryoStem's FY 2013

13. At all relevant times, American CryoStem Corporation ("CryoStem") was a Nevada corporation headquartered in Eatontown, New Jersey. CryoStem's public filings disclosed that it was a developer, marketer, and global licensor of patented adipose (fat) tissue-based cellular technologies, bio-materials, and related proprietary services, with a focus on clinical processing, commercial bio-banking, and application development for adipose tissue and adipose-derived stem cells. At all relevant times, CryoStem was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

14. The Firm was engaged as CryoStem's external auditor for fiscal year ended September 30, 2013. On January 14, 2014, CryoStem filed with the Commission a Form 10-K for fiscal year ended September 30, 2013. The Firm improperly permitted the issuance of its audit report dated December 10, 2013, which was included in CryoStem's Form 10-K filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.[10]

Audit of The Everest Fund, L.P.'s FY 2014

15. At all relevant times, The Everest Fund, L.P. ("Everest") was an Iowa limited partnership headquartered in Fairfield, Iowa. Everest's public filings disclose that it is in the business of speculative trading of commodity futures, options, and forward contracts. According to Everest's disclosures, the company's units of limited partnership interest are registered under Section 12(g) of the Exchange Act, and trade on recognized global futures exchanges and over the counter contracts, in the form of forward foreign currency transactions. At all relevant times, Everest was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

16. The Firm was engaged as Everest's external auditor for fiscal year ended December 31, 2014. On March 30, 2015, Everest filed with the Commission a Form 10-K for fiscal year ended December 31, 2014. The Firm improperly permitted the issuance of its audit report dated March 16, 2015, which was included in Everest's Form 10-K

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[9] See AS 7 ¶ 13.

[10] Id.

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filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.[11]

Donahue Contributed to the Firm's Violations of AS 7

17. Donahue, the sole partner and President of the Firm, was solely responsible for the audits conducted by the Firm. Accordingly, Donahue had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Donahue knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7, described above. As a result, he violated PCAOB Rule 3502.

Respondents Failed to Comply with Exchange Act Section 10A(b)(2)

18. When conducting an audit of issuer financial statements required pursuant to the Exchange Act, registered firms must comply with the requirements of Section 10A of the Exchange Act. Section 10A(b) requires a firm to take certain defined actions if, in the course of an audit, the auditor detects or otherwise becomes aware of information indicating that an illegal act has occurred.[12]

19. Unless the illegal act is clearly inconsequential, Section 10A(b)(1) requires that the firm inform the appropriate level of management about the illegal act and assure itself that the issuer's audit committee, or board of directors in the absence of an audit committee, is adequately informed with respect to the illegal act.

20. In addition, under Section 10A(b)(1), if a firm concludes that it is likely that an illegal act occurred, the firm must consider the effect of the illegal act on the issuer's financial statements.[13] If the auditor concludes that the illegal act has a material effect on the financial statements, that senior management has not taken (and the board of directors has not caused them to take) timely and appropriate remedial actions, and that the absence of remedial action is reasonably expected to warrant departure from a standard report of the firm, when made, or warrant resignation from the engagement, then Section 10A(b)(2) requires the firm to report those conclusions to the board of directors as soon as practicable. If the board of directors fails to take certain required

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[11] Id.

[12] See Section 10A(b) of the Exchange Act.

[13] See Section 10A(b)(1)(A) of the Exchange Act.

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actions in response to such a report, Section 10A(b)(3) requires the firm to resign from the engagement or report its Section 10A(b)(2) conclusions to the Commission.[14]

21. In August 2013, Respondents discovered that incorrect financial statements understating Universal's net loss and assets had accompanied its Universal audit report dated June 11, 2013. Respondents became aware at the time of the discovery that Universal had or may have violated federal securities laws and regulations, in particular, the requirement that periodic reports contain all information necessary to ensure that statements made in such reports are not materially misleading.[15]

22. Respondents knew that the apparently illegal act had a material effect on Universal's financial statements, and requested that the issuer file corrected financial statements. The Firm contacted Universal's management and counsel, but when the financial statements were not promptly re-filed after discussions with management and issuer counsel, Respondents failed to directly report its conclusions to the board of directors and failed to resign from the engagement or report its Section 10A(b)(2) conclusions to the Commission.

23. On January 1, 2014, the Firm was terminated by Universal as its external auditor. On January 6, 2014, Universal filed a Form 8-K with the Commission indicating that it had changed auditors. Respondents submitted a letter to Commission staff accompanying Universal's Form 8-K filing stating that it agreed with Universal's contention that were no disagreements between it and the Firm and that there were no reportable events. At the time the letter was submitted, Respondents failed to ascertain whether corrected financial statements had been re-filed by Universal, and failed to evaluate whether Universal's failure to re-file corrected financial statements constituted a disagreement or a reportable event under Item 304 of Commission Regulation S-K.

24. On March 17, 2014, Universal filed a Form 8-K stating that there were accounting errors in its financial statements from fiscal year ended March 31, 2013, as well as its first, second, and third quarters of fiscal year ended March 31, 2013, and its first and second quarters of fiscal year ended March 31, 2014. The Form 8-K stated that

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[14] If the firm resigns from the engagement pursuant to Section 10A(b)(3)(A), the firm must report the matter to the Commission pursuant to Section 10A(b)(4).

[15] See Exchange Act Rule 12b-20; see also SEC v. Parklane Hosiery, Inc., 558 F.2d 1083, 1085 n.1 (2d Cir. 1977) (implicit in requirement to file annual report is requirement that report not be materially false or misleading).

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Universal concluded that the previously issued 2013 financial statements and the first and second quarters of fiscal 2014 should no longer be relied upon.

25. In failing to take appropriate steps as described above, the Firm violated Exchange Act Section 10A(b)(2).

Donahue Contributed to the Firm's Violations of Exchange Act Section 10A(b)(2)

26. Donahue knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of Exchange Act Section 10A(b)(2). As a result, Donahue violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Donahue Associates LLC, and Brian D. Donahue, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Brian D. Donahue, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[16]

C. After one (1) year from the date of this Order, Brian D. Donahue, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

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[16] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Donahue. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Donahue Associates LLC is revoked;

E. After one (1) year from the date of this Order, Donahue Associates LLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $5,000 is imposed upon Donahue Associates LLC. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Donahue Associates LLC shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Donahue Associates LLC as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

June 14, 2016

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2016-022
In the Matter of Li and Company, P.C.,	June 14, 2016
Respondent.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring the registered public accounting firm Li and Company, P.C. (hereinafter, "Respondent" or "the Firm") and revoking the Firm's registration. The Board is imposing these sanctions on the basis of its findings concerning Respondent's noncooperation with a Board investigation, by failing to comply with an Accounting Board Demand ("ABD") requiring the Firm to produce certain documents and information.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(3) against the Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Respondent admits the facts, findings, and violations set forth below, and consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to the Respondent's Offer, and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer in this matter, the Board finds[2] that:

A. Respondent

1. Li and Company, P.C. is, and at all relevant times was, a professional corporation organized under the laws of the state of New Jersey, and headquartered in Skillman, New Jersey. The Firm is licensed to practice public accountancy by the New Jersey State Board of Public Accountancy (License no. 20CB00354300), by the Connecticut State Board of Public Accountancy (License no. CPAP.0005196), and by the Texas State Board of Public Accountancy (License no. C09120). The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, the Firm was the external auditor for the issuers identified below.

B. Respondent Failed to Cooperate with a PCAOB Investigation.

2. Pursuant to Section 105(b) of the Act and PCAOB Rules, the Board conducts investigations into acts or practices of registered public accounting firms and their associated persons that may violate any provision of the Act, the Rules of the Board, the provisions of securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the U.S. Securities and Exchange Commission issued under the Act, or professional standards. Section 105(b)(3)(A) of the Act authorizes the Board to sanction a registered public accounting firm for refusing to cooperate with the Board in connection with an investigation. Board rules include procedures for implementing that authority.[3] Noncooperation with a Board investigation includes failing to comply with an ABD.[4]

3. As described below, Respondent failed to cooperate with the Board's investigation by failing to comply with an ABD issued to Respondent pursuant to PCAOB Rule 5103, requiring the Firm to produce certain documents and information.

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[2] The sanctions that the Board is imposing on Respondent in this Order are imposed pursuant to Section 105(b)(3) of the Act, 15 U.S.C. § 7215(b)(3), and PCAOB Rule 5300(b).

[3] See PCAOB Rules 5110 and 5200(a)(3).

[4] See PCAOB Rule 5110(a)(1).

PCAOB
Public Company Accounting Oversight Board

ORDER

Background

4. Respondent audited the financial statements of Issuers A, B, and C (collectively, the "Issuers"). At all relevant times, the Issuers were each an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. In December 2014, the Board issued an Order of Formal Investigation ("OFI") regarding Respondent's audits and reviews of the financial statements of the Issuers.

Respondent's Failure to Produce Documents and Information

6. Subsequent to the issuance of the Board's OFI, the Board's Division of Enforcement and Investigations ("Division") sent Respondent an ABD requiring it to produce certain information concerning, among other things, the Firm's complete and final set of audit documentation of the Issuers.

7. On December 18, 2015, the Division issued a second ABD to the Firm based, in part, on information it obtained in conjunction with sworn testimony given to the Division by an associated person of the Firm in early November 2015. This ABD required the Firm, among other things, to identify the circumstances surrounding the documentation of the Firm's Issuer audits.

8. In early January 2016, Respondent, through counsel, informed the Division that the Firm would not comply with the December 18, 2015 ABD or otherwise cooperate with the Division's ongoing investigation.

9. In response, the Division notified Respondent, through counsel, that refusal to comply with the December 18, 2015 ABD was not valid and that, pursuant to PCAOB Rule 5110, the Division intended to recommend a disciplinary proceeding in the event it continued to refuse to comply. Respondent continued to assert, however, that the Firm would not comply with the December 18, 2015 ABD or otherwise cooperate with the Division's ongoing investigation.

10. Respondent's failure to provide the required documents and information impeded the Board's ability to determine if Respondent's audit work was performed in accordance with PCAOB rules and standards, and whether violations occurred which justified sanctions.

11. As a result of the foregoing conduct, Respondent failed to cooperate with a Board investigation.

PCAOB
Public Company Accounting Oversight Board

ORDER

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(iii) of the Act and PCAOB Rule 5300(b)(1), Li and Company, P.C., is hereby censured; and

B. Pursuant to Section 105(b)(3)(A)(ii) of the Act and PCAOB Rule 5300(b)(1), the registration of Li and Company, P.C., is revoked.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

June 14, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2016-025
In the Matter of Chunmin Liu, CPA,	June 14, 2016
Respondent.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Chunmin Liu, CPA, also known as Laura Liu ("Respondent"), and barring her from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings concerning Respondent's noncooperation with a Board investigation, by failing to comply with an Accounting Board Demand ("ABD") which required her to appear for sworn testimony and produce documents and information.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(3) against the Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Respondent admits the facts, findings, and violations set forth below, and consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

[1] Respondent may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

[2] The findings herein are made pursuant to the Respondent's Offer, and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer in this matter, the Board finds[3] that:

A. Respondent

1. Chunmin Liu, CPA, also known as Laura Liu ("Respondent"), age 47, is, and at all relevant times was, a certified public accountant licensed by the state of Utah (License no. 7176707-2601). At all relevant times, Respondent was a non-equity partner with the registered public accounting firm of Li and Company, P.C. ("LICO"), a professional corporation headquartered in Skillman, New Jersey. Respondent was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondent Failed to Cooperate with a PCAOB Investigation.

2. Pursuant to Section 105(b) of the Act and PCAOB Rules, the Board conducts investigations into acts or practices of registered public accounting firms and their associated persons that may violate any provision of the Act, the Rules of the Board, the provisions of securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the U.S. Securities and Exchange Commission issued under the Act, or professional standards. Section 105(b)(3)(A) of the Act authorizes the Board to sanction an associated person of a registered public accounting firm for refusing to testify, produce documents, or otherwise cooperate with the Board in connection with an investigation. Board rules include procedures for implementing that authority.[4] Noncooperation with a Board investigation includes failing to comply with an ABD.[5]

3. As described below, Respondent failed to cooperate with the Board's investigation by failing to comply with an ABD issued to Respondent pursuant to PCAOB Rules 5102(b) and 5103, which, among other things, required her to appear for sworn testimony and provide certain documents and information.

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[3] The sanctions that the Board is imposing on Respondent in this Order are imposed pursuant to Section 105(b)(3) of the Act, 15 U.S.C. § 7215(b)(3), and PCAOB Rule 5300(b).

[4] See PCAOB Rules 5110 and 5200(a)(3).

[5] See PCAOB Rule 5110(a)(1).

ORDER

Background

4. LICO audited the financial statements of Issuers A, B, and C (collectively, the "Issuers"). At all relevant times, the Issuers were each an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. Respondent served as the manager on LICO's audits and reviews of the financial statements of Issuer A for fiscal years ending December 31, 2012 and 2013.

6. In December 2014, the Board issued an Order of Formal Investigation regarding LICO's audits and reviews of the financial statements of the Issuers.

Respondent's Failure to Produce Documents and Information and to Appear for Testimony

7. Pursuant to the Board's OFI, on February 2, 2016, the Board's Division of Enforcement and Investigations ("Division") issued an ABD requiring Respondent to produce certain documents and information and to appear for sworn testimony before the Division. The ABD further required Respondent, among other things, to identify the circumstances surrounding the documentation of the Firm's Issuer audits.

8. The Division anticipated taking testimony from the Respondent concerning, among other things, her role in the Firm's audits of Issuer A's financial statements.

9. In late February 2016, Respondent, through counsel, informed the Division in writing that, like LICO and its two principals who also received related ABDs on the same date, she would not comply with the ABD issued to her. Shortly thereafter, on March 15, 2016, Respondent resigned from LICO.

10. Respondent's failures to provide the required testimony and documents impeded the Board's ability to determine if Respondent's audit work was performed in accordance with PCAOB rules and standards, and whether violations occurred which justified sanctions.

11. As a result of the foregoing conduct, Respondent failed to cooperate with a Board investigation.

PCAOB
Public Company Accounting Oversight Board

ORDER

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(iii) of the Act and PCAOB Rule 5300(b)(1), Chunmin Liu is hereby censured;

B. Pursuant to Section 105(b)(3)(A)(i) of the Act and PCAOB Rule 5300(b)(1), Chunmin Liu is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[6] and

C. After five (5) years from the date of this Order, Chunmin Liu may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

June 14, 2016

[6] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Respondent. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Maillie LLP and Laurie Harvey, CPA,* *Respondents.*	PCAOB Release No. 105-2016-021 June 14, 2016

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Maillie LLP ("Firm"), a registered public accounting firm, imposing a civil money penalty in the amount of $2,500 upon the Firm, and requiring the Firm to undertake certain remedial measures, including to establish policies and procedures directed toward ensuring compliance with the Board's engagement quality review requirements; and censuring Laurie Harvey, CPA ("Harvey"). The Board is imposing these sanctions on the basis of its findings that the Firm and Harvey (collectively "Respondents") violated PCAOB rules and standards in connection with the Firm's audits of two issuer audit clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted,

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Public Company Accounting Oversight Board

ORDER

Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[1]

III.

On the basis of Respondents' Offers, the Board finds that:

A. Respondents

1. Maillie LLP is, and at all relevant times was, an accounting firm organized under Pennsylvania law, and headquartered in Mont Clare, Pennsylvania. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and is licensed by the Pennsylvania State Board of Accountancy (license no. AF000423L). At all relevant times, the Firm was the external auditor for the issuers identified below.

2. Laurie Harvey, CPA, age 52, is, and at all relevant times was, a certified public accountant licensed by the Pennsylvania State Board of Accountancy (license no. CA033148L). At all relevant times, Harvey was the head of the assurance practice at the Firm. Harvey is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns the Firm's failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to two issuer audit clients. In the case of the Firm's audits of the issuers' 2012 and 2013 year-end financial statements, the Firm failed to have an engagement quality review performed by a partner or another individual in an equivalent position.

4. This matter also concerns Harvey's direct and substantial contribution to the Firm's violation of PCAOB rules and standards concerning the requirement for engagement quality reviews. With respect to the Firm's audits of two issuer clients, Harvey took or omitted to take actions knowing, or recklessly not knowing, that her acts or omissions would directly and substantially contribute to the Firm's violations of PCAOB rules and auditing standards.

[1] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

ORDER

C. Respondents Violated PCAOB Auditing Standards

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[2]

6. For audits of financial statements for fiscal years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[3] AS 7 also provides that an engagement quality reviewer from the firm that issues the engagement report must be a partner or another individual in an equivalent position.[4]

7. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the [Securities and Exchange] Commission issued under the Act, or professional standards."[5]

8. As described below, Respondents failed to comply with PCAOB rules and standards.

Audit of Teleflex's Financial Statements

9. At all relevant times, Teleflex 401(k) Plan ("Teleflex") was a Delaware corporation headquartered in Wayne, Pennsylvania. The company's public filings disclose that it is a defined contribution plan. At all relevant times, Teleflex was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[2] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[3] See AS 7 ¶ 1.

[4] Id. at ¶ 3.

[5] See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

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10. The Firm was engaged as Teleflex's external auditor in 2012 and 2013. The Firm was engaged to audit the financial statements of Teleflex for the year ended December 31, 2012. The Firm issued an audit report, dated June 26, 2013, which was included in Teleflex's Form 11-K filed with the Securities and Exchange Commission ("Commission" or "SEC") on June 28, 2013.

11. The Firm issued its audit report after obtaining an engagement quality review and concurring approval of issuance from another individual at the Firm. That individual who performed the engagement quality review was a manager and was not a partner or another individual in an equivalent position. As a result, the Firm violated AS 7.

12. The Firm was also engaged to audit the financial statements of Teleflex for the year ended December 31, 2013. The Firm issued an audit report, dated June 23, 2014, which was included in Teleflex's Form 11-K filed with the Commission on June 27, 2014.

13. The Firm issued its audit report after obtaining an engagement quality review and concurring approval of issuance from another individual at the Firm. That individual who performed the engagement quality review was a manager and was not a partner or another individual in an equivalent position. As a result, the Firm violated AS 7.

Audit of Penn Virginia's Financial Statements

14. At all relevant times, Penn Virginia Corporation and Affiliated Companies Employees' 401(k) Plan ("Penn Virginia") was a Virginia corporation headquartered in Radnor, Pennsylvania. The company's public filings disclose that it is a defined contribution plan. At all relevant times, Penn Virginia was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

15. The Firm was engaged as Penn Virginia's external auditor in 2012 and 2013. The Firm was engaged to audit the financial statements of Penn Virginia for the year ended December 31, 2012. The Firm issued an audit report, dated June 24, 2013, which was included in Penn Virginia's Form 11-K filed with the Commission on June 26, 2013.

16. The Firm issued its audit report after obtaining an engagement quality review and concurring approval of issuance from another individual at the Firm. That individual who performed the engagement quality review was a manager and was not a partner or another individual in an equivalent position. As a result, the Firm violated AS 7.

ORDER

17. The Firm was also engaged to audit the financial statements of Penn Virginia for the year ended December 31, 2013. The Firm issued an audit report, dated June 26, 2014, which was included in Penn Virginia's Form 11-K filed with the Commission on June 30, 2014.

18. The Firm issued its audit report after obtaining an engagement quality review and concurring approval of issuance from another individual at the Firm. That individual who performed the engagement quality review was a manager and was not a partner or another individual in an equivalent position. As a result, the Firm violated AS 7.

Harvey Contributed to the Firm's Violations of PCAOB Rules and Standards

19. Harvey served as the head of the assurance practice at the Firm. She determined who served as the engagement quality reviewers on the 2012 and 2013 audits of Teleflex and Penn Virginia.

20. Harvey knew, or was reckless in not knowing, that she was directly and substantially contributing to the Firm's violations when she improperly allowed individuals at the Firm who were not partners or in equivalent positions to perform the engagement quality reviews. As a result, Harvey violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Maillie LLP and Laurie Harvey, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,500 is imposed upon Maillie LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Maillie LLP shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified

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Public Company Accounting Oversight Board

ORDER

check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Maillie LLP as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or review and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with Auditing Standard No. 7, *Engagement Quality Review*;

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent basis, concerning Auditing Standard No. 7, of any Firm audit personnel who participate in any way in the planning or performing of any audit services (as defined in PCAOB Rule 1001(a)(vii));

3. within ninety (90) days from the date of this Order, and before the Firm's commencement of any audit services, to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order;

b. within (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform audit services;

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c. before the commencement of any audit services, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such audit services; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

June 14, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2016-024
In the Matter of Gary L. Singer, CPA,	June 14, 2016
Respondent.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Gary L. Singer, CPA ("Respondent") and barring him from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings concerning Respondent's noncooperation with a Board investigation, by failing to comply with an Accounting Board Demand ("ABD") which required him to appear for sworn testimony and produce certain documents and information.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(3) against the Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Respondent admits the facts, findings, and violations set forth below, and consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to the Respondent's Offer, and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer in this matter, the Board finds[2] that:

A. Respondent

1. Gary L. Singer, CPA, age 61, of Hawthorne, New Jersey, is a certified public accountant licensed by the state of New York (License no. 045987). At all relevant times, Respondent was a partner and fifty-percent (50%) owner of the registered public accounting firm of Li and Company, P.C. ("LICO"), a professional corporation headquartered in Skillman, New Jersey, and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondent Failed to Cooperate with a PCAOB Investigation.

2. Pursuant to Section 105(b) of the Act and PCAOB Rules, the Board conducts investigations into acts or practices of registered public accounting firms and their associated persons that may violate any provision of the Act, the Rules of the Board, the provisions of securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the U.S. Securities and Exchange Commission issued under the Act, or professional standards. Section 105(b)(3)(A) of the Act authorizes the Board to sanction an associated person of a registered public accounting firm for refusing to testify, produce documents, or otherwise cooperate with the Board in connection with an investigation. Board rules include procedures for implementing that authority.[3] Noncooperation with a Board investigation includes failing to comply with an ABD.[4]

3. As described below, Respondent failed to cooperate with the Board's investigation by failing to comply with an ABD issued to Respondent pursuant to PCAOB Rules 5102(b) and 5103 that required him to appear for sworn testimony and produce certain documents and information.

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[2] The sanctions that the Board is imposing on Respondent in this Order are imposed pursuant to Section 105(b)(3) of the Act, 15 U.S.C. § 7215(b)(3), and PCAOB Rule 5300(b).

[3] See PCAOB Rules 5110 and 5200(a)(3).

[4] See PCAOB Rule 5110(a)(1).

PCAOB
Public Company Accounting Oversight Board

ORDER

Background

4. LICO audited the financial statements of Issuers A, B, and C (collectively, the "Issuers"). At all relevant times, the Issuers were each an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. Respondent served as the engagement partner on LICO's audits and reviews of the financial statements of Issuer B for fiscal year ending December 31, 2013, and Issuer C for fiscal year ending June 30, 2013, and as the engagement quality reviewer on Issuer A's financial statements for fiscal years ending December 31, 2012 and 2013.

6. In December 2014, the Board issued an Order of Formal Investigation ("OFI") regarding LICO's audits and reviews of the financial statements of the Issuers.

Respondent's Failure to Produce Documents and Information and to Appear for Testimony

7. Pursuant to the Board's OFI, on February 2, 2016, the Board's Division of Enforcement and Investigations ("Division") issued an ABD requiring Respondent to produce certain original documents and information and to appear for sworn testimony before the Division. The ABD further required Respondent, among other things, to identify the circumstances surrounding the documentation of the Firm's Issuer audits.

8. The Division anticipated taking testimony from the Respondent concerning, among other things, his role in the Firm's audits of the Issuers' financial statements.

9. In late February 2016, Respondent, through counsel, informed the Division that he would not comply with the ABD issued to him.

10. Respondent's failures to provide the required testimony and documents impeded the Board's ability to determine if Respondent's audit work was performed in accordance with PCAOB rules and standards, and whether violations occurred which justified sanctions.

11. As a result of the foregoing conduct, Respondent failed to cooperate with a Board investigation.

PCAOB
Public Company Accounting Oversight Board

ORDER

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(iii) of the Act and PCAOB Rule 5300(b)(1), Gary L. Singer is hereby censured; and

B. Pursuant to Section 105(b)(3)(A)(i) of the Act and PCAOB Rule 5300(b)(1), Gary L. Singer is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[5]

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

June 14, 2016

[5] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Respondent. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Jerry L Stanford, CPA and Jerry L. Stanford, CPA,* *Respondents.*	PCAOB Release No. 105-2016-019 June 14, 2016

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Jerry L Stanford, CPA (the "Firm"), revoking the Firm's registration;[1] and censuring Jerry L. Stanford, CPA ("Stanford") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Stanford (collectively, "Respondents") violated PCAOB rules and standards in connection with the audit of an issuer client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party,

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Stanford may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

ORDER

and without admitting or denying the findings herein, except as to the facts contained in paragraphs 13 and 14 and the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Jerry L Stanford, CPA is, and at all relevant times was, a sole proprietorship organized under the laws of Florida, with an office in Maitland, Florida. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times the Firm was the external auditor for the issuer identified below.

2. Jerry L. Stanford, CPA, 74, of Maitland, Florida, is a certified public accountant licensed by the state of Florida (License No. AC0002414). At all relevant times, Stanford was the managing partner and sole owner of the Firm, and served as the engagement partner on the audit discussed below. Stanford is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the issuance of an audit report on the financial statements

[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

of BridgeWell Income Trust Inc. ("BridgeWell"). As detailed below, Respondents failed to obtain sufficient appropriate audit evidence and exercise due professional care and professional skepticism in connection with the audit of the financial statements of BridgeWell for the fiscal year ending December 31, 2012 and for the nine-month interim period ending September 30, 2013 ("the audit"). The Firm also failed to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to the audit by failing to obtain an engagement quality review even though it was required.

4. Additionally, Stanford took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of PCAOB rules and standards concerning the requirement for engagement quality reviews.

C. Respondents Violated PCAOB Rules and Standards

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6] Among other things, those standards require that an auditor exercise due professional care and professional skepticism in the performance of the audit and preparation of the report.[7] PCAOB standards also require that an auditor plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.[8] If the auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the financial statements as a whole are free of material misstatement, the auditor should express a qualified opinion or a disclaimer of opinion.[9]

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[6] See AU § 508.07, *Reports on Audited Financial Statements*.

[7] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work.*

[8] See Auditing Standard No. 15, *Audit Evidence* ("AS 15").

[9] See Auditing Standard No. 14 ("AS 14"), *Evaluating Audit Results*, ¶ 35 ("AS 14").

ORDER

6. For audits and interim reviews of financial statements for fiscal years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits, interim reviews, and certain attestation engagements conducted pursuant to PCAOB standards.[10] AS 7 also provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance of the report.[11]

7. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."

8. As described below, Respondents failed to comply with PCAOB rules and standards in connection with the Firm's audit of BridgeWell's financial statements.

Audit of BridgeWell's Financial Statements

9. BridgeWell is a Florida corporation located in Orlando, Florida. BridgeWell's public filings disclose that, at all relevant times, it was intending to invest exclusively in whole mortgage notes on both commercial and residential real estate to hold for sale or until maturity. BridgeWell filed its Securities Act registration statement, Form S-11, on December 19, 2012, and subsequently filed a Form S-11/A on October 25, 2013. At all relevant times, it was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

10. Stanford, as engagement partner, authorized the Firm's issuance of an audit report, dated October 16, 2013, expressing an unqualified audit opinion on BridgeWell's financial statements for the year ended December 31, 2012 and for the nine-month interim period ending September 30, 2013. The audit report was included in BridgeWell's Form S-11/A filed with the Commission on October 25, 2013.

11. In connection with the audit of BridgeWell's financial statements, Respondents failed to exercise due professional care and professional skepticism and

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[10] See AS 7, ¶ 1

[11] See AS 7, ¶ 13.

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Public Company Accounting Oversight Board

ORDER

failed to plan and perform the audit in accordance with PCAOB standards. Specifically, Respondents failed to establish an overall audit strategy for the engagement or to develop an audit plan.[12] Additionally, Respondents failed to perform any risk assessment procedures to identify and assess the risks of material misstatement, and to design and implement overall responses to address the assessed risks of material misstatement.[13]

12. Respondents also failed to obtain sufficient appropriate audit evidence concerning significant balances and transactions in BridgeWell's financial statements.[14] Other than obtaining representations from management and certain supporting schedules, Stanford and the Firm failed to perform any audit procedures relating to BridgeWell's reported assets, liabilities, stockholders' equity and expenses.

13. The Firm also failed to obtain an engagement quality review for the audit even though it was required to be performed. The Firm improperly permitted the issuance of its audit report, which was included in BridgeWell's Form S-11/A filed with the Commission, without obtaining an engagement quality review and concurring approval of issuance as required by AS 7. As a result, the Firm violated AS 7.

14. Stanford, the sole owner of the Firm, was the engagement partner for the audit conducted by the Firm and was responsible for that audit. Accordingly, he had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Stanford knew, or was reckless in not knowing, that when he caused the Firm to grant permission to BridgeWell to use the audit report without the Firm having obtained the required engagement quality review and concurring approval of issuance, he was directly and substantially contributing to the Firm's violations of AS 7. As a result, Stanford violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

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[12] See Auditing Standard No. 9, *Audit Planning,* ¶¶ 7-10.

[13] See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement*, ¶ 4; Auditing Standard No. 13, *The Auditor's Response to the Risks of Material Misstatement,* ¶ 5

[14] See AS 15, ¶¶ 4-6; AS 14, ¶ 32-36.

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ORDER

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Jerry L Stanford, CPA, and Jerry L. Stanford are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jerry L. Stanford is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[15]

C. After two (2) years from the date of this Order, Jerry L. Stanford may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Jerry L Stanford, CPA is revoked; and

E. After two (2) years from the date of the Order, Jerry L Stanford, CPA may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

June 14, 2016

[15] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Stanford. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2016-023
In the Matter of Tony Zhicong Li, CPA,	June 14, 2016
Respondent.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Tony Zhicong Li, CPA ("Respondent") and barring him from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings concerning Respondent's noncooperation with a Board investigation, by failing to comply with Accounting Board Demands ("ABDs") which required him to appear for sworn testimony and produce certain documents and information.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(3) against the Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Respondent admits the facts, findings, and violations set forth below, and consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to the Respondent's Offer, and are not binding on any other person or entity in this or any other proceeding.

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Public Company Accounting Oversight Board

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III.

On the basis of Respondent's Offer in this matter, the Board finds[2] that:

A. Respondent

1. Tony Zhicong Li, CPA, age 53, is and at all relevant times was, a certified public accountant licensed by the state of New Jersey (license no. 20CC02774700). At all relevant times, Respondent was president, a partner, and fifty-percent (50%) owner of the registered public accounting firm of Li and Company, P.C. ("LICO"), a professional corporation headquartered in Skillman, New Jersey, and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondent Failed to Cooperate with a PCAOB Investigation.

2. Pursuant to Section 105(b) of the Act and PCAOB Rules, the Board conducts investigations into acts or practices of registered public accounting firms and their associated persons that may violate any provision of the Act, the Rules of the Board, the provisions of securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the U.S. Securities and Exchange Commission issued under the Act, or professional standards. Section 105(b)(3)(A) of the Act authorizes the Board to sanction an associated person of a registered public accounting firm for refusing to testify, produce documents, or otherwise cooperate with the Board in connection with an investigation. Board rules include procedures for implementing that authority.[3] Noncooperation with a Board investigation includes failing to comply with an ABD.[4]

3. As described below, Respondent failed to cooperate with the Board's investigation by failing to comply with ABDs issued to Respondent pursuant to PCAOB Rules 5102(b) and 5103 that required him to appear for sworn testimony and produce certain documents and information.

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[2] The sanctions that the Board is imposing on Respondent in this Order are imposed pursuant to Section 105(b)(3) of the Act, 15 U.S.C. § 7215(b)(3), and PCAOB Rule 5300(b).

[3] See PCAOB Rules 5110 and 5200(a)(3).

[4] See PCAOB Rule 5110(a)(1).

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Background

4. LICO audited the financial statements of Issuers A, B, and C (collectively, the "Issuers"). At all relevant times, the Issuers were each an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. Respondent served as the engagement partner on LICO's audits and reviews of Issuer A's financial statements for fiscal years ending December 31, 2012 and 2013, and as the engagement quality reviewer for the Firm's audits and reviews of the financial statements of Issuer B for fiscal year ending December 31, 2013, and Issuer C for fiscal year ending June 30, 2013.

6. In December 2014, the Board issued an Order of Formal Investigation ("OFI") regarding LICO's audits and reviews of the financial statements of the Issuers.

Respondent's Failure to Appear for Testimony and to Produce Documents and Information

7. Pursuant to the Board's OFI, on July 10, 2015, the Board's Division of Enforcement and Investigations ("Division") sent Respondent an ABD requiring him to, among other things, appear for sworn testimony before the Division on August 19, 2015.

8. The Division anticipated taking testimony from the Respondent concerning, among other things, his role in the Firm's audits of the Issuers' financial statements.

9. After several delays, Respondent appeared before the Division on November 11, 2015, and completed the first of three scheduled days of sworn testimony. At the conclusion of the first day of testimony, Respondent's counsel informed the Division that Respondent would not be appearing for the remaining two days of his scheduled testimony.

10. On November 12, 2015, the Division sent Respondent, through counsel, a letter informing him that he had an obligation to cooperate with the Board investigation and, unless Respondent resumed his testimony, the Division intended to recommend a disciplinary proceeding against him for noncooperation with an investigation.

11. In December 2015, Respondent agreed to resume his sworn testimony before the Division in February 2016. However, on January 28, 2016, Respondent, through counsel, informed the Division that he would not appear to resume his testimony.

ORDER

12. On January 29, 2016, the Division sent Respondent's counsel a letter informing him that Respondent's refusal to appear for testimony constituted noncooperation with a Board investigation and the Division intended to recommend a disciplinary proceeding against him for noncooperation with an investigation.

13. On February 2, 2016, the Division issued a second ABD to Respondent that, among other things, required him to identify the circumstances surrounding the documentation of the Firm's Issuer audits. In late February 2016, Respondent, through counsel, informed the Division that he would not produce the information or comply with the February 2, 2016 ABD.

14. Respondent's failures to provide the required testimony and documents impeded the Board's ability to determine if Respondent's audit work was performed in accordance with PCAOB rules and standards, and whether violations occurred which justified sanctions.

15. As a result of the foregoing conduct, Respondent failed to cooperate with a Board investigation.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(iii) of the Act and PCAOB Rule 5300(b)(1), Tony Zhicong Li is hereby censured; and

B. Pursuant to Section 105(b)(3)(A)(i) of the Act and PCAOB Rule 5300(b)(1), Tony Zhicong Li is barred from being an associated person of

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a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[5]

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

June 14, 2016

[5] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Respondent. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Chun Cho Kwok, CPA, and KCC & Associates (a/k/a Chun C. Kwok, a/k/a Kwok & Company)*, *Respondents.*	PCAOB Release No. 105-2016-026 June 30, 2016

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring KCC & Associates (a/k/a Chun C. Kwok, a/k/a Kwok & Company, hereinafter "KCC" or the "Firm"), and revoking the Firm's registration;[1] and censuring Chun Cho Kwok ("Kwok") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Kwok (collectively, "Respondents") violated PCAOB rules and standards in connection with two audits of one issuer client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Kwok may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. KCC & Associates (a/k/a Chun C. Kwok, a/k/a Kwok & Company) is, and at all relevant times was, a sole proprietorship under the laws of the state of California and located in Los Angeles, California. KCC operates pursuant to Fictitious Name Permits issued to Kwok (FNP no. 2714 and FNP no. 2585). KCC is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times KCC was the external auditor for the issuer identified below.

2. Chun Cho Kwok, 54, of Los Angeles, California is a certified public accountant licensed by the California Board of Accountancy (License No. 115816). At all relevant times, Kwok was the sole proprietor of KCC and served as the engagement partner on the audits discussed below. Kwok is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the issuance of audit reports on the financial statements of San Lotus Holding, Inc. ("San Lotus") for the years ended December 31, 2013 and 2014. As detailed below, Respondents failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence, in connection with the audit of the December 31, 2013 financial statements of San Lotus ("2013 audit"), and the audit of the December 31, 2013 (restated) and December 31, 2014 financial statements of San Lotus ("2014 audit").

C. Respondents Violated PCAOB Rules and Standards

4. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6] Those standards require among other things, that an auditor plan and perform the audit to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[7] PCAOB standards further require that an auditor exercise due professional care and professional skepticism in performing the audit.[8]

5. PCAOB standards require that the audit report state whether the financial statements are presented in conformity with generally accepted accounting principles ("GAAP").[9] "Generally accepted accounting principles recognize the importance of

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[6] See AU § 508.07, *Reports on Audited Financial Statements.*

[7] See Auditing Standard No. 15, *Audit Evidence* ("AS 15") at ¶ 4.

[8] See AU § 150, *Generally Accepted Auditing Standards,* AU § 230, *Due Professional Care in the Performance of Work*.

[9] See AU § 411, *The Meaning of Present Fairly in Conformity with Generally Accepted Accounting Principles.*

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reporting transactions and events in accordance with their substance. The auditor should consider whether the substance of transactions or events differs materially from their form."[10]

6. In the case of significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment, PCAOB standards require the auditor to gain an understanding of the business rationale for such transactions and whether that rationale (or the lack thereof) suggests that the transactions may have been entered into to engage in fraudulent financial reporting or conceal misappropriation of assets.[11] In addition, where a risk of fraud is identified, the auditor is required by PCAOB standards to "perform substantive procedures, including tests of details, that are specifically responsive to the assessed fraud risks."[12]

7. As described below, Respondents failed to comply with PCAOB rules and standards in connection with the 2013 and 2014 audits of San Lotus.

Audit of San Lotus's 2013 Financial Statements

8. Kwok, as engagement partner, authorized the Firm's issuance of an audit report, dated March 21, 2014, expressing an unqualified audit opinion on San Lotus's financial statements for the year ended December 31, 2013. The report was included in San Lotus's Form 10-K filed with the Securities and Exchange Commission ("Commission") on April 7, 2014.

9. San Lotus reported in its 2013 Form 10-K that it had entered into three transactions to acquire land in Taiwan during 2013. As disclosed in the Forms 8-K and 8-K/A announcing each of the transactions, the sellers included San Lotus directors and

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[10] Id. ¶ 6.

[11] See AU § 316.66, *Consideration of Fraud in a Financial Statement Audit* (since superseded for audits of fiscal years beginning on or after December 15, 2014); see also Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement,* ("AS 13") ¶ 15(c).

[12] See AS 13 ¶ 13.

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officers, and/or business entities in which San Lotus shareholders held an ownership interest. San Lotus issued shares to the land sellers to pay for the transactions.[13]

10. In the first transaction, San Lotus acquired a land holding company, Da Ren International Development Inc. Da Ren's primary asset was a "qualified ownership" interest in land.[14] After acquiring Da Ren in September 2013, San Lotus recorded that land on its year-end 2013 balance sheet as a fixed asset with a value of more than $3.1 million. San Lotus's valuation of the land was based on a third-party appraisal conducted as of April 29, 2013.

11. In two other transactions, San Lotus agreed to purchase land in Xinpi Township and Miaoli County. Although San Lotus issued shares to the sellers in 2013 as consideration for the land, San Lotus disclosed that title for the underlying land parcels did not transfer to San Lotus in 2013. On its year-end 2013 financial statements, San Lotus recorded prepaid assets of $8.6 million as a result of the Xinpi and Miaoli land transactions, based on appraised values of $1.8 million for the land in Xinpi and $6.8 million for the land in Miaoli.

12. The assets recorded from the three land transactions ($11.7 million) represented 94% of total assets at year-end 2013. The appraisals on which the valuations of those assets were based—described in paragraphs 10 and 11 above—contained language indicating that they were only to be used as a reference for certain Taiwanese urban renewal-related purposes and could not be used as a reference for other appraisal purposes.

13. When planning the 2013 audit, Respondents identified the land transactions as significant, equity-based transactions, outside of the normal course of business with related parties. Respondents also identified a risk of material misstatement due to fraud related to the valuation of the land assets acquired. Respondents, however, failed to perform sufficient appropriate procedures to evaluate

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[13] On the date that each contract was signed: (1) San Lotus's Taiwanese subsidiary delivered a promissory note to the sellers for a cash purchase price that was based on an appraisal of the land asset; (2) San Lotus assumed the subsidiary's obligations under the promissory note; and (3) the sellers agreed to accept shares of San Lotus in satisfaction of the promissory note.

[14] Da Ren's ownership of the land was qualified because the seller could, in certain circumstances, reclaim title to the land from Da Ren.

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the business rationale of the land transactions,[15] or to plan and perform audit procedures that were specifically responsive to the assessed fraud risks of the land transaction.[16] For example, Respondents failed to consider whether management may have been placing more emphasis on the need for a particular accounting treatment for the land transactions than on the underlying economics of the transactions.[17] Respondents also failed to perform any procedures to evaluate whether it was appropriate under U.S. GAAP to record assets from the land transactions at appraised values and proceeded on the basis of a view that the use of the appraised values was appropriate.[18]

14. As a result, Respondents, failed to exercise due professional care, including professional skepticism,[19] during the audit, and failed to obtain sufficient appropriate evidence to support the audit opinion they issued in connection with San Lotus's 2013 financial statements.[20]

March 6, 2015 Form 8-K

15. Between October 2014 and January 2015, the staff of the Commission's Division of Corporation Finance sent a series of comment letters to San Lotus. The comment letters, among other things, raised questions concerning whether the recorded land assets should be valued at historical cost. Respondents reviewed those letters, as well as San Lotus's responses to those letters.

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[15] See AU § 316.66.

[16] See AS 13 ¶ 13.

[17] See AU § 316.67.

[18] To audit the valuation of the land transactions, Respondents performed certain procedures prescribed by AU § 336, *Using the Work of a Specialist*. However, Respondents still failed to adequately perform the procedures required under AU § 336 to make use of the appraisals. In particular, Respondents failed to consider the appropriateness of using the appraisals as evidence of the value of the land assets for U.S. GAAP purposes, given the language limiting the use of the appraisals. See AU § 336.09(e).

[19] See AU § 230; AS 13 ¶ 7.

[20] See AS 15 ¶¶ 4-6.

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16. On March 6, 2015, San Lotus disclosed in a Form 8-K that its previously filed 2013 financial statements should no longer be relied upon. Among other things, San Lotus stated in the Form 8-K that the 2013 financial statements "fail[ed] to properly reflect the value of each land purchased in 2013 . . . at its historical carrying value." San Lotus further announced that it intended to file restated financial statements as soon as practicable, and that it had discussed the matters in the Form 8-K with KCC.

Audit of San Lotus's 2013 (Restated) and 2014 Financial Statements

17. On March 30, 2015, San Lotus filed a Form 10-K with the Commission, containing San Lotus's 2013 (restated) financial statements and 2014 financial statements. Kwok, as engagement partner, authorized the Firm's issuance of an audit report, dated March 25, 2015, expressing an unqualified audit opinion on the financial statements, which was also included in the Form 10-K filed with the Commission.

18. In the 2013 (restated) financial statements, San Lotus reported $4.9 million in assets related to the aforementioned land transactions (comprising 87% of total assets). This included $1.8 million from the Xinpi land and $3.1 from the Da Ren land transaction.[21] In the 2014 financial statements, San Lotus reported $2.9 million in assets relating to the Da Ren land transaction (comprising 79% of total assets).[22] San Lotus continued to record the value of those assets based on the third-party appraisals conducted in 2013.[23]

19. When planning the audit of the 2013 (restated) financial statements and the 2014 financial statements, Respondents again identified the land transactions as

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[21] No assets were reported from the Miaoli land transaction in either the 2013 (restated) or 2014 financial statements. San Lotus disclosed in the 2014 Form 10-K that those transactions had been "cancelled" in early 2015 because the "entire title to the [Miaoli land] has not been transferred."

[22] No asset was reported for the Xinpi land transaction in the 2014 financial statements. In 2014, San Lotus returned the Xinpi land to one of the original sellers in exchange for the return of an equivalent number of San Lotus shares to the number of shares issued in the original transaction.

[23] The difference in the reported amount of the Da Ren land, from $3.1 million on the 2013 (restated) financial statements to $2.9 million on the 2014 financial statements, was due to the application of a different exchange rate for each balance sheet date.

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significant, equity-based transactions, outside of the normal course of business, with related parties. Respondents also again identified a risk of material misstatement due to fraud related to the valuation of the land assets acquired in the foregoing land transactions. Nevertheless, Respondents again failed to plan and to perform appropriate procedures to evaluate the business rationale of the land transactions, or to plan and perform audit procedures that were specifically responsive to the risks of fraud associated with those transactions.[24]

20. Despite being aware of San Lotus's correspondence with the Commission's Division of Corporation Finance concerning the value of the land acquisitions, Respondents again failed to perform appropriate procedures to determine whether the assets from the Da Ren and Xinpi land transactions were properly recorded. Respondents failed to appropriately consider the disclosure in the March 6, 2015 Form 8-K, that previously filed financial statements should no longer be relied upon because San Lotus had failed to record the land it had purchased at historical carrying values. Respondents also failed to perform any procedures to evaluate whether it was appropriate under U.S. GAAP for San Lotus to continue to record assets from the Da Ren and Xinpi land transactions at appraised values.[25]

21. Instead, Respondents continued to accept management's valuations of the land assets based on the appraisals, and failed to perform sufficient appropriate procedures to test those values. In particular, Respondents continued to use the appraisals as audit evidence supporting the value of the land assets.[26]

22. As a result, Respondents failed to exercise due professional care, including professional skepticism,[27] during the audit, and failed to obtain sufficient appropriate evidence to support the audit opinion they issued in connection with San Lotus's 2013 (restated) and 2014 financial statements.[28]

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[24] See AS 13 ¶ 13.

[25] See Auditing Standard No. 14, *Evaluating Audit Results*, ("AS 14") ¶ 30.

[26] See AU § 336.09(e).

[27] See AU § 230; AS 13 ¶ 7.

[28] See AS 15 ¶¶ 4-6.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Chun Cho Kwok, CPA, and KCC & Associates (a/k/a Chun C. Kwok, a/k/a Kwok & Company) are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Chun Cho Kwok, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[29]

C. After two (2) years from the date of this Order, Chun Cho Kwok, CPA, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of KCC & Associates (a/k/a Chun C. Kwok, a/k/a Kwok & Company) is revoked; and

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[29] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Kwok. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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E. After two (2) years from the date of the Order, KCC & Associates (a/k/a Chun C. Kwok, a/k/a Kwok & Company) may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

June 30, 2016

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2016-027
In the Matter of Goldman Kurland and Mohidin, LLP and Ahmed Mohidin, CPA,	September 13, 2016
Respondents.	

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Goldman Kurland and Mohidin, LLP ("GKM" or the "Firm"), revoking the Firm's registration,[1] and imposing a $15,000 civil money penalty on the Firm; and censuring Ahmed Mohidin, CPA ("Mohidin"), barring him from being an associated person of a registered public accounting firm,[2] and imposing a $15,000 civil money penalty on him. The Board is imposing these sanctions on the basis of its findings that (1) the Firm and Mohidin (collectively, "Respondents") violated PCAOB rules and standards, and federal securities laws and rules, governing auditor independence in connection with an audit for one issuer and reviews for two issuers; (2) the Firm violated, in connection with an audit for one issuer, PCAOB rules and standards that require engagement quality reviewers to maintain objectivity, and Mohidin violated a PCAOB rule because he directly and substantially contributed to the Firm's violation; and (3) Respondents violated PCAOB rules and standards in connection with audits for two issuers.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondents pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1).

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[1] The Firm may reapply for registration after one (1) year from the date of this Order.

[2] Mohidin may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, the Respondents have each submitted an Offer of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Goldman Kurland and Mohidin, LLP is a limited liability partnership organized under the laws of the State of California with an office in Encino, California. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. GKM is licensed to practice public accountancy under the laws of California (License No. 6552) and, at all relevant times, was the external auditor for each of the issuers identified below.

2. Ahmed Mohidin, age 60, of Moorpark, California is a certified public accountant licensed under the laws of California (License No. 50267). At all relevant times, Mohidin was a partner of the Firm and had primary responsibility for GKM's issuer audit practice. He was the engagement partner on all but one of the audits and reviews at issue herein. Mohidin is no longer a partner with the Firm and is currently a partner with another registered public accounting firm in California. Mohidin is, and at

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violation of PCAOB rules and standards, and federal securities laws and rules, governing auditor independence. In connection with concurrent audits of the financial statements of issuer Home System Group ("HSG") for 2010 and 2011 (the "HSG Audits"), Respondents provided HSG with prohibited bookkeeping services and audited their own work in violation of PCAOB Rule 3520, *Auditor Independence*, Section 10A(g) of the Securities Exchange Act of 1934 ("Exchange Act"), Exchange Act Rule 10A-2, and PCAOB Interim Auditing Standard ("AU") § 220, *Independence*.[5]

4. In connection with reviews of the interim financial statements of issuers U.S. China Mining Group, Inc. ("CMG") and China Recycling Energy Corporation ("CREG") for the first three quarters of 2012 (the "CMG and CREG Reviews"), Respondents violated PCAOB Rule 3520 and AU § 220, and the Firm violated Section 10A(j) of the Exchange Act and Exchange Act Rule 10A-2, because Mohidin and another accountant associated with the Firm served as the lead and concurring partners for the CMG and CREG Reviews after having served in these positions for the Firm's audits of CMG and CREG's financial statements for the previous five consecutive years. In addition, Mohidin violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, because he took actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of Section 10A(j) of the Exchange Act and Exchange Act Rule 10A-2.

5. In addition, this matter concerns the Firm's violation of PCAOB Auditing Standard No. ("AS") 7, *Engagement Quality Review*, in connection with the audit of CMG's 2012 financial statements (the "CMG Audit"). An accountant who served as the Firm's senior manager for the CMG Audit also served as the Firm's engagement quality reviewer for that audit and, thereby, lacked objectivity in performing his review. Mohidin, who assigned the accountant to the CMG Audit, violated PCAOB Rule 3502 because he took actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation.

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[5] All references to PCAOB standards are to the versions of those standards in effect at the time of the relevant audits and reviews.

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6. Finally, this matter concerns Respondents' violations of PCAOB rules and standards in connection with the HSG Audits and the audit of the financial statements of issuer China United Insurance Service, Inc. ("CUIS") for fiscal year 2012 (the "CUIS Audit"). During both the HSG Audits and the CUIS Audit, Respondents failed to exercise due professional care and professional skepticism. During the HSG Audits, Respondents also failed to obtain sufficient audit evidence to support financial statement assertions related to sales, cost of sales, and deferred product costs, among other violations of PCAOB rules and standards. During the CUIS Audit, Respondents also failed to adequately accumulate and/or evaluate uncorrected misstatements and obtain sufficient appropriate audit evidence to support the presentation and disclosure assertion related to revenue and cost of revenue, among other violations of PCAOB rules and standards.

C. Respondents Violated PCAOB Rules and Standards, and Federal Securities Laws and Rules, Governing Auditor Independence and Objectivity

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] PCAOB rules and standards also require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[7]

8. A registered public accounting firm or associated person's independence obligation with respect to an audit client encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the U.S. Securities and Exchange Commission (the "Commission") under the federal securities laws.[8]

9. Section 10A(g) of the Exchange Act provides that it shall be unlawful for a registered public accounting firm that performs an audit for an issuer, and the firm's associated persons (to the extent determined appropriate by the Commission), "to provide to that issuer, contemporaneously with the audit, any non-audit service,

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[6] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[7] PCAOB Rule 3520; AU § 220.

[8] PCAOB Rule 3520, Note 1.

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including . . . bookkeeping or other services related to the accounting records or financial statements of the audit client".[9]

10. Exchange Act Rule 10A-2 provides that it shall be unlawful for an auditor not to be independent under certain rules contained in Commission Regulation S-X, including Rule 2-01(c)(4).[10] Rule 2-01(c)(4)(i) of Regulation S-X provides that an "accountant is not independent if, at any point during the audit and professional engagement period," the accountant provides certain "[b]ookkeeping or other services related to the accounting records or financial statements of the audit client".[11] Such bookkeeping services include "[m]aintaining or preparing the audit client's accounting records" and "[p]reparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission".[12]

11. Section 10A(j) of the Exchange Act provides that it shall be unlawful for a registered public accounting firm to provide audit services to an issuer if the firm's lead or concurring audit partner performed audit services for the issuer in each of the issuer's five previous fiscal years.[13] Rule 2-01(c)(6)(i) of Regulation S-X provides that an accountant is not independent of an audit client when any audit partner performs the services of a lead or concurring partner for that audit client for more than five consecutive years or at any time within the five consecutive years following the performance of such services for the maximum period permitted.[14]

12. AS 7 provides that an engagement quality review and concurring approval of issuance are required for all audits and reviews conducted pursuant to PCAOB standards.[15] An engagement quality reviewer must have and maintain objectivity in performing an engagement quality review.[16] "To maintain objectivity, the engagement

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[9] 15 U.S.C. § 78j-1(g)(1).

[10] 17 C.F.R. § 240.10A-2.

[11] 17 C.F.R. § 210.2-01(c)(4)(i).

[12] *Id.*

[13] 15 U.S.C. § 78j-1(j).

[14] 17 C.F.R. § 210.2-01(c)(6)(i). At all relevant times, the Firm had five or more issuer audit clients and did not qualify for the small-firm exemption from the partner rotation requirements. *See id.* at § 210.2-01(c)(6)(ii).

[15] AS 7 ¶ 1.

[16] *Id.* ¶ 4.

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quality reviewer . . . should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team."[17]

13. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.[18]

14. As described below, Respondents failed to comply with Section 10A(g) of the Exchange Act, Exchange Act Rule 10A-2, and certain PCAOB rules and standards. Also, the Firm failed to comply with Section 10A(j) of the Exchange Act and Mohidin failed to comply with PCAOB Rule 3502.

Respondents Were Not Independent During the HSG Audits

15. HSG's public filings disclose that, at all relevant times, HSG was a Nevada corporation with principal executive offices in the People's Republic of China ("PRC"). HSG earned revenue by manufacturing household products in the PRC for sale predominantly to distributors who in turn sold the products to retailers. HSG's common stock was registered under Section 12(g) of the Exchange Act and quoted on the OTC Bulletin Board ("OTCBB") under the symbol "HSYT".[19] At all relevant times, HSG was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

16. HSG engaged GKM in March 2012 as its external auditor for the years ending December 31, 2010 and December 31, 2011. GKM issued an unqualified audit report on HSG's financial statements for those two years (the "HSG Financial Statements"). The HSG Financial Statements and GKM's audit report were included in a Form 10-K that HSG filed with the Commission on March 6, 2013. Mohidin was the engagement partner for the HSG Audits, which were conducted concurrently, and signed and authorized the issuance of GKM's audit report. Mohidin was also the partner in charge of GKM's issuer audit practice ("SEC Audit Partner") and responsible

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[17] *Id.* ¶ 7.

[18] PCAOB Rule 3502.

[19] The Commission revoked the registration of each class of HSG's registered securities on December 18, 2013.

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for designing, maintaining, and administering the Firm's independence policies and procedures.

17. After GKM began testing revenue as part of the HSG Audits, HSG revised its revenue recognition policy for its 2010 and 2011 product sales to one of its distributors (the "Distributor"). Under the original revenue recognition policy ("Original HSG Policy"), HSG recognized revenue from product sales to all distributors when it shipped products to the distributors. Under the revised recognition policy ("Revised HSG Policy"), HSG recognized revenue from product sales to the Distributor when the Distributor received payment from its customers. HSG reported in the HSG Financial Statements that revenue derived from sales to the Distributor represented 50 percent of HSG's $104 million of net sales in 2010, and 35 percent of its $94 million of net sales in 2011.[20]

18. As a result of the Revised HSG Policy, HSG reported the costs attributed to products shipped to the Distributor for which the Distributor had not yet been paid by its customers in a new asset account called "Deferred product costs." The Firm calculated for HSG the amount of deferred product costs reported for 2010 and 2011 under the Revised HSG Policy. Members of the Firm's engagement team did this by estimating the cost of sales attributable to products purportedly shipped to the Distributor for which the Distributor had not yet received payment. This estimate was based on the quantity of products sold to the Distributor divided by the quantity of products sold to all distributors. The resulting percentage was then applied to the cost of sales attributable to products shipped to all distributors. The engagement team also calculated for HSG the amount of sales and cost of sales reported for 2010 and 2011 under the Revised HSG Policy. These deferred product costs, sales, and cost of sales amounts were included in or formed the basis for the HSG Financial Statements, which GKM audited.

19. During the HSG Audits, Mohidin reviewed the engagement team's calculations of the amount of deferred product costs, sales, and cost of sales recorded for HSG in 2010 and 2011. He discussed the calculations with members of the Firm's engagement team and approved them before he signed and authorized the release of the Firm's audit report. During the HSG Audits, Mohidin considered the independence implications of this work and knew that it placed him in the position of auditing his own work.

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[20] The dollar amounts and percentages herein are approximate and rounded to the nearest whole number, except as otherwise stated.

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20. As a result of the conduct described above, Respondents were not independent of HSG during the HSG Audits in violation of PCAOB Rule 3520, Section 10A(g) of the Exchange Act, Exchange Act Rule 10A-2, and AU § 220.

Respondents Were Not Independent During the CMG and CREG Reviews

21. CMG's public filings disclose that, at all relevant times, CMG was a Nevada corporation with principal executive offices in Tampa, Florida or City of Industry, California. CMG earned revenue by producing and selling coal in the PRC. CMG's common stock was registered under Section 12(g) of the Exchange Act and quoted on the OTCBB under the symbol "SGZH". At all relevant times, CMG was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

22. CREG's public filings disclose that, at all relevant times, CREG was a Nevada corporation with principal executive offices in the PRC. CREG earned revenue by developing waste energy recycling programs for industrial application in the PRC. CREG's common stock was registered under Section 12(b) of the Exchange Act and quoted on NASDAQ markets under the symbol "CREG". At all relevant times, CREG was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

23. GKM was engaged as CMG and CREG's external auditor for the year ended December 31, 2012. GKM reviewed CMG and CREG's interim financial statements for the first three quarters of 2012, which were included in Form 10-Qs CMG and CREG filed with the Commission. Also, GKM issued unqualified audit reports on CMG and CREG's 2012 financial statements. These 2012 financial statements and audit reports were included in Form 10-Ks that were filed with the Commission.

24. For the Firm's reviews of the interim financial statements of CMG and CREG for the first three quarters of 2012, Mohidin and another accountant associated with the Firm served as lead and concurring partners after they had each served as the lead and concurring partners for the Firm's audits of CMG's and CREG's financial statements for the previous five consecutive years.

25. As a result of the conduct described above, Respondents were not independent of CMG and CREG in violation of PCAOB Rule 3520 and AU § 220, and the Firm was not independent of CMG and CREG in violation of Section 10A(j) of the Exchange Act and Exchange Act Rule 10A-2. In addition, Mohidin violated PCAOB Rule 3502 because he took actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of Section 10A(j) of the Exchange Act and Exchange Act Rule 10A-2.

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The Firm's Engagement Quality Reviewer Lacked Objectivity During the CMG Audit

26. In connection with the CMG Audit, an accountant associated with the Firm who had recently been promoted to partner served as both the Firm's senior manager for the audit and the Firm's engagement quality reviewer for the audit. As senior manager, the accountant performed much of the Firm's audit work and prepared many of the Firm's audit work papers, which the accountant then reviewed and approved as engagement quality reviewer. Mohidin, who was the Firm's SEC Audit Partner, was responsible for assigning, and did assign, the accountant to the CMG Audit.

27. As a result of the conduct described above, the Firm violated AS 7 because the Firm's engagement quality reviewer for the CMG Audit lacked objectivity. In addition, Mohidin violated PCAOB Rule 3502 because he took actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of AS 7.

D. Respondents Violated PCAOB Rules and Standards

28. An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB auditing standards.[21] Among other things, those standards require an auditor to exercise due professional care and professional skepticism in performing an audit.[22]

29. For audits of fiscal years beginning before December 15, 2010, PCAOB standards require an auditor to obtain sufficient competent evidential matter to provide a reasonable basis for his or her opinion regarding an issuer's financial statements.[23] For audits of fiscal years beginning on or after December 15, 2010, the standards require an auditor to obtain sufficient appropriate audit evidence to provide a reasonable basis for such an opinion.[24] In addition, an auditor is responsible for obtaining and evaluating

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[21] AU § 508.07, *Reports on Audited Financial Statements*.

[22] AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*.

[23] AU § 326.01, *Evidential Matter*.

[24] AS 14 ¶ 2, *Evaluating Audit Results*; AS 15 ¶¶ 3-4, *Audit Evidence*.

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sufficient appropriate evidential matter to support significant accounting estimates in a financial statement audit.[25]

30. PCAOB standards require an auditor to design and implement appropriate responses to assessed risks of material misstatement of financial statements.[26] The responses should involve the application of professional skepticism in gathering and evaluating audit evidence.[27] For significant risks, the responses should involve the performance of substantive procedures, including tests of details, that are specifically responsive to the assessed risks.[28] As the assessed risk of material misstatement increases, the audit evidence the auditor should obtain also increases.[29]

31. An auditor should accumulate and evaluate misstatements identified during an audit, including, in particular, uncorrected misstatements.[30] Among other things, this should include an evaluation of whether uncorrected misstatements are material, individually or in combination with other misstatements, taking into account relevant quantitative and qualitative factors.[31] Also, an auditor should communicate with management and the issuer's audit committee about certain misstatements.[32]

32. PCAOB standards further require an auditor to evaluate financial statement disclosures[33] and whether disclosures related to a change in accounting principle are adequate.[34] An auditor should determine that an issuer's audit committee has been informed about changes in significant accounting policies or their

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[25] AU §§ 342.01, .07, *Auditing Accounting Estimates*.

[26] AS 12, *Identifying and Assessing Risks of Material Misstatement*; AS 13, *The Auditor's Responses to the Risks of Material Misstatement*; AU § 312, *Audit Risk and Materiality in Conducting an Audit*.

[27] AS 13 ¶ 7; AU §§ 230.07-.09.

[28] AS 13 ¶ 11; AU § 312.17.

[29] AS 13 ¶ 37; AU §§ 312.12, .17.

[30] AS 14 ¶¶ 4, 10.

[31] *Id.* ¶¶ 17-18.

[32] *Id.* ¶ 15; AU § 333.06, *Management Representations*; AU §§ 380.09-.10, *Communication with Audit Committees*.

[33] AS 14 ¶¶ 4, 31.

[34] AS 6 ¶¶ 5, 7, *Evaluating Consistency of Financial Statements*.

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application.[35] If a change in an issuer's method of applying an accounting principle has a material effect on the financial statements, then an auditor should recognize this in the audit report by adding an explanatory paragraph or issuing a qualified or adverse opinion.[36]

33. As described below, Respondents failed to comply with these and other PCAOB rules and standards in connection with the HSG Audits and CUIS Audit.

The HSG Audits

34. Respondents failed to comply with PCAOB auditing standards in connection with auditing net sales, cost of sales, and deferred product costs reported in the HSG Financial Statements.

35. Respondents identified improper revenue recognition as a significant risk and a fraud risk during the HSG Audits. For the occurrence and valuation assertions related to sales, they assessed inherent risk, control risk, and risk of material misstatement as high, and for the completeness assertion they assessed inherent risk as moderate, control risk as high, and the risk of material misstatement as moderate. For the occurrence assertion related to cost of sales, they assessed inherent risk, control risk, and risk of material misstatement as high, and for the valuation and completeness assertions they assessed inherent risk as moderate, control risk as high, and the risk of material misstatement as moderate.

36. During the HSG Audits, Respondents knew that PCAOB Staff Audit Practice Alert No. 8, *Audit Risks in Certain Emerging Markets* ("PCAOB Practice Alert 8"), alerted them to the need for heightened risk awareness when auditing revenue for HSG and similarly situated issuers with operations in the PRC and other emerging markets. In planning the HSG Audits, Respondents calculated planning materiality as $750,000 for the audit of HSG's 2010 financial statements, and $820,000 for the audit of HSG's 2011 financial statements.

37. The HSG Financial Statements reported that HSG earned revenue of $53 million in 2010 and $33 million in 2011 from sales to the Distributor. Respondents' procedures to test these sales included tracing a selection of sales transactions recorded in HSG's sales journal to invoices and shipping documents prepared by HSG. Respondents' testing identified numerous discrepancies between sales journal dates and shipping dates. In addition, Respondents evaluated two sales reconciliations

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[35] AU § 380.07.

[36] AS 6 ¶¶ 5, 8; AU §§ 508.11, .17A.

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prepared by HSG. The reconciliations listed HSG's sales to the Distributor that were purportedly recorded based on shipping dates, and the dates on which the Distributor purportedly received payments from its customers with respect to such sales. The reconciliations did not list the amount of the payments the Distributor purportedly received from its customers on each listed sale date. Respondents failed to test the accuracy and completeness of the HSG-prepared shipping documents and reconciliations that they relied on to test HSG's sales transactions with the Distributor. In addition, Respondents failed to evaluate the abovementioned discrepancies to determine whether products were actually shipped to the Distributor.

38. As a result of the conduct described above, Respondents violated PCAOB auditing standards because they failed to exercise due professional care and professional skepticism,[37] and failed to obtain sufficient competent evidential matter or sufficient appropriate audit evidence to support the occurrence, valuation, and completeness assertions related to HSG's reported revenue derived from sales to the Distributor.[38] In addition, Respondents failed to evaluate whether HSG satisfied all the requisite criteria for recognizing revenue derived from sales to the Distributor under U.S. Generally Accepted Accounting Principles ("GAAP"),[39] and failed to evaluate whether the nature, timing, and extent of their audit procedures should have been modified to address an increased risk of material misstatement of revenue derived from such sales.[40]

39. The HSG Financial Statements also reported deferred product costs of $10 million for 2010 and $11 million for 2011. As discussed above, the Firm estimated for HSG the reported value of these deferred product costs. During the HSG Audits, Mohidin reviewed the Firm's estimates and related audit procedures, and discussed them with members of the Firm's engagement team.

40. Respondents failed to obtain sufficient competent evidential matter or sufficient appropriate audit evidence to evaluate the reasonableness of these deferred product costs, including obtaining and evaluating audit evidence concerning the actual cost of sales for products shipped to the Distributor. In addition, they did not obtain and

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[37] *See* AS 13 ¶ 7; AU § 230.

[38] *See* AS 14 ¶¶ 4.f, 35; AS 15 ¶¶ 4, 8, 10; AU §§ 326.01, 15-.17, .25.

[39] *See* Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 605, *Revenue Recognition*; *see also* Commission Staff Accounting Bulletin ("SAB") No. 13, *Revenue Recognition*.

[40] *See* AS 12 ¶ 74; AS 13 ¶¶ 6, 8-9, 37; AU §§ 312.12, .17, .33.

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evaluate audit evidence that the corresponding products were in fact shipped to the Distributor and the reported deferred product costs asset existed and was appropriately valued.

41. As a result of the conduct described above, Respondents violated PCAOB auditing standards because they failed to exercise due professional care and professional skepticism,[41] and failed to obtain sufficient competent evidential matter or sufficient appropriate audit evidence to support the existence and valuation assertions related to the deferred product costs reported in the HSG Financial Statements.[42]

The CUIS Audit

42. Respondents failed to comply with PCAOB standards in auditing revenue and related disclosures reported in CUIS's financial statements for the fiscal year ending June 30, 2012 (the "CUIS Financial Statements").

43. CUIS's public filings disclose that, at all relevant times, CUIS was a Delaware corporation with principal executive offices in the PRC. CUIS earned revenue by selling insurance policies and related services in the PRC. CUIS's common stock was quoted on the OTCBB under the symbol "CUII". At all relevant times, CUIS was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

44. CUIS engaged GKM as its external auditor for fiscal year 2012. GKM issued an unqualified audit report on the CUIS Financial Statements. The CUIS Financial Statements and GKM's audit report were included in a Form 10-K that CUIS filed with the Commission on September 28, 2012. Mohidin was the engagement partner for the CUIS Audit and authorized the issuance of GKM's audit report.

45. During the CUIS Audit, Respondents identified improper revenue recognition and improper cost allocation as significant risks and fraud risks. For the occurrence, valuation, and completeness assertions related to revenue and cost of revenue, they assessed inherent risk, control risk, and risk of material misstatement as high. In addition, Respondents knew during the CUIS Audit that PCAOB Practice Alert 8 alerted them to the need for heightened risk awareness when auditing revenue for CUIS.

46. CUIS revised its revenue recognition policy during the CUIS Audit for the year under audit. Under the original revenue recognition policy ("Original CUIS Policy"),

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[41] *See* AS 13 ¶ 7; AU § 230.

[42] *See* AS 14 ¶ 4.f; AS 15 ¶ 4; AU § 326.01; AU §§ 342.01, .04., .07, .10-.13.

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CUIS recognized revenue when an insurance policy became effective and a related premium was collected. Under CUIS's revised revenue recognition policy ("Revised CUIS Policy"), revenue was recognized when an insurance policy became effective. The practical result of the change was that CUIS recorded revenue from the sale of insurance policies one month earlier under the Revised CUIS Policy than under the Original CUIS Policy. Respondents believed during the CUIS Audit that the Revised CUIS Policy conformed to GAAP.

47. As a result of a misapplication of the Revised CUIS Policy, thirteen months of revenue and cost of revenue were incorrectly reported in the CUIS Financial Statements. In addition, one month of revenue for an entity whose financial statements were consolidated into CUIS's financial statements was incorrectly not recorded in the CUIS Financial Statements. Each of these uncorrected misstatements was greater than the Firm's planning materiality. The net effect of the misstatements on the CUIS Financial Statements was an overstatement of reported loss before income taxes of 16 percent and an understatement of reported gross profit of 8 percent.

48. Respondents knew or should have known about these uncorrected misstatements. During the CUIS Audit, Mohidin reviewed Firm work papers identifying the two misstatements and discussed the work papers and the Firm's revenue testing with members of the Firm's engagement team. Nonetheless, Respondents did not sufficiently evaluate the effects of these uncorrected misstatements, did not sufficiently communicate with management or CUIS's board of directors (which functioned as CUIS's audit committee) about the misstatements, and incorrectly told CUIS that the application of its existing accounting policies had not changed during the year under audit.

49. As a result of the conduct described above, Respondents violated PCAOB auditing standards because they failed to exercise due professional care and professional skepticism,[43] and failed to adequately accumulate and/or evaluate uncorrected misstatements.[44] In particular, they failed to evaluate the effects of the misstatements, including by evaluating whether the misstatements were material individually or in combination with other misstatements, in relation to the specific accounts and disclosures involved, and to the financial statements as a whole, taking into account relevant quantitative and qualitative factors.[45]

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[43] *See* AS 13 ¶ 7; AU § 230.

[44] *See* AS 14 ¶¶ 4, 10, 15-16.

[45] *See id.* ¶¶ 17-18.

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50. In addition, Respondents failed to communicate the misstatements to management and/or evaluate whether management properly corrected the misstatements;[46] failed to provide management with a summary of uncorrected misstatements;[47] failed to obtain a written representation from management that the effects of the uncorrected misstatements were immaterial;[48] and failed to inform CUIS's board of directors about the misstatements and the Revised CUIS Policy.[49]

51. In connection with related disclosures, the CUIS Financial Statements stated in accompanying notes that CUIS's revenue recognition policy was a significant accounting policy. The notes incorrectly disclosed, however, that the policy provided for revenue to be recognized when an insurance policy became effective and a related premium was collected, without disclosing that CUIS had revised this policy during the year under audit to no longer require premium collection as a prerequisite for revenue recognition.

52. During the CUIS Audit, Respondents were aware of these disclosures. Nonetheless, Respondents failed to perform sufficient procedures to evaluate whether the disclosures were correct, were materially affected by changes in CUIS's method of applying accounting principles, and conformed to GAAP.[50] Respondents also failed to determine whether CUIS's board of directors was properly informed of the change in CUIS's revenue recognition policy.

53. As a result of the conduct described above, Respondents violated PCAOB auditing standards because they failed to exercise due professional care and professional skepticism,[51] and failed to obtain sufficient appropriate audit evidence to support the presentation and disclosure assertion related to revenue and cost of revenue in the CUIS Financial Statements.[52] Respondents also failed to evaluate whether the disclosures in the CUIS Financial Statements were adequate and

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46 *See id.* ¶¶ 15-16.

47 *See* AU § 333.06.

48 *See id.*

49 *See* AU § 380.

50 *See* FASB ASC Topic 235, *Notes to Financial Statements;* FASB ASC Topic 250, *Accounting Changes and Error Corrections*; *see also* SAB Topic 13: *Revenue Recognition*.

51 *See* AS 13 ¶ 7; AU § 230.

52 *See* AS 14 ¶¶ 4.e, 31, 35; AS 15 ¶¶ 4, 11.

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conformed to GAAP;[53] failed to adequately communicate with CUIS's board of directors about the disclosures;[54] and failed to evaluate whether an explanatory paragraph concerning the Revised CUIS Policy was required to be added to the Firm's audit report.[55]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Goldman Kurland and Mohidin, LLP and Ahmed Mohidin, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Goldman Kurland and Mohidin, LLP is revoked;

C. After one (1) year from the date of the Order, Goldman Kurland and Mohidin, LLP may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Ahmed Mohidin, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[56]

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53 *See* AS 14 ¶¶ 4, 31; AS 6 ¶¶ 5, 7.c.

54 *See* AU § 380.07.

55 *See* AS 6 ¶ 8; AU §§ 508.11, .17A.

56 As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Mohidin. Section 105(c)(7)(B) of the Act provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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E. After one (1) year from the date of this Order, Ahmed Mohidin, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), separate civil money penalties in the amount of $15,000 each are imposed upon Goldman Kurland and Mohidin, LLP and Ahmed Mohidin, CPA. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Goldman Kurland and Mohidin, LLP and Ahmed Mohidin, CPA shall each pay their separate civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies Goldman Kurland and Mohidin, LLP and Ahmed Mohidin, CPA as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown

Secretary

September 13, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Berkow, Schechter & Company LLP and Neil H. Berkow, CPA,* *Respondents.*	PCAOB Release No. 105-2016-028 September 15, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Berkow, Schechter & Company LLP ("Berkow Schechter" or "Firm"); (2) imposing upon the Firm a civil money penalty in the amount of $15,000; (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers; (4) prohibiting the Firm from accepting any new broker-dealer engagement clients for a period of one year from the date of this Order; (5) censuring Neil H. Berkow, CPA ("Berkow"); (6) barring Berkow from being an associated person of a registered public accounting firm;[1] and (7) imposing upon Berkow a civil money penalty in the amount of $5,000. The Board is imposing these sanctions on the basis of its findings (a) that the Firm violated a rule of the Securities and Exchange Commission ("Commission" or "SEC") in connection with an audit of a broker-dealer client as a result of maintaining and preparing accounting records of the broker-dealer, and preparing financial statements that the broker-dealer filed with the Commission, which impaired the Firm's independence, (b) that Berkow took or omitted to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of that Commission rule, and (c) that Berkow and the Firm violated PCAOB rules and auditing standards in connection with a second audit of the same broker-dealer client as a result of similar conduct a year later.

[1] Berkow may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against the Firm and Berkow ("Respondents").

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondents each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Respondents admit the facts, findings, and violations set forth below, admit the Board's jurisdiction over each of them and the subject matter of this proceeding, and consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[2]

III.

On the basis of Respondents' Offers, the Board finds that:[3]

A. Respondents

1. Berkow Schechter, formed in 1981, is a registered public accounting firm located in Stamford, Connecticut. The Firm holds a permit issued by the Connecticut State Board of Accountancy (permit no. CPAP.0003667). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and Board rules.

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[2] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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2. Neil H. Berkow, 65, of Stamford, Connecticut, is a certified public accountant licensed by the Connecticut State Board of Accountancy (license no. CPAL.0003168). He is the founder of, and a partner at, Berkow Schechter. Berkow served as the engagement partner for the Firm's audits of the 2013 and 2014 financial statements of a broker-dealer audit client ("Broker-Dealer"). At all relevant times, Berkow is and was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. Firm staff maintained and prepared accounting records and prepared financial statements for the year ended December 31, 2013 for the Broker-Dealer. As a result, Berkow Schechter was not independent of the Broker-Dealer under auditor independence criteria in effect at the time as established by the Commission and made applicable by Exchange Act Rule 17a-5 to audits of brokers and dealers.[4] The Firm performed an audit of those financial statements ("2013 Audit") and issued a report on that audit ("2013 Audit Report"), which the Broker-Dealer included with the financial statements when it filed them with the Commission. The Firm represented in the 2013 Audit Report that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS").[5] Because GAAS requires independence, however, this representation violated Rule 17a-5(i), which at the time required the audit report to state whether the audit was made in accordance with GAAS.

4. Berkow took or omitted to take actions in connection with the 2013 Audit, the Firm's maintenance and preparation of client accounting records, and the Firm's preparation of client financial statements that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of Rule 17a-5(i). Berkow thereby violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

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[4] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5.

[5] Under the rule provisions in effect during, and applicable to, the 2013 Audit, Rule 17a-5(g) required that audits of brokers and dealers be performed in accordance with GAAS. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5 ("Rule 17a-5 amendments"). See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Under the Rule 17a-5 amendments, Rule 17a-5(g) now sets forth that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014.

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5. Board inspection staff reviewed aspects of the Firm's December 31, 2013 audit of the Broker-Dealer. The staff communicated to the Firm that the Firm's preparation of financial statements had impaired the Firm's independence. Notwithstanding that communication, Firm staff, for the year ended December 31, 2014, again prepared financial statements for the Broker-Dealer. Firm staff took substantially the same steps to do so as they had the previous year, again impairing the Firm's independence. Firm staff also maintained and prepared accounting records in connection with the Broker-Dealer's December 31, 2014 financial statements. The Firm performed an audit of those financial statements ("2014 Audit") and issued a report on that audit ("2014 Audit Report"), which the Broker-Dealer included with the financial statements when it filed them with the Commission. As a result, the Firm violated PCAOB Rule 3520 by failing to satisfy the independence criteria applicable to the engagement, including the criteria set out in Rule 2-01(c)(4)(i) of Commission Regulation S-X, and violated AU § 220, *Independence*, and Berkow violated PCAOB Rule 3502 by directly and substantially contributing to the Firm's violation of PCAOB Rule 3520.[6]

C. Respondents Violated a Commission Rule and Board Rules and Auditing Standards

6. Rule 17a-5(d)(1) requires, among other things, that every broker or dealer registered under section 15 of the Securities Exchange Act of 1934 file annually a financial report audited by an independent public accountant. Rule 17a-5(d)(2) requires that the financial report filed by a registered broker or dealer, among other things, contain a Statement of Financial Condition, a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and a Statement of Changes in Liabilities Subordinated to Claims of General Creditors.

7. Rule 17a-5 also requires that an independent public accountant give an opinion with respect to the statements filed pursuant to paragraph 17a-5(d).[7] Rule 17a-

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[6] Pursuant to amendments to Rule 17a-5 and PCAOB Rule 3520 that took effect before the 2014 Audit, both Rule 3520 and PCAOB auditing standards applied to the 2014 Audit.

[7] Before the amendment of Rule 17a-5 and during the 2013 Audit, this requirement was set out in Rule 17a-5(e)(1)(i). After the amendment, including during the 2014 Audit, it is set out in Rule 17a-5(g).

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5(f) requires that the public accountant be independent in accordance with the provisions of Rules 2-01(b) and (c) of Regulation S-X.[8]

The 2013 Audit

8. During the 2013 Audit,[9] Rule 17a-5(g) required that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) required that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

9. GAAS requires auditors to maintain strict independence from their audit clients.[10] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[11]

10. Pursuant to Rule 17a-5(f), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[12] apply to audits of brokers and dealers.[13] The applicable provisions include Rule 2-01(c)(4), which states in part:

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[8] Before the amendment of Rule 17a-5 and during the 2013 Audit, this requirement was set out in Rule 17a-5(f)(3). After the amendment, including during the 2014 Audit, the requirement that the public accountant be independent in accordance with Rule 2-01 of Regulation S-X is set out in Rule 17a-5(f)(1).

[9] The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct.

[10] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[11] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

[12] 17 C.F.R. § 210.2-01(b)-(c).

[13] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute

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> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> (A) Maintaining or preparing the audit client's accounting records;
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

11. Berkow Schechter served as the auditor of the Broker-Dealer's December 31, 2013 financial statements. At all times relevant to the 2013 Audit, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

12. In March 2014, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2013. Included in that filing was the 2013 Audit Report, signed by Berkow Schechter and dated February 25, 2014. The 2013 Audit Report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States."

13. Firm staff completed an "Engagement Acceptance and Continuance Form" in connection with the 2013 Audit. That form included a pre-printed item reading, "What services does the entity desire from our firm?" Firm staff added a checkmark under "Yes" alongside the pre-printed sub-item reading, "Preparation of financial statements?" The form also included a pre-printed item reading, "Other?," next to which Firm staff handwrote a notation reading, "Data entry bookkeeping."

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mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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14. During 2013 and early 2014, Firm staff maintained and prepared certain accounting records of the Broker-Dealer. Specifically, Firm staff engaged a bookkeeper ("Bookkeeper") to prepare and record the Broker-Dealer's journal entries. Firm staff provided direction to the Bookkeeper in connection with her preparation and recording of the Broker-Dealer's journal entries. Firm staff included charges for the Bookkeeper's services as a line item on the Firm's invoices to the Broker-Dealer. The Firm paid the Bookkeeper a portion of the fees it collected from the Broker-Dealer in connection with the Bookkeeper's services.

15. Firm staff also prepared the Broker-Dealer's December 31, 2013 financial statements. Firm staff prepared and included in the Firm's audit documentation a work paper titled "Audit Program." That work paper included a typed item reading, "Prepare financial statements," next to which Firm staff added a handwritten checkmark.

16. Firm staff obtained from the Broker-Dealer various documents including a balance sheet as of December 31, 2013 and an income statement for the year ended December 31, 2013.

17. Firm staff used the above documents obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of December 31, 2013, as well as the Statement of Income and Statement of Changes in Stockholders' Equity for the year ended December 31, 2013, filed by the Broker-Dealer with the Commission in March 2014.

18. In preparing those financial statements, Firm staff aggregated and disaggregated line items and changed line item descriptions and amounts as compared to corresponding information in the documents obtained from the Broker-Dealer.

19. Firm staff also prepared the Statement of Cash Flows for the year ended December 31, 2013, as well as drafted the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in March 2014.

20. Firm staff provided the Broker-Dealer with a set of draft financial statements in February 2014 for management approval.

21. As a result of Firm staff's conduct in maintaining and preparing accounting records and in preparing the December 31, 2013 financial statements, Berkow Schechter was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audit. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because

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the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[14]

22. The Firm violated Rule 17a-5(i) by representing in its 2013 Audit Report that it had performed the 2013 Audit in accordance with GAAS when in fact, because of the independence impairment described above, the 2013 Audit had not been performed in accordance with GAAS. That constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

23. Firm staff under Berkow's supervision maintained and prepared accounting records and prepared financial statements for the Broker-Dealer for the year ended December 31, 2013, and Berkow authorized the issuance of the 2013 Audit Report. In connection with the 2013 Audit, therefore, Berkow took or omitted to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of Rule 17a-5(i).

The 2014 Audit

24. Following the 2013 Audit, Board inspection staff conducted a review of certain aspects of that audit. On August 15, 2014, Berkow Schechter received a comment form issued by Board inspection staff in connection with that review. The comment form set out the staff's observation that the Firm had failed to maintain auditor independence under Rule 2-01(c)(4)(i) of Regulation S-X because it had prepared financial statements of the Broker-Dealer.

25. Under the current version of Rule 17a-5, applicable to the 2014 Audit, Rule 17a-5(g) requires that audits of brokers and dealers be performed in accordance with PCAOB standards.

26. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[15] PCAOB rules

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[14] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

[15] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*. All references

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and auditing standards also require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[16]

> [A] registered public accounting firm or associated person's independence obligation with respect to an audit client encompasses not only an obligation to satisfy the independence criteria applicable to the engagement set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[17]

27. As noted above, pursuant to Rule 17a-5(f), Rule 2-01(c)(4)(i) of Regulation S-X applies to broker and dealer audits and provides that an accountant is not independent if, at any point during the audit and professional engagement period, the accountant prepares the audit client's accounting records or the audit client's financial statements that are filed with the Commission.

28. Berkow Schechter served as the auditor for the Broker-Dealer's 2014 Audit. At all times relevant to the 2014 Audit, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

29. In March 2015, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2014. Included in that filing was the 2014 Audit Report signed by the Firm and dated February 25, 2015.[18]

30. During 2014 and early 2015, Firm staff again maintained and prepared accounting records of the Broker-Dealer. At the direction of Firm staff, the Bookkeeper

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to PCAOB standards are to the versions of those standards in effect at the time of the Firm's 2014 Broker-Dealer audit.

[16] See PCAOB Rule 3520, *Auditor Independence*; AU § 220, *Independence*.

[17] See PCAOB Rule 3520, Note 1.

[18] The 2014 Audit Report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards established by the Public Company Accounting Oversight Board (the "PCAOB")."

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prepared and recorded the Broker-Dealer's journal entries. The Firm again charged the Broker-Dealer for the Bookkeeper's services and paid the Bookkeeper a portion of this fee.

31. Firm staff also prepared the Broker-Dealer's December 31, 2014 financial statements. In February 2015, Firm staff obtained from the Broker-Dealer substantially the same types of documents obtained the previous year, including a balance sheet as of December 31, 2014 and an income statement for the year ended December 31, 2014.

32. In February 2015, Firm staff used the documents obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of December 31, 2014, as well as the Statement of Income and Statement of Changes in Stockholders' Equity for the year ended December 31, 2014, filed by the Broker-Dealer with the Commission in March 2015.

33. In preparing the Statement of Financial Condition, Statement of Income, and Statement of Changes in Stockholders' Equity filed by the Broker-Dealer with the Commission, Firm staff aggregated and disaggregated line items and changed line item descriptions and amounts as compared to corresponding information in the documents obtained from the Broker-Dealer.

34. Firm staff also prepared the Statement of Cash Flows for the year ended December 31, 2014, as well as drafted the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in March 2015.

35. Firm staff provided the Broker-Dealer with a set of draft financial statements in February 2015 for management approval.

36. Notwithstanding the Firm's receipt on August 15, 2014 of the Board inspection staff's comment form noting that preparation of financial statements impair an auditor's independence, the Firm thereafter prepared the Broker-Dealer's December 31, 2014 financial statements and, respectively, authorized the issuance of and issued the 2014 Audit Report.

37. As a result of maintaining and preparing accounting records and preparing the December 31, 2014 financial statements, Berkow Schechter was not independent of the Broker-Dealer in connection with the 2014 Audit and violated PCAOB Rule 3520 and AU § 220.

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38. Firm staff maintained and prepared accounting records and prepared financial statements for the Broker-Dealer for the year ended December 31, 2014, and Berkow authorized the issuance of the 2014 Audit Report notwithstanding his knowledge that Firm staff had done so. In connection with the 2014 Audit, therefore, Berkow took or omitted to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of PCAOB Rule 3520.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon the Firm, and a separate and additional civil money penalty in the amount of $5,000 is imposed upon Neil H. Berkow, CPA. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. The Firm and Neil H. Berkow, CPA shall each pay the civil money penalty imposed within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter that identifies, as applicable, the Firm or Neil H. Berkow, CPA as one of the Respondents in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of said cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

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1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within thirty (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within thirty (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

ORDER

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

D. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), the Firm is prohibited from accepting any new SEC Registered Broker-Dealer Engagement clients for a period of one year from the date of this Order.

E. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Neil H. Berkow, CPA, is censured.

F. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Neil H. Berkow, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[19] and

[19] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Berkow. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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G. After one (1) year from the date of this Order, Neil H. Berkow, CPA, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

September 15, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Jackson, Howell & Associates, PLLC,* *Respondent.*	PCAOB Release No. 105-2016-029 September 15, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Jackson, Howell & Associates, PLLC ("Jackson Howell," "Firm," or "Respondent"); (2) imposing upon the Firm a civil money penalty in the amount of $2,500; and (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward satisfying independence criteria applicable to audits of brokers and dealers. The Board is imposing these sanctions on the basis of its findings that the Firm violated a rule of the Securities and Exchange Commission ("Commission" or "SEC") in connection with an audit of a broker-dealer client as a result of having maintained and prepared accounting records, and having prepared financial statements that were filed with the Commission, for a registered broker-dealer audit client, which impaired the Firm's independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

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Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Jackson Howell is a registered public accounting firm located in Cordova, Tennessee. Jackson Howell is licensed by the Tennessee State Board of Accountancy (license no. 625). The Firm, formed in 1976, is registered with the Board pursuant to Section 102 of the Act and Board rules.

B. Summary

2. The Firm maintained and prepared accounting records and prepared financial statements for the year ended December 31, 2013 for a broker-dealer audit client ("Broker-Dealer"). As a result, Jackson Howell was not independent of the Broker-Dealer under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(3) to audits of brokers and dealers.[2] The Firm nevertheless audited the financial statements and issued an audit report that the Broker-Dealer included with the financial statements it filed with the Commission. In the audit report, the Firm represented that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). Because GAAS requires independence, however, that representation violated Rule 17a-5(i), which required the audit report to state whether the audit was made in accordance with GAAS.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5. The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014. In addition, Rule 17a-5 provides that the auditor must be independent in accordance with Rule 2-01 of Commission Regulation S-X. At the time of the relevant conduct, that requirement was set out in Rule 17a-5(f)(3). It is now set out in Rule 17a-5(f)(1).

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C. Respondent Violated a Commission Rule

3. Rule 17a-5(d)(1) requires, among other things, that "[e]very broker or dealer registered pursuant to section 15 of the [Securities Exchange] Act [of 1934] shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant." Rule 17a-5(d)(2) states that "[t]he annual audited report" filed by a registered broker or dealer, among other things, "shall contain a Statement of Financial Condition . . . , a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and [a] Statement of Changes in Liabilities Subordinated to Claims of General Creditors."

4. Rule 17a-5(e)(1)(i) states: "An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d) . . . ." Rule 17a-5(f)(3) states: "An accountant shall be independent in accordance with the provisions of § 210.2-01(b) and (c) of this chapter."

5. Rule 17a-5(g) requires that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) requires that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

6. GAAS requires auditors to maintain strict independence from their audit clients.[3] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[4]

7. Pursuant to Rule 17a-5(f)(3), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[5] apply to

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[3] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[4] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

[5] 17 C.F.R. Part 210.

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audits of brokers and dealers.[6] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) Bookkeeping or other services related to the accounting records or financial statements of the audit client. Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> (A) Maintaining or preparing the audit client's accounting records;
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. Jackson Howell served as the auditor of the Broker-Dealer's December 31, 2013 financial statements ("Audit"). At all relevant times, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. In February 2014, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2013. Included in that filing was an audit report signed by Jackson Howell and dated February 24, 2014. That report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

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[6] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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10. During 2013, Firm staff prepared certain accounting records of the Broker-Dealer. Specifically, Firm staff calculated the Broker-Dealer's income tax provision and prepared the income tax journal entry.

11. In addition, Firm staff prepared the Broker-Dealer's December 31, 2013 financial statements. Firm staff prepared and included in the Firm's audit documentation a form titled "FSR Financial Statement Preparation." That form included pre-printed text stating that "[a]uditors of financial statements subject to SEC independence are prohibited from performing certain prohibited services, including bookkeeping and financial statement preparation services" and that the form was "used to document the engagement team's compliance with this prohibition." Firm staff noted on the form a list of items obtained in February 2014 from the Broker-Dealer, such as a trial balance and schedules concerning cash flow; the Broker-Dealer's review of financial statement account groupings generated by Firm staff using Firm software, as well as its review of a cash flow worksheet prepared by Firm staff; the use by Firm staff of the information obtained from the Broker-Dealer "to populate the financial statements"; and the engagement team's conclusion that these activities constituted a "word processing function" that "does not impair our independence."

12. Firm staff used the trial balance obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of December 31, 2013, as well as the Statement of Income and Statement of Changes in Stockholders' Equity for the year ended December 31, 2013, filed by the Broker-Dealer with the Commission in February 2014.

13. In preparing those financial statements, Firm staff input line items and amounts from the trial balance into Firm software. Firm staff then used that software to arrange those line items into account groupings; asked the Broker-Dealer to review those groupings; and converted the trial balance into financial statements that incorporated those groupings as well as pre-set formats contained in the Firm's software. Those financial statements aggregated line items, changed line item descriptions and amounts, and added captions as compared to corresponding information in the trial balance.

14. Firm staff also prepared the Statement of Cash Flows for the year ended December 31, 2013, and prepared the notes to the Broker-Dealer's financial statements by updating the notes to the Broker-Dealer's financial statements for the prior year as well as incorporating material provided by the Broker-Dealer.

15. As a result of Jackson Howell's conduct in maintaining and preparing accounting records and in preparing the financial statements, the Firm was not independent of the Broker-Dealer under the independence criteria established by the

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Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the Audit. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[7]

16. The Firm violated Rule 17a-5(i) by representing in its audit report that it had performed the Audit in accordance with GAAS when in fact, because of the independence impairment described above, the Audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover

[7] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

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4. to provide a copy of this Order—

a. within thirty (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within thirty (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

September 15, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Roth & Company, P.C. and Jerome A. Carlson, CPA,* *Respondents.*	PCAOB Release No. 105-2016-030 September 15, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Roth & Company, P.C. ("Roth & Company" or "Firm"); (2) imposing upon the Firm a civil money penalty in the amount of $20,000; (3) in the event the Board grants any future registration application by the Firm,[1] (a) requiring the Firm to undertake certain remedial measures directed toward satisfying independence criteria applicable to audits of brokers and dealers, and (b) prohibiting the Firm from accepting any new broker-dealer engagement clients for a period of one year from the date of this Order; (4) censuring Jerome A. Carlson, CPA ("Carlson"); (5) barring Carlson from being an associated person of a registered public accounting firm;[2] and (6) imposing upon Carlson a civil money penalty in the amount of $10,000. The Board is imposing these sanctions on the basis of its findings (a) that the Firm violated a rule of the Securities and Exchange Commission ("Commission" or "SEC") in connection with an audit of a broker-dealer client as a result of maintaining and preparing accounting records of the broker-dealer, and preparing financial statements that the broker-dealer filed with the Commission, which impaired the Firm's independence, (b) that Carlson took or omitted to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of that Commission rule, and (c) that Carlson and the Firm violated PCAOB rules and auditing standards in connection with a second audit of the same broker-dealer client as a result of similar conduct a year later.

[1] The Firm has filed a Form 1-WD seeking leave to withdraw from registration with the Board, which the Board has determined to grant as of the date of this Order.

[2] Carlson may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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Public Company Accounting Oversight Board

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I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against the Firm and Carlson ("Respondents").

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondents each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Respondents admit the facts, findings, and violations set forth below, admit the Board's jurisdiction over each of them and the subject matter of this proceeding, and consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Roth & Company, formed in 1990, is a registered public accounting firm located in Des Moines, Iowa. The Firm is licensed by the Iowa Accountancy Examining Board (license no. 2009-373). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and Board rules.

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

2. Jerome A. Carlson, CPA, 64, of Clives, Iowa, is a certified public accountant licensed by the Iowa Accountancy Examining Board (license no. O02998). He is a shareholder of Roth & Company. Carlson served as the engagement partner for the Firm's audits of the 2013 and 2014 financial statements of a broker-dealer audit client ("Broker-Dealer"). At all relevant times, Carlson is and was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. Carlson and the Firm maintained and prepared accounting records and prepared financial statements for the year ended December 31, 2013 for a Broker-Dealer. As a result, Roth & Company was not independent of the Broker-Dealer under auditor independence criteria in effect at the time as established by the Commission and made applicable by Exchange Act Rule 17a-5 to audits of brokers and dealers.[5] The Firm audited those financial statements ("2013 Audit") and issued an audit report ("2013 Audit Report"), which the Broker-Dealer included with the financial statements when it filed them with the Commission. The Firm represented in the 2013 Audit Report that the audit had been performed in accordance with Generally Accepted Auditing Standards ("GAAS").[6] Because GAAS requires independence, however, this representation violated Rule 17a-5(i), which at the time required the audit report to state whether the audit was made in accordance with GAAS.

4. Through his actions, Carlson directly and substantially contributed to the Firm's violation of Rule 17a-5(i) and thereby violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

5. Board inspection staff reviewed aspects of the Firm's December 31, 2013 audit of the Broker-Dealer. The staff communicated to the Firm that the Firm's

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[5] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5.

[6] Under the rule provisions in effect during, and applicable to, the 2013 Audit, Rule 17a-5(g) required that audits of brokers and dealers be performed in accordance with GAAS. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5 ("Rule 17a-5 amendments"). See Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Under the Rule 17a-5 amendments, Rule 17a-5(g) now sets forth that audits of brokers and dealers be performed in accordance with PCAOB standards, effective for audits of fiscal years ending on or after June 1, 2014.

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maintenance and preparation of accounting records and preparation of financial statements for the Broker-Dealer had impaired the Firm's independence. Notwithstanding that communication, Carlson and the Firm again maintained and prepared accounting records and prepared financial statements for the year ended December 31, 2014 for the Broker-Dealer. Carlson and the Firm took substantially the same steps to do so as they had the previous year, again impairing the Firm's independence. The Firm performed an audit of those financial statements ("2014 Audit") and issued a report on that audit ("2014 Audit Report"), which the Broker-Dealer included with the financial statements when it filed them with the Commission. As a result, Carlson and the Firm violated PCAOB Rule 3520 by failing to satisfy the independence criteria applicable to the engagement, including the criteria set out in Rule 2-01(c)(4)(i) of Commission Regulation S-X, and violated AU § 220, *Independence*.[7]

C. Respondents Violated a Commission Rule and Board Rules and Auditing Standards

6. Rule 17a-5(d)(1) requires, among other things, that every broker or dealer registered under section 15 of the Securities Exchange Act of 1934 file annually a financial report audited by an independent public accountant. Rule 17a-5(d)(2) requires that the financial report filed by a registered broker or dealer, among other things, contain a Statement of Financial Condition, a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and a Statement of Changes in Liabilities Subordinated to Claims of General Creditors.

7. Rule 17a-5 also requires that an independent public accountant give an opinion with respect to the statements filed pursuant to paragraph 17a-5(d).[8] Rule 17a-5(f) requires that the public accountant be independent in accordance with the provisions of Rules 2-01(b) and (c) of Regulation S-X.[9]

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[7] Pursuant to amendments to Rule 17a-5 and PCAOB Rule 3520 that took effect before the 2014 Audit, both Rule 3520 and PCAOB auditing standards applied to the 2014 Audit.

[8] Before the amendment of Rule 17a-5 and during the 2013 Audit, this requirement was set out in Rule 17a-5(e)(1)(i). After the amendment, including during the 2014 Audit, it is set out in Rule 17a-5(g).

[9] Before the amendment of Rule 17a-5 and during the 2013 Audit, this requirement was set out in Rule 17a-5(f)(3). After the amendment, including during the

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The 2013 Audit

8. During the 2013 Audit,[10] Rule 17a-5(g) required that "[t]he audit shall be made in accordance with generally accepted auditing standards." Rule 17a-5(i) required that "[t]he accountant's report shall . . . [s]tate whether the audit was made in accordance with generally accepted auditing standards."

9. GAAS requires auditors to maintain strict independence from their audit clients.[11] "[I]f an auditor's report states that its audit was in accordance with GAAS when the auditor was not independent, then it has violated Rule 17a-5(i)."[12]

10. Pursuant to Rule 17a-5(f), certain of the Commission's auditor independence criteria described in Rules 2-01(b) and (c) of Regulation S-X[13] apply to audits of brokers and dealers.[14] The applicable provisions include Rule 2-01(c)(4), which states in part:

2014 Audit, the requirement that the public accountant be independent in accordance with Rule 2-01 of Regulation S-X is set out in Rule 17a-5(f)(1).

[10] The rule provisions set out herein are those in effect during, and applicable to, the relevant conduct.

[11] AU-C Section 200.15-.16, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards*. References herein to GAAS are to the versions of the auditing standards that were applicable to audits of brokers and dealers at the time of the audit at issue here.

[12] *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *4 (June 14, 2013).

[13] 17 C.F.R. § 210.2-01(b)-(c).

[14] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 34-70073 at II.E.

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> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> (A) Maintaining or preparing the audit client's accounting records;
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

11. Roth & Company served as the auditor of the Broker-Dealer's December 31, 2013 financial statements. At all times relevant to the 2013 Audit, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

12. In March 2014, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2013. Included in that filing was the 2013 Audit Report, signed by Roth & Company and dated February 14, 2014. The 2013 Audit Report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with auditing standards generally accepted in the United States of America."

13. Carlson completed an "Engagement Acceptance and Continuance Form" in connection with the 2013 Audit. That form included pre-printed text reading:

> The SEC expects auditors of broker-dealers to comply with the independence requirements established by the accounting profession (the AICPA), as well as the requirements promulgated by the Commission and its staff. The SEC's independence rules are set forth in Rule 2-01 of Regulation S-X. Rule 2-01's general standard of independence requires both the fact and the appearance of independence.

14. During 2013 and early 2014, Carlson and the Firm maintained and prepared certain accounting records of the Broker-Dealer. Specifically, Carlson and the Firm maintained the Broker-Dealer's fixed asset subledger and calculated the Broker-

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Dealer's annual depreciation expense. Moreover, Carlson and the Firm calculated the Broker-Dealer's income tax provision.

15. Carlson and the Firm also prepared the Broker-Dealer's December 31, 2013 financial statements. Carlson obtained from the Broker-Dealer various documents including a balance sheet as of December 31, 2013 and an income statement for the year ended December 31, 2013.

16. Carlson used the above documents obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of December 31, 2013, as well as the Statement of Income and Statement of Changes in Stockholders' Equity for the year ended December 31, 2013, filed by the Broker-Dealer with the Commission in March 2014.

17. In preparing those financial statements, Carlson aggregated and disaggregated line items and changed line item descriptions as compared to corresponding information in the documents obtained from the Broker-Dealer.

18. Carlson also prepared the Statement of Cash Flows for the year ended December 31, 2013, as well as drafted the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in March 2014.

19. Carlson provided the Broker-Dealer with a set of draft financial statements in February 2014 for management approval.

20. As a result of Roth & Company's conduct in maintaining and preparing accounting records and in preparing the December 31, 2013 financial statements, the Firm was not independent of the Broker-Dealer under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the audit. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[15]

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[15] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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21. The Firm violated Rule 17a-5(i) by representing in its 2013 Audit Report that it had performed the 2013 Audit in accordance with GAAS when in fact, because of the independence impairment described above, the 2013 Audit had not been performed in accordance with GAAS. That violation constituted a violation of the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto.

22. Carlson maintained and prepared accounting records and prepared financial statements for the Broker-Dealer for the year ended December 31, 2013, and authorized the issuance of the 2013 Audit Report. In connection with the 2013 Audit, therefore, in violation of PCAOB Rule 3502, Carlson took actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of Rule 17a-5(i).

The 2014 Audit

23. Following the 2013 Audit, Board inspection staff conducted a review of certain aspects of that audit. On October 31, 2014, Board inspection staff provided Roth & Company with a comment form in connection with that review. The comment form set out the staff's observation that the Firm had failed to maintain auditor independence under Rule 2-01(c)(4)(i) of Regulation S-X because it had maintained and prepared accounting records and prepared financial statements of the Broker-Dealer. Carlson reviewed the comment form at the time the Firm received it.

24. Under the current version of Rule 17a-5, applicable to the 2014 Audit, Rule 17a-5(g) requires that audits of brokers and dealers be performed in accordance with PCAOB standards.

25. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[16] PCAOB rules and auditing standards also require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[17]

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[16] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB standards are to the versions of those standards in effect at the time of the Firm's 2014 Broker-Dealer audit.

[17] See PCAOB Rule 3520, *Auditor Independence*; AU § 220, *Independence*.

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> [A] registered public accounting firm or associated person's independence obligation with respect to an audit client encompasses not only an obligation to satisfy the independence criteria applicable to the engagement set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[18]

26. As noted above, pursuant to Rule 17a-5(f), Rule 2-01(c)(4)(i) of Regulation S-X applies to broker and dealer audits and provides that an accountant is not independent if, at any point during the audit and professional engagement period, the accountant prepares the audit client's accounting records or the audit client's financial statements that are filed with the Commission.

27. Roth & Company served as the auditor for the Broker-Dealer's 2014 Audit. At all times relevant to the 2014 Audit, the Broker-Dealer was a "broker" and "dealer," as defined in Section 110 of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and was not an "issuer," as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

28. In March 2015, the Broker-Dealer filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2014. Included in that filing was the 2014 Audit Report signed by the Firm and dated February 13, 2015.[19]

29. In connection with the 2014 Audit, Carlson again completed an "Engagement Acceptance and Continuance Form." That form contained pre-printed text referencing applicable independence requirements including "the independence requirements established by the PCAOB" and "[t]he SEC's independence rules . . . set forth in Rule 2-01 of Regulation S-X."

30. Carlson also completed a work paper summarizing a November 2014 planning meeting with the Broker-Dealer. That work paper contained text under the header "Maintain Independence under SEC rules" reading, "Auditor cannot prepare any workpapers or reports that would be subject to auditing procedures," with a list of items

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[18] See PCAOB Rule 3520, Note 1.

[19] The 2014 Audit Report stated, among other things, that the Firm audited the Broker-Dealer's financial statements "in accordance with the standards of the Public Company Accounting Oversight Board (United States)."

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underneath including "Reports," "Footnote disclosures," and "Determining adjustments/account balances."

31. Carlson also completed a work paper titled "Discussion Items" which included the following text under a header reading "Independence":

- Auditor cannot provide any professional services that they would need to audit
    - o Drafting financial statements
    - o Determining account balances (depreciation, income tax accrual, prepaid expenses)

32. During 2014 and early 2015, Carlson and the Firm again maintained and prepared accounting records of the Broker-Dealer by maintaining its fixed asset subledger and by calculating its annual depreciation expense.

33. Carlson and the Firm also prepared the Broker-Dealer's December 31, 2014 financial statements. In January and February 2015, Carlson and Firm staff obtained from the Broker-Dealer substantially the same types of documents obtained the previous year, including a balance sheet as of December 31, 2014 and an income statement for the year ended December 31, 2014.

34. In February 2015, Carlson used the documents obtained from the Broker-Dealer to prepare the Statement of Financial Condition as of December 31, 2014, as well as the Statement of Income and Statement of Changes in Stockholders' Equity for the year ended December 31, 2014, filed by the Broker-Dealer with the Commission in March 2015.

35. In preparing the Statement of Financial Condition, Statement of Income, and Statement of Changes in Stockholders' Equity filed by the Broker-Dealer with the Commission, Carlson aggregated and disaggregated line items and changed line item descriptions as compared to corresponding information in the documents obtained from the Broker-Dealer.

36. Carlson also prepared the Statement of Cash Flows for the year ended December 31, 2014, as well as drafted the notes to the Broker-Dealer's financial statements, all of which were filed by the Broker-Dealer with the Commission in March 2015.

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37. Carlson provided the Broker-Dealer with a set of draft financial statements in February 2015 for management approval.

38. Notwithstanding the Firm's receipt on October 31, 2014 of the Board inspection staff's comment form noting that maintenance and preparation of accounting records and preparation of financial statements impair an auditor's independence, Carlson and the Firm thereafter continued maintaining and preparing the Broker-Dealer's accounting records in late 2014 and early 2015, prepared the Broker-Dealer's December 31, 2014 financial statements and, respectively, authorized the issuance of and issued the 2014 Audit Report.

39. As a result of maintaining and preparing accounting records and preparing the December 31, 2014 financial statements, Roth & Company was not independent of the Broker-Dealer in connection with the 2014 Audit and violated PCAOB Rule 3520 and AU § 220.

40. As a result of his participation in maintaining and preparing accounting records and in preparing the December 31, 2014 financial statements, Carlson also was not independent of the Broker-Dealer in connection with the 2014 Audit and violated PCAOB Rule 3520 and AU § 220.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon the Firm, and a separate and additional civil money penalty in the amount of $10,000 is imposed upon Jerome A. Carlson, CPA. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. The Firm and Jerome A. Carlson, CPA shall each pay the civil money penalty imposed within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States

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Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter that identifies, as applicable, the Firm or Jerome A. Carlson, CPA as one of the Respondents in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of said cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm, should the Board grant any future application of the Firm for registration, is required:

1. within ninety (90) days from the date the Board grants any future application of the Firm for registration ("Future Registration Date"), to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the Future Registration Date, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the Future Registration Date and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement, to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

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4. to provide a copy of this Order—

a. within thirty (30) days from the Future Registration Date, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the Future Registration Date,

b. within thirty (30) days from the Future Registration Date, to any client of the Firm as of the Future Registration Date for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the Future Registration Date. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

D. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), the Firm, should the Board grant any future application of the Firm for registration, is prohibited from accepting any new SEC Registered Broker-Dealer Engagement clients for a period of one year from the date of this Order.

E. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Jerome A. Carlson, CPA, is censured.

F. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jerome A. Carlson, CPA, is barred from being an associated person of a

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registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[20] and

G. After one (1) year from the date of this Order, Jerome A. Carlson, CPA, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

September 15, 2016

[20] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Carlson. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Deloitte Touche Tohmatsu Auditores Independentes*, Respondent.	PCAOB Release No. 105-2016-031 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Deloitte Touche Tohmatsu Auditores Independentes ("Deloitte Brazil," "Firm," or "Respondent"); (2) limiting the activities, functions, and operations of Deloitte Brazil, including by prohibiting the Firm from accepting new engagements to prepare or issue audit reports for new clients who are issuers, brokers, or dealers, as those terms are defined by U.S. securities laws and PCAOB rules, until the Firm completes certain quality control remediation measures; (3) requiring Deloitte Brazil to engage an independent monitor for the period specified in this Order; (4) requiring Deloitte Brazil to adopt and implement certain policies and procedures related to the Firm's system of quality control; (5) requiring Deloitte Brazil to provide additional professional education and training to its associated persons; and (6) imposing a civil money penalty in the amount of $8,000,000 on Deloitte Brazil.

The Board is imposing these sanctions on the basis of its findings that Deloitte Brazil: (a) violated securities laws and PCAOB rules and standards in issuing unqualified audit reports concerning the 2010 financial statements and internal control of an issuer client; (b) improperly altered the work papers for its audits of two issuer clients in connection with a Board inspection in 2012; and (c) obstructed and otherwise failed to cooperate with a Board investigation concerning those two audits.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) and (3) against Respondent.

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II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings (which are admitted) and the facts, findings, and violations set forth in paragraphs 63-65, 69-70, 72, 74, 76-78, 81-82, 85-86, and 90 (which are admitted), Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[1]

III.

On the basis of Respondent's Offer, the Board finds[2] as follows:

A. Introduction

1. This matter concerns the failure by Deloitte Brazil to fulfill its public watchdog role as an independent and ethical auditor. Specifically, the Firm violated Section 10(b) of the Securities Exchange Act of 1934, as amended ("Exchange Act"), and PCAOB rules and standards in 2011 when it knowingly issued false audit reports concerning the 2010 financial statements and internal control of an issuer client. In violation of PCAOB rules and standards, the Firm then attempted to cover up its violations by improperly altering documents in connection with a 2012 PCAOB inspection and by obstructing a subsequent PCAOB investigation. Deloitte Brazil committed these violations through several personnel who were at the time some of its most senior partners, and who were entrusted with leadership and governance roles in the Firm during various stages of the misconduct, as well as through other partners and staff on two audit engagement teams. The leaders who supervised and directed this misconduct not only set a tone of disregard for compliance with PCAOB rules and standards and PCAOB oversight, but also actively thwarted that oversight, to the detriment of investors.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A), which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard.

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B. Respondent

2. Deloitte Touche Tohmatsu Auditores Independentes is a partnership organized under the laws of Brazil, and is headquartered in São Paulo, Brazil. The Firm registered with the Board on June 2, 2004, pursuant to Section 102 of the Act and PCAOB rules. The Firm currently performs audits of approximately seven issuers as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Additionally, as to approximately 60 other issuers, the Firm participates in audits led by other accounting firms, including by other member firms of the Deloitte Touche Tohmatsu Limited global network ("Deloitte Global"). Those other accounting firms request the Firm to perform audit work that those other firms use or rely on in issuing their audit reports ("referred work"), including certain audits in which the Firm plays a substantial role.[3] In conjunction with five other Deloitte entities in Brazil ("Deloitte Brazil Entities"), the Firm has approximately 170 partners and 5,000 employees, and is governed by a board known as the Policy Committee, which is responsible for overseeing the Firm's operations.[4]

C. Issuers

3. Gol Linhas Aéreas Inteligentes S.A., also known as Gol Intelligent Airlines Inc. ("Gol" or "Company"), is a Brazil corporation headquartered in São Paulo, Brazil. Its common stock is listed on the BM&F Bovespa exchange in Brazil and its American Depositary Shares are listed on the New York Stock Exchange under the symbol "GOL." At all relevant times, Gol was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Deloitte Brazil served as the external auditor for Gol for the fiscal years ended December 31, 2009 through December 31, 2013, after which the Firm rotated off the Gol engagement pursuant to Brazilian audit firm rotation requirements.

4. "Issuer 2" is an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Deloitte Brazil served as the external auditor for Issuer 2 for fiscal year 2010, among other years.

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[3] See PCAOB Rule 1001(p)(ii) (containing definition of "play a substantial role in the preparation or furnishing of an audit report").

[4] On June 1, 2016, Deloitte Brazil installed new leadership, which has taken the steps described in paragraph 23.

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D. Other Relevant Persons and Entities

5. The "Gol Engagement Partner"[5] is a former partner of Deloitte Brazil. The Gol Engagement Partner was the engagement partner for the Firm's audits of Gol's financial statements and internal control over financial reporting ("ICFR") for the years ended December 31, 2009 through December 31, 2011. The Gol Engagement Partner held a leadership position in the Firm's Audit function from February 23, 2011 through August 7, 2014, and served on the Firm's Policy Committee from February 23, 2010 through March 24, 2011. The Gol Engagement Partner also served as the engagement quality reviewer for Deloitte Brazil's audit of Issuer 2's fiscal year 2010 financial statements. The Firm placed the Gol Engagement Partner on administrative leave in October 2015, and he separated from the Firm in March 2016.

6. The "Gol Senior Manager"[6] is a former partner of Deloitte Brazil. The Gol Senior Manager was a senior manager for the Firm's audit of Gol's financial statements and ICFR for the year ended December 31, 2010. The Firm placed the Gol Senior Manager on administrative leave in November 2015, and he separated from the Firm in November 2016.

7. "Senior Partner 2"[7] is a former partner of Deloitte Brazil. At all relevant times, Senior Partner 2 held a leadership position in the Firm's Audit function. The Firm placed Senior Partner 2 on administrative leave in July 2016, and he separated from the Firm in November 2016.

8. "Senior Partner 3"[8] is a former partner of Deloitte Brazil. At all relevant times, Senior Partner 3 held senior leadership positions at the Firm, including at certain relevant times a position on the Policy Committee. By virtue of his specific leadership positions, Senior Partner 3 was one of the Firm partners most responsible for ensuring the compliance by Firm personnel with ethical and regulatory requirements. The Firm placed Senior Partner 3 on administrative leave in July 2016, and he separated from the Firm in November 2016.

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[5] See *José Domingos do Prado*, PCAOB Rel. No. 105-2016-032 (Dec. 5, 2016).

[6] See *André Ricardo Aguillar Paulon*, PCAOB Rel. No. 105-2016-035 (Dec. 5, 2016).

[7] See *Wanderley Olivetti*, PCAOB Rel. No. 105-2016-034 (Dec. 5, 2016).

[8] See *Maurício Pires de Andrade Resende*, PCAOB Rel. No. 105-2016-033 (Dec. 5, 2016).

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9. The "Two Senior Managers"[9] are former partners of Deloitte Brazil. At all times relevant to this Order, the two senior managers worked in the Global IFRS and Offering Services ("GIOS") group within the Deloitte Brazil Entities. The Two Senior Managers became partners in the Firm in 2013. The Firm placed the Two Senior Managers on administrative leave in December 2015 and January 2016, respectively, and they separated from the Firm in November 2016.

10. The Enterprise Risk Services ("ERS") group is a business unit within the Deloitte Brazil Entities. Personnel from the ERS group provide services to audit teams and external clients concerning, among other things, information technology ("IT") systems, including by testing the design, implementation, and operating effectiveness of controls contained in client IT system environments in connection with audits by Firm engagement teams.

11. The "ERS Partner"[10] is a retired partner of one of the Deloitte Brazil Entities and was the partner in charge of ERS procedures for the 2010 GoI audit engagement. The Firm placed the ERS Partner on administrative leave in July 2016, and he retired from the Firm in November 2016.

12. The "ERS Manager"[11] is a former employee of one of the Deloitte Brazil Entities. She performed work in connection with Deloitte Brazil audits and was the manager for ERS procedures for the 2010 GoI audit engagement. The Firm terminated the ERS Manager in July 2016.

13. The "Issuer 2 Partner"[12] is a former partner of Deloitte Brazil, and was a second partner on the Firm's audit of Issuer 2's financial statements and ICFR for fiscal year 2010 ("Issuer 2 Audit"). The Issuer 2 Partner was promoted to a leadership position in the Firm's Rio de Janeiro office in July 2015. The Firm placed the Issuer 2 Partner on administrative leave in March 2016, and he separated from the Firm in November 2016.

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[9] See *Joao Rafael Belo de Araujo Filho*, PCAOB Rel. No. 105-2016-037 (Dec. 5, 2016); *Leonardo Fonseca de Freitas Maia*, PCAOB Rel. No. 105-2016-038 (Dec. 5, 2016).

[10] See *José Fernando Alves*, PCAOB Rel. No. 105-2016-039 (Dec. 5, 2016).

[11] See *Renata Coelho de Sousa Castelli*, PCAOB Rel. No. 105-2016-040 (Dec. 5, 2016).

[12] See *Marco Aurelio Paulino Neves*, PCAOB Rel. No. 105-2016-041 (Dec. 5, 2016).

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14. The "Issuer 2 Senior Manager"[13] is a former employee of Deloitte Brazil and was a senior manager on the Issuer 2 Audit. The Firm terminated the Issuer 2 Senior Manager in July 2016.

15. The "Issuer 2 Manager"[14] is a former employee of Deloitte Brazil and was a manager on the Issuer 2 Audit. The Issuer 2 Manager left the Firm in June 2013.

E. Summary

16. Deloitte Brazil serves as the external auditor for certain issuer clients who file Forms 20-F with the U.S. Securities and Exchange Commission ("Commission" or "SEC"). For 2010, one of these issuer clients was Gol.[15]

17. Deloitte Brazil's audit of Gol's 2010 financial statements and ICFR ("2010 Gol Audit") violated PCAOB rules and standards in a number of ways. For example: (a) the Firm's engagement team failed to obtain sufficient competent evidence that Gol was accurately accounting for its "maintenance deposit" assets, and in fact senior members of the Firm's engagement team understood that Gol lacked the necessary support for a potentially material amount of the maintenance deposits it was reporting; (b) the Firm's engagement team failed to obtain sufficient competent evidence that Gol's reported revenue and deferred revenue were materially accurate, and in fact senior members of the Firm's engagement team understood that a potentially material misstatement affecting both accounts was still being analyzed when it released its audit reports; and (c) the Firm's engagement team failed to address red flags indicating that Gol's ICFR was not operating effectively at year-end 2010.

18. The Gol Engagement Partner (who was responsible for authorizing the issuance of the Firm's audit reports on Gol and who was named to a leadership position in the Audit function during the audit) knew, and therefore the Firm knew, that significant violations of PCAOB rules and standards had occurred during the audit, and therefore that the statements in the Firm's audit reports that the 2010 Gol Audit had been performed in accordance with PCAOB standards were materially false. Nevertheless, the Firm, with the Gol Engagement Partner's authorization, issued unqualified audit

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[13] See *Simone Pacheco Lemos do Amaral*, PCAOB Rel. No. 105-2016-042 (Dec. 5, 2016).

[14] See *Walter Vinicius Barreto Brito Silva*, PCAOB Rel. No. 105-2016-043 (Dec. 5, 2016).

[15] All references to a financial statement year or audit engagement year are to the fiscal year of the issuer in question.

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reports concerning GoI's 2010 financial statements and ICFR, in violation of Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5.

19. In 2012, the Board conducted an inspection of Deloitte Brazil, including an inspection of the 2010 GoI Audit. In anticipation of that inspection, the GoI Engagement Partner directed the GoI Senior Manager, who had participated in the 2010 GoI Audit, and the Two Senior Managers to improperly alter the work papers for the audit. The Firm provided the improperly altered work papers, as well as other misleading documents and information, to the Board in connection with the inspection. Additionally, the GoI Engagement Partner, who served as the engagement quality reviewer for the Issuer 2 Audit, authorized the Issuer 2 Partner, who had served on the Issuer 2 Audit team, to improperly alter the archived documentation for the Issuer 2 Audit, another audit that the Board inspected in 2012. The Issuer 2 Partner carried out those improper alterations with the assistance of the Issuer 2 Senior Manager and Issuer 2 Manager, and the Firm provided those improperly altered work papers to Board inspectors.

20. In October 2013, the PCAOB Division of Enforcement and Investigations ("Division") opened an informal inquiry into the 2010 GoI Audit. Deloitte Brazil obstructed that inquiry by, among other things, producing the improperly altered versions of the 2010 GoI Audit work papers and withholding the original versions. The Firm also provided false information to the Division and withheld other documents to cover up the Firm's wrongdoing. By the end of February 2014, certain members of the Firm's senior leadership at the time—including Senior Partner 2 and Senior Partner 3, who held a senior compliance position at the Firm—became aware of the misconduct during the 2012 inspection and either joined or failed to prevent the effort to conceal both the violations in connection with the 2010 GoI Audit and the improper alteration of work papers for that audit.

21. The efforts of certain senior Firm leaders to conceal the misconduct continued, and continued to expand, after the Board issued an Order of Formal Investigation in June 2014. During the Board's formal investigation, those leaders: (a) caused the Firm to continue to represent that the improperly altered 2010 GoI work papers previously produced to the Division were the original work papers, and to continue to withhold the actual original work papers from the audit; and (b) caused the Firm to make numerous false statements to the Division that were consistent with the improperly altered, but not with the original, GoI work papers. Additionally, certain Firm personnel, including some of those senior leaders, provided false testimony under oath, including by falsely representing that the improperly altered work papers they were shown were the original work papers for the 2010 GoI Audit.

22. In October 2015, the Division presented evidence to Deloitte Brazil that the GoI Audit Committee presentations for the third quarter of 2010 and year-end 2010

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had been improperly altered and raised concerns that other work papers had also been improperly altered. In response, the Firm commenced an internal investigation and reported to the Division in October and November 2015 that 56 work papers from the 2010 GoI Audit and fourteen work papers from the GoI quarterly reviews had been improperly altered. The Firm also placed the GoI Engagement Partner and GoI Senior Manager on leave. Other members of leadership, however, continued the effort to prevent the PCAOB from learning the full extent of the wrongdoing. To that end, they caused the Firm to deny that work papers had been improperly altered for the Issuer 2 Audit, and to make other false representations to the Division. After the Division identified specific evidence of the improper alteration of certain Issuer 2 Audit work papers in February 2016, however, the Firm expanded its investigation and reported to the Division concerning other Issuer 2 Audit work papers that had also been improperly altered. Nevertheless, the culpable members of Firm leadership continued to conceal the true extent of their involvement in the provision of false documents, information, and testimony to the Division.

23. In January 2016, the GoI Senior Manager provided the Division with evidence that certain senior Deloitte Brazil personnel had participated in a joint effort to obstruct the Division's investigation. The Division presented some of that evidence to the Firm in July 2016. The new leadership of the Firm, which had taken office on June 1, 2016, subsequently removed Senior Partner 2 and Senior Partner 3 from their positions. Deloitte Brazil has terminated or separated all partners and employees identified as having participated in the wrongdoing described herein (or they have otherwise left the Firm). The Firm also implemented remedial measures to improve its work paper archiving process, audit quality, ethical culture, and regulatory compliance.

24. As evidenced by the failures during the 2010 GoI Audit, the non-cooperation with the 2012 Board inspection, and the obstruction of the Division's investigation, Deloitte Brazil failed to maintain an effective system of quality control providing reasonable assurance that its personnel would act with integrity and in compliance with professional standards.

F. Deloitte Brazil Violated Federal Securities Laws and PCAOB Rules and Standards in Issuing Unqualified 2010 GoI Audit Reports

Applicable Securities Laws and PCAOB Rules and Standards

25. Section 10(b) of the Exchange Act prohibits the use of "any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the

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protection of investors."[16] In implementing that section, the Commission has prohibited the making of "any untrue statement of a material fact" or the omission of "a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading."[17]

26. To violate Exchange Act Section 10(b) or Exchange Act Rule 10b-5, a respondent must act with scienter,[18] which the Supreme Court has defined as "a mental state embracing intent to deceive, manipulate, or defraud."[19] Scienter encompasses knowing or intentional conduct, or recklessness.[20] An auditor violates Section 10(b) and Rule 10b-5 thereunder by issuing an audit report stating that the audit has been performed in accordance with PCAOB standards when he or she knows, or is reckless in not knowing, that the statement is false.[21]

27. In connection with the preparation or issuance of an audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[22] Among other things, those standards require that an auditor express an opinion concerning an issuer's financial statements only when the auditor has performed the audit in compliance with PCAOB standards.[23]

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[16] Exchange Act § 10(b), 78 U.S.C. § 78j(b). All references to laws, regulations, and PCAOB rules and standards are to the versions of those laws, regulations, and PCAOB rules and standards in effect at the time of the relevant conduct.

[17] Exchange Act Rule 10b-5(b), 17 C.F.R. § 240.10b-5(b).

[18] See *Aaron v. SEC*, 446 U.S. 680, 695, 701-02 (1980).

[19] *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 n.12 (1976).

[20] See, e.g., *IIT v. Cornfeld*, 619 F.2d 909, 923 (2d Cir. 1980).

[21] See *Eugene M. Egeberg III, CPA*, Exchange Act Rel. No. 71348, at *7-9 (Jan. 17, 2014); *Hood & Associates CPAs, P.C.*, PCAOB Rel. No. 105-2013-012, at *16-17 (Nov. 21, 2013); *Harris F Rattray CPA, PL,* PCAOB Rel. No. 105-2013-009, at *4-5 (Nov. 21, 2013); *Richard P. Scalzo, CPA*, Exchange Act Rel. No. 48328, 2003 WL 21938985, at *14 (Aug. 13, 2003).

[22] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[23] See AU § 508.07, *Reports on Audited Financial Statements.*

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28. PCAOB standards also require that auditors exercise due professional care and professional skepticism, and plan and perform audit procedures to obtain sufficient competent evidential matter to provide a reasonable basis for the audit report.[24] While that evidential matter can include management representations, such representations "are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[25]

29. PCAOB standards also establish requirements for auditors who audit, and express an opinion regarding, an issuer's ICFR.[26] Among other things, "the auditor must plan and perform the audit to obtain competent evidence that is sufficient to obtain reasonable assurance about whether material weaknesses exist" in the issuer's internal control as of the date specified in management's internal control assessment.[27] PCAOB standards provide that "a company's internal control cannot be considered effective if one or more material weaknesses exist."[28] In order to obtain reasonable assurance about whether a material weakness exists, the auditor must evaluate the severity of each control deficiency that is identified during the audit "to determine whether the deficiencies, individually or in combination, are material weaknesses."[29]

30. PCAOB standards state that an auditor needs to consider audit risk, including control risk, to assist in determining the scope of auditing procedures.[30] Assessment of control risk at below the maximum level may support the auditor's decision to reduce the scope of substantive audit procedures.[31] If a control deficiency is

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[24] See AU § 150.02, *Generally Accepted Auditing Standards*; AU §§ 230.01, .07 - .08, *Due Professional Care in the Performance of Work*; AU § 326.01, *Evidential Matter*.

[25] AU § 333.02, *Management Representations.*

[26] See PCAOB Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That Is Integrated with an Audit of Financial Statements* ("AS5").

[27] AS5 ¶ 3 (footnote omitted).

[28] Id.

[29] Id. ¶ 62.

[30] See AU §§ 312.26 - .27, *Audit Risk and Materiality in Conducting an Audit*.

[31] See AU §§ 319.05, .86 - .89, .106 - .107, *Consideration of Internal Control in a Financial Statement Audit*.

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identified, however, an auditor "should determine the effect of the deficiency, if any, on the nature, timing, and extent of substantive procedures to be performed."[32]

31. PCAOB standards provide that "[t]he auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud."[33] The possibility of a material misstatement due to fraud requires the auditor to exercise professional skepticism when gathering and evaluating audit evidence, and to engage in "an ongoing questioning of whether the information and evidence obtained suggests that a material misstatement due to fraud has occurred."[34]

32. PCAOB standards direct that identified fraud risks be taken into account when conducting an audit, including (a) in the auditor's consideration of management's selection and application of significant accounting principles, and (b) in assessing the nature, timing, and extent of the procedures to be performed, including whether controls over revenue recognition are required to be tested.[35] Those standards also state that, when planning the audit, an auditor "should ordinarily presume that there is a risk of material misstatement due to fraud relating to revenue recognition."[36]

33. PCAOB standards also state that an auditor's "assessment of the risks of material misstatement due to fraud should be ongoing throughout the audit."[37] Among the indications of potential fraud that may arise during an audit are "[t]ransactions that are not recorded in a complete or timely manner or are improperly recorded as to amount, accounting period, classification, or entity policy"; "unsupported or unauthorized balances or transactions"; and "significant unexplained items on reconciliations."[38]

34. Additionally, under PCAOB standards, if an auditor identifies misstatements in the financial statements, the auditor should consider whether those misstatements are indicative of fraud; if fraud may be present, the auditor should

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[32] AS5 ¶ B6; see also AU § 312.33.

[33] AU § 316.01, *Consideration of Fraud in a Financial Statement Audit*.

[34] Id. § 316.13.

[35] See id. §§ 316.48, .50 - .54.

[36] Id. § 316.41.

[37] Id. § 316.68.

[38] Id.

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perform certain additional procedures, even if the misstatements do not appear to be material to the financial statements.[39]

Overview of the 2010 Gol Audit

35. During the relevant time period, Gol operated an airline that offered service primarily in Brazil but also to certain other countries in the Americas. Deloitte Brazil became the external auditor for Gol during the second quarter of 2009. The Firm issued audit reports expressing unqualified opinions on Gol's financial statements and ICFR for both 2009 and 2010, and Gol included those audit reports in Forms 20-F that it filed with the Commission for each of those years.

36. The 2010 Gol Audit was conducted as an integrated audit of Gol's financial statements and its ICFR. Deloitte Brazil set planning materiality for the 2010 Gol Audit at 54.6 million Brazilian reais ("R$") (US$32.8 million).[40]

Certain Deloitte Brazil Personnel Improperly Acquiesced in Gol's Accounting for its Maintenance Deposit Assets

37. During the 2010 Gol Audit, Deloitte Brazil violated PCAOB standards in connection with its audit work on Gol's maintenance deposit assets. Among other violations, the Firm failed to exercise due professional care and professional skepticism and failed to obtain sufficient competent audit evidence to support Gol's accounting for its maintenance deposits. The Firm issued unqualified opinions concerning Gol's 2010 financial statements and ICFR while the Gol Engagement Partner knew, and therefore the Firm knew, that these material failures had occurred.

38. As part of its operations, Gol leased aircraft and engines. In connection with these leases, Gol deposited monies with the lessor to be used in future aircraft and engine maintenance work. Gol reported these monies as maintenance deposit assets. For the years ended December 31, 2009 and 2010, Gol reported maintenance deposits of R$522.7 million and R$456.7 million, respectively, which amounted to 6 percent and 5 percent of Gol's total reported assets for those respective years.[41]

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[39] See id. §§ 316.75 - .78.

[40] Amounts provided in U.S. dollars relating to the 2010 Gol Audit are based on the exchange rate at December 31, 2010 of approximately R$1 = US$0.60. As of November 30, 2016, the exchange rate was approximately R$1 = US$0.30.

[41] Certain amounts in this Order are rounded, which may affect the outcome of described calculations.

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39. During the 2009 audit of GoI, the Deloitte Brazil engagement team concluded that GoI had failed to appropriately track its use of maintenance deposits on a contract-by-contract basis, thereby preventing the team from obtaining sufficient competent evidence to support the large majority of GoI's reported 2009 maintenance deposits. The Firm's engagement team was also on notice that GoI's reported maintenance deposit assets may have been overstated and that its ICFR may not have been operating effectively at year-end 2009. Based on GoI's representation that it intended to hire a consultant to analyze its maintenance deposit records during 2010, however, the GoI Engagement Partner acquiesced in the Company's accounting and caused the Firm to issue audit reports expressing unqualified opinions on GoI's financial statements and ICFR for 2009.

40. During the reviews of GoI's quarterly financial statements during 2010, the Firm's engagement team monitored GoI's progress in both quantifying the amount of maintenance deposits that were unsupported and writing down those deposits. The GoI Engagement Partner understood, however, that GoI was treating those write-downs as current period expenses despite the fact that most of the unsupported deposits related to prior periods.

41. During the 2010 GoI Audit, the GoI Engagement Partner understood that GoI still planned to report R$52.6 million (US$31.6 million) of unsupported maintenance deposits as assets on its 2010 balance sheet. The GoI Engagement Partner further understood that GoI planned to improperly spread its write-off of that remaining R$52.6 million of unsupported maintenance deposits over its quarterly financial statements in 2011.

42. During the 2010 GoI Audit, the Firm's engagement team failed to obtain sufficient competent audit evidence concerning either the R$52.6 of remaining unsupported maintenance deposits (which represented 14 percent of reported pre-tax income) or the amounts written off during 2010 as current year expenses (which totaled R$116.5 million, or 30 percent of reported pre-tax income). The engagement team also: (a) failed to consider whether the misstatements in GoI's accounting for its maintenance deposits were indicative of fraud; (b) failed to assess the materiality to GoI's 2010 financial statements of either the R$52.6 million in unsupported deposits or the amounts written off in 2010 that the team understood to represent prior-year expenses; and (c) failed to evaluate controls over GoI's accounting for its maintenance deposits, including whether there was a deficiency in its ICFR, and whether that deficiency, individually or in combination with other deficiencies, represented a material weakness. Instead, as discussed below, the GoI Engagement Partner knowingly acquiesced in GoI's unsupported reporting of both expenses and a potentially material amount of assets, and the Firm issued audit reports concerning GoI's 2010 financial statements and ICFR that falsely stated that its audit work had conformed to PCAOB standards.

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Deloitte Brazil Failed to Obtain Sufficient Evidence Concerning Gol's Reported Advance Ticket Sales and Passenger Revenue

43. During the 2010 Gol Audit, Deloitte Brazil also violated PCAOB standards in connection with its engagement team's audit work on Gol's reported passenger revenue and its advance ticket sales liability. Among other violations, the Firm's engagement team failed to exercise due professional care and professional skepticism and failed to obtain sufficient competent evidence concerning Gol's accounting for and controls over passenger revenue and advance ticket sales.

44. Gol's financial statements included two related accounts, passenger revenue and advance ticket sales. Advance ticket sales was a deferred revenue liability account that represented passenger tickets sold for future travel dates. Gol reduced the advance ticket sales liability and recorded passenger revenue either when transportation was provided or when an unused ticket expired. In its 2010 Form 20-F, Gol reported passenger revenue of R$6.3 billion (US$3.8 billion) and an advance ticket sales liability of R$517 million (US$310 million).

45. In planning its audit procedures for passenger revenue and advance ticket sales for the 2010 Gol Audit, the Firm's engagement team identified both accounts as significant accounts, and concluded that a control reliance approach was appropriate as to each account, meaning that the team would reduce its level of substantive testing based on a belief that the controls over those accounts were operating effectively. Additionally, the team identified significant risks of material misstatement relating to those accounts, including: (a) for passenger revenue, the risk that revenue would not effectively correspond to embarkations made; and (b) for advance ticket sales, the risk that the estimates used by management would be incorrect. The team planned that each risk would be addressed by both control procedures and substantive procedures.

46. Despite the instruction in PCAOB standards that an "auditor should ordinarily presume that there is a risk of material misstatement due to fraud relating to revenue recognition,"[42] the Firm's engagement team failed during its planning for the 2010 Gol Audit to identify improper revenue recognition as presenting a risk of material misstatement due to fraud. The team also did not document any basis for overcoming the presumption that improper revenue recognition presented a risk of material misstatement due to fraud.

47. During the 2010 Gol Audit, one of the engagement team's procedures to audit the advance ticket sales liability balance was to review a reconciliation between

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[42] AU § 316.41.

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the advance ticket sales balance reported in Gol's accounting system and the balance reported by its separate reservation system. The team failed, however, to obtain sufficient competent evidence to support the nature or appropriateness of material adjustments and reconciling items included in that reconciliation.

48. For example, the reconciliation included an adjustment that reduced the liability balance by R$74.8 million, or 15 percent, based only on Gol management's representation that a certain subset of advance ticket sales—"interline" tickets booked by partner airlines rather than customers—were being properly excluded from the reported advance ticket sales liability. The Firm's engagement team failed to obtain evidence to corroborate either: (a) how the adjustment was reflected in Gol's accounting system; or (b) whether management's accounting treatment was appropriate, especially given that Gol had not made a similar adjustment for interline tickets in the prior year.

49. Even after the adjustments and reconciling items, including the "interline" adjustment described above, the reconciliation still identified a significant difference between the reservation and accounting system balances of R$38.3 million (US$23.0 million). That difference represented ten percent of Gol's reported pre-tax income, seven percent of its reported advance ticket sales liability, and 70 percent of planning materiality, which the engagement team had calculated as a percentage of Gol's revenue. In its work papers, the Firm's engagement team described this difference, which indicated that passenger revenue was overstated and advance ticket sales understated, as an unexplained misstatement ("Potential Misstatement"). The team, including the Gol Engagement Partner, was aware that the R$38.3 million Potential Misstatement amount was still only a preliminary figure, however; at the time it filed its Form 20-F, Gol had not completed its analysis of the Potential Misstatement.

50. The Firm's engagement team proposed to Gol management that it reduce its reported 2010 revenue by the preliminary R$38.3 million figure, and increase the advance ticket sales liability by the same amount, to reflect the Potential Misstatement. Management declined, however, stating, according to Deloitte Brazil's work papers, that it preferred to complete the analysis of the Potential Misstatement before making any adjustment. Although the engagement team included that R$38.3 million amount as a known misstatement in its Summary of Uncorrected Misstatements (the work paper in which the team listed and evaluated the materiality of uncorrected misstatements), it did not otherwise address its inability to obtain sufficient competent evidence concerning Gol's passenger revenue and advance ticket sales liability while Gol's analysis was pending.

51. The Gol Engagement Partner (who was appointed to a leadership position in the Audit function during the audit) was aware that he was causing the Firm to issue unqualified audit reports concerning Gol's 2010 financial statements and ICFR while he

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knew, and therefore the Firm knew, that the analysis of the Potential Misstatement was still pending. In fact, even using the preliminary amount of R$38.3 million, the engagement team's analysis of the identified misstatements indicated that it should consider performing additional procedures before issuing the audit reports. The GOL Engagement Partner determined, however, that the team should not perform any additional procedures.

52. During the 2010 GOL Audit, the audit work that the Firm's engagement team performed concerning GOL's reported passenger revenue was deficient in other ways as well. For example, in addition to failing to identify improper revenue recognition as presenting a fraud risk (as it should have), the team abandoned procedures it planned to perform that might have addressed, at least in part, that risk. For example, the team planned to test, but did not test, the electronic interface by which the reservation system reported to the accounting system what tickets had been used and what revenue should be recognized. The team also relied to an inappropriate extent on analytical procedures to test passenger revenue, for example by relying solely on substantive analytical procedures to test revenue from credit card sales, which represented a significant portion of its passenger revenue. Moreover, even the substantive analytical procedures that it did perform indicated a potential overstatement of passenger revenue by as much as R$76.4 million. The team failed to take steps to respond to the results of that procedure, including evaluating whether the nature, timing, and extent of its procedures needed to be modified.

53. The results of the GOL engagement team's substantive procedures, including the identification of the Potential Misstatement, made the team aware that a significant deficiency existed in GOL's controls over passenger revenue and advance ticket sales. Additionally, an ERS team, which was engaged by the audit team to test the IT general controls and automated business process controls applicable to GOL's accounting system and reservation system, identified other deficiencies. The Firm's engagement team failed, however, to appropriately evaluate the severity of the identified deficiencies, both individually and in the aggregate. Further, the team failed to consider whether the results of its audit procedures, and the deficiencies that those procedures had identified, called into question the appropriateness of its control reliance approach to the passenger revenue and advance ticket sales accounts.

Deloitte Brazil Improperly Issued Unqualified Reports on GOL's 2010 Financial Statements and ICFR, in Violation of Securities Laws and PCAOB Standards

54. On April 8, 2011, Deloitte Brazil issued audit reports containing unqualified opinions on GOL's 2010 financial statements and ICFR, and GOL included those reports in a Form 20-F that it filed with the Commission the same day. The audit reports stated that the 2010 GOL Audit had been conducted in accordance with PCAOB standards. The

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GoI Engagement Partner knew, and therefore the Firm knew, that those statements were materially false, given the audit deficiencies described above concerning maintenance deposits, advance ticket sales, passenger revenue, and ICFR. Specifically: (a) the Firm, through the GoI Engagement Partner, knew that the engagement team had not obtained sufficient competent evidence concerning GoI's reported maintenance deposits; (b) the Firm, through the GoI Engagement Partner, knew that the team had not obtained sufficient competent evidence concerning GoI's passenger revenue and advance ticket sales; and (c) the Firm, through the GoI Engagement Partner, knew that the team had not adequately evaluated the severity of all identified control deficiencies, and had not re-evaluated its reliance on controls, or the nature and scope of its audit procedures, in light of those identified deficiencies.[43]

55. Deloitte Brazil's issuance of two unqualified audit reports concerning GoI's 2010 financial statements and ICFR in the face of this knowledge violated Exchange Act Section 10(b) and Exchange Act Rule 10b-5. During the 2010 GoI Audit, the Firm also violated numerous PCAOB standards, specifically by: (a) failing to act with due professional care, including professional skepticism, and failing to obtain sufficient competent evidential matter in its procedures concerning GoI's maintenance deposits, passenger revenue, advance ticket sales, and ICFR;[44] (b) failing to plan and perform the audit to obtain reasonable assurance about whether one or more material weaknesses existed in GoI's ICFR;[45] (c) failing to adequately evaluate the severity of identified control deficiencies and to adequately determine the effect of those deficiencies on the nature, timing, and extent of its procedures;[46] and (d) failing to perform adequate procedures relating to fraud risks, including by failing to respond adequately to indications of fraud and failing to treat GoI's revenue recognition as presenting a risk of material misstatement due to fraud.[47]

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[43] This Order's description of audit deficiencies and other violations by Deloitte Brazil in connection with the 2010 GoI Audit should not be understood as an indication that either the Board or the Commission has considered or made any determination concerning GoI's compliance with applicable accounting requirements and securities laws.

[44] See AU § 150.02; AU §§ 230.01, 07; AU § 326.01.

[45] See AS5 ¶ 3.

[46] See id. ¶¶ 62, B6; AU § 312.33.

[47] See AU §§ 316.13, .41, .46 - .68, .74 - .78.

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G. After the 2010 GoI Audit, Certain Deloitte Brazil Personnel Identified a New Accounting Treatment for the Potential Misstatement

56. Months after issuing its unqualified audit reports concerning GoI's 2010 financial statements and ICFR, certain Deloitte Brazil personnel belatedly identified a provision in the accounting literature that they believed would have applied to the Potential Misstatement. As discussed below, some of those personnel later participated in the improper alteration of work papers from the 2010 GoI Audit to create the appearance that the accounting provision had in fact been considered at the time of the audit.

57. During the first quarter of 2011, GoI completed its analysis of the Potential Misstatement. Its quantification of that misstatement rose from R$38.3 million to R$56.8 million. On May 10, 2011, GoI announced that it would reduce its reported first-quarter 2011 revenue by R$56.8 million to account for the misstatement.

58. On December 2, 2011, the Commission's Division of Corporation Finance ("Corporation Finance") issued a comment letter to GoI concerning certain aspects of its 2010 Form 20-F and 2011 quarterly filings. Among the issues raised by the comment letter was the R$56.8 million write-down of revenue for the first quarter of 2011. The comment letter requested an explanation concerning how International Accounting Standard 8, *Accounting Policies, Changes in Accounting Estimates and Errors* ("IAS 8"), under International Financial Reporting Standards ("IFRS") applied to the write-down.

59. During December 2011 and early 2012, Deloitte Brazil personnel met to discuss how to provide assistance to GoI in responding to the comment letter and follow-up correspondence. Those personnel noted that a particular provision of IAS 8, Paragraph 44, might have applied to the Potential Misstatement. IAS 8 Paragraph 44 directs that, if it is "impracticable" for an entity "to determine the period-specific effects of an error on comparative information for one or more prior periods presented, the entity shall restate" the opening balance sheet "for the earliest period for which retrospective restatement is practicable (which may be the current period)."[48] Although the Firm's engagement team had not considered IAS 8 Paragraph 44 at the time of the 2010 GoI Audit and the Firm did not document any analysis of that provision at the time of the SEC comment letter process, certain Firm personnel, including the GoI Engagement Partner, adopted the view that IAS 8 Paragraph 44 would have been the correct way to account for the Potential Misstatement at year-end 2010. Specifically, those Firm personnel concluded that IAS 8 Paragraph 44 would have directed GoI to book the Potential Misstatement as a reduction to shareholders' equity in the

[48] IAS 8 ¶ 44.

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Company's opening 2011 balance sheet, rather than as a reduction in revenue and increase in advance ticket sales in 2010. Gol subsequently cited IAS 8 Paragraph 44 to Corporation Finance in arguing that its 2010 accounting had been materially correct.

60. As explained below, in connection with the 2012 PCAOB inspection, Deloitte Brazil provided misleading documents and information to PCAOB inspectors. Among other things, the misleading documents and information falsely indicated that, during the 2010 Gol Audit, the Firm's engagement team had considered IAS 8 Paragraph 44 and had concluded that the Potential Misstatement was a multi-period error whose allocation was impracticable, thereby purportedly necessitating its treatment under IAS 8 Paragraph 44 exclusively as a balance-sheet error (with no income statement impact).

H. Deloitte Brazil Improperly Altered Work Papers in Connection with the Board's 2012 Inspection

Applicable PCAOB Rules and Standards

61. Auditing Standard No. 3, *Audit Documentation* ("AS3"), requires that the complete and final set of documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its report.[49] After the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date of the addition, the person who prepared the additional documentation, and the reason for adding the documentation.[50]

62. PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. The cooperation requirement of Rule 4006 includes an obligation "not to provide misleading documents or information in connection with the Board's inspection processes."[51]

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[49] AS3 ¶¶ 14, 15.

[50] See id. ¶ 16.

[51] *Nathan M. Suddeth, CPA*, PCAOB Rel. No. 105-2013-007 (Sept. 10, 2013).

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Certain Deloitte Brazil Personnel Concealed the Firm's Audit Violations from Board Inspectors

63. The Board conducted an inspection of Deloitte Brazil in 2012. On or about March 8, 2012, the Board's Division of Registration and Inspections ("Inspections") informed the Firm that the 2010 GoI Audit and the Issuer 2 Audit for 2010 would be two of the audits inspected, and that the focus areas for GoI would be revenue, deferred revenue, accounts receivable, and property, plant, and equipment. Primary field work procedures for the inspection commenced on March 26, 2012.

64. In response to Inspections' March 8, 2012 notification, the GoI Engagement Partner initiated an effort to thwart the Board's oversight of Deloitte Brazil's audit work by improperly altering the work papers for the 2010 GoI Audit. He instructed the GoI Senior Manager (who had become a Firm partner in June 2011) to carry out the improper alterations along with the Two Senior Managers.

65. After making numerous alterations to the 2010 GoI Audit work papers in conjunction with the Two Senior Managers, the GoI Senior Manager sent the improperly altered work papers to the GoI Engagement Partner, who made additional improper alterations on his own. In total, 56 work papers from the 2010 GoI Audit were improperly altered, as were fourteen work papers from the 2010 quarterly reviews. The altered documents included work papers relating to the Firm's auditing of GoI's maintenance deposits, passenger revenue, advance ticket sales, accounts receivable, and ICFR, as well as its Summary of Uncorrected Misstatements and its presentation to the GoI Audit Committee.

66. Among the improper alterations made were: (1) changes to multiple work papers that concealed the acquiescence in what Firm personnel, including the GoI Engagement Partner, understood to be GoI's plan to improperly manage the write-off of unsupported maintenance deposits over time; and (2) changes to other work papers that created the appearance that the Firm's engagement team had considered IAS 8 Paragraph 44 to apply to the Potential Misstatement at the time of the 2010 GoI Audit, when in fact that accounting provision had not been identified until months later.

67. After the improper alterations were complete, the Firm made the improperly altered work papers available to Inspections for use in the inspection.[52] The

[52] In advance of the primary procedures for the inspection, Deloitte Brazil represented to Inspections as to the 2010 GoI Audit and Issuer 2 Audit that no changes had been made to the documentation for those audits after the documentation completion date. The alterations of the 2010 GoI Audit documentation and the Issuer 2

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Firm also provided other misleading documents and information during the inspection. For example, when Inspections asked for additional support for the Firm engagement team's treatment of the Potential Misstatement during the audit, the GoI Engagement Partner improperly altered a presentation that he had used with Senior Partner 2 during their consultation ("Technical Presentation") so that it cited IAS 8, thereby providing further false support for the claim that the Firm's engagement team had considered that provision at the time of the 2010 GoI Audit. The Firm then provided the improperly altered Technical Presentation to Inspections.

68. Additionally, after Inspections requested a meeting with the ERS Partner and ERS Manager for the 2010 GoI Audit concerning the IT procedures they had performed during the audit, certain GoI engagement team members informed the ERS Partner and ERS Manager that the ERS work papers had been improperly altered to change the findings that certain IT-based controls were ineffective. The ERS Partner and ERS Manager subsequently met with Inspections to discuss the IT procedures performed during the audit. The ERS Partner, ERS Manager, and one of the Two Senior Managers (who also attended the meeting) provided misleading information to Inspections by participating in those discussions without informing Inspections that the discussions were based on ERS work papers that had been improperly altered.

69. The Issuer 2 Partner and two managers under his direction—the Issuer 2 Senior Manager and the Issuer 2 Manager—also improperly altered the work papers for the Issuer 2 Audit in connection with the 2012 Board inspection. After Inspections informed Deloitte Brazil that it would inspect the Issuer 2 Audit, the Issuer 2 Partner (who had been a second partner on that audit) informed the GoI Engagement Partner (who had been the engagement quality reviewer on that audit) that certain work papers from the audit contained on CDs were missing. The Issuer 2 Partner proposed to alter non-final versions of multiple Issuer 2 Audit work papers, burn those altered work papers onto new CDs, and present those new CDs to PCAOB inspectors as documentation that had been prepared timely and in accordance with PCAOB standards. The GoI Engagement Partner approved the plan, which the Issuer 2 Partner then carried out. In furtherance of that plan, the Issuer 2 Partner instructed the Issuer 2 Manager, who had worked on the audit, to back-date his computer clock to create the appearance that the new CDs had been burned at the time of the Issuer 2 Audit. The Issuer 2 Partner also instructed the Issuer 2 Senior Manager to create and back-date certain other work papers, which the Issuer 2 Partner then added to the manual work paper binders after those binders had been provided to Inspections.

Audit documentation (described below) rendered those representations false and misleading.

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70. Based on the conduct described above, Deloitte Brazil failed to cooperate with the Board's 2012 inspection of the Firm, in violation of PCAOB Rule 4006.[53]

I. Deloitte Brazil Failed to Cooperate with the Board's Investigation

Applicable Statutory Provision and PCAOB Rule

71. Section 105(b)(3)(A) of the Act authorizes the Board to sanction a registered public accounting firm for "refus[ing] to…cooperate with the Board in connection with an investigation."[54] Board rules include procedures for implementing that authority.[55] Noncooperation with a Board investigation includes: (a) "fail[ing] to comply with an accounting board demand"; (b) "knowingly mak[ing] any false material declaration or mak[ing] or us[ing] any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration"; (c) "abus[ing] the Board's processes for the purpose of obstructing an investigation"; and (d) "otherwise [failing] to cooperate in connection with an investigation."[56]

Certain Senior Deloitte Brazil Personnel Obstructed the PCAOB's Informal Inquiry and Formal Investigation

72. On October 15, 2013, the Division issued a request to Deloitte Brazil ("2013 Request") for, among other things, "the complete and final set of audit documentation assembled for retention" concerning the 2010 GoI Audit. The 2013 Request also asked the Firm to preserve all documents relating to the 2010 GoI Audit.

73. After receiving the 2013 Request, the GoI Engagement Partner continued the effort to thwart the PCAOB's oversight, which expanded to concealing both the GoI audit violations and the improper alteration of documents in connection with the 2012 PCAOB inspection. In furtherance of this effort, the GoI Engagement Partner caused the Firm to produce the improperly altered 2010 GoI Audit work papers to the Division, and to withhold the original versions, along with inculpatory emails.

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[53] The improper alteration of the GoI and Issuer 2 work papers was also inconsistent with Firm policy.

[54] 15 U.S.C. § 7215(b)(3)(A).

[55] See PCAOB Rules 5110, 5200(a)(3).

[56] PCAOB Rule 5110(a).

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74. By no later than February 2014, Senior Partner 2 and Senior Partner 3 learned of the alteration of 2010 GoI Audit work papers. Those partners subsequently either joined or failed to prevent the GoI Engagement Partner's efforts to conceal the wrongdoing. Other Firm partners were also aware of or participated in the concealment, including the GoI Senior Manager. Certain Firm partners discussed the concealment of documents and information from the Division in various meetings and conversations during the inquiry, and those partners crafted a false story of the 2010 GoI Audit to present to the Board to reflect the improperly altered work papers that had been produced.

75. For example, on March 10, 2014, Senior Partner 3, who was one of the Deloitte Brazil leaders most responsible for ensuring regulatory compliance at the Firm, discussed with the GoI Senior Manager that several senior Firm partners had determined to minimize the risk to the Firm by withholding the fact of the improper alteration of the 2010 GoI Audit work papers from both Deloitte Global and the Firm's external counsel. Unbeknownst to Senior Partner 3, however, the GoI Senior Manager was recording the conversation on his mobile phone. In that conversation, Senior Partner 3 also instructed the GoI Senior Manager to remove inculpatory documents from his computer and office to prevent their being produced to the PCAOB:[57]

Senior Partner 3:	Any evidence that you have of this, remove it from your machine. Keep it in a—if you have that, keep it somewhere else, but not in your machine, not in the office. Okay?
GoI Senior Manager:	No. Okay.
Senior Partner 3:	Okay? Another thing, considering that he [the GoI Engagement Partner] will take the responsibility for all this, everything you told me, everything we discussed, never happened.[58]
GoI Senior Manager:	Okay.

[57] The conversation, which was held in Portuguese, has been translated into English.

[58] Certain senior Deloitte Brazil partners who were aware of the improper alteration of the GoI work papers had previously discussed that, if the alterations were ever discovered, the GoI Engagement Partner would assume all responsibility and would protect the other culpable members of Firm leadership.

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> Senior Partner 3: Never! Whatever happens—I, if somebody says, "No, [GoI Senior Manager] said to you—," I will say, "No, there must be a mistake!" I will never admit that it was said.

76. In June 2014, the Board issued an Order of Formal Investigation, and the Division issued a document demand covering the 2010 GoI Audit work papers. In response, the Firm continued to withhold the original versions of those work papers and made false material statements to the Division. Among the false material statements were representations contained in a July 2014 presentation that Deloitte Brazil made to the Division, which cited and relied on the improperly altered GoI work papers. The GoI Engagement Partner, Senior Partner 2, and Senior Partner 3 reviewed the presentation in advance and knew it to contain statements consistent with the improperly altered work papers.

77. On September 29, 2014, Senior Partner 3 signed a written certification, which was provided to the Division and stated that, "to the best of [the Firm's] knowledge, information, and belief formed after a reasonable search," the Firm had produced all documents responsive to the Division's demands. This certification, which the Firm provided to the Division on October 3, 2014, was false and misleading, because Senior Partner 3 was aware that the Firm had withheld the original, unaltered 2010 GoI Audit work papers as well as other inculpatory documents.

78. In April 2015, the Division informed Deloitte Brazil that it believed a presentation may have been used by the GoI Engagement Partner to consult with Senior Partner 2 about the Potential Misstatement during the 2010 GoI Audit. Despite knowing that the Firm possessed the Technical Presentation and that it had produced it to Inspections (in altered form) in 2012, certain senior partners caused the Firm to deny that the presentation existed. In July 2015, during testimony by Senior Partner 2, the Division introduced a copy of the Technical Presentation that Inspections had retained in its files, the same version that the GoI Engagement Partner had improperly altered during the Inspection to add a reference to IAS 8. In September 2015, the Firm produced the same altered version to the Division. The Firm falsely stated, when it made that production, that it had just located the Technical Presentation and that it believed all responsive documents had been produced, when in fact the GoI Engagement Partner and certain other Firm partners knew that the original 2010 GoI Audit work papers were still being withheld.

79. From May 2015 through October 2015, certain Deloitte Brazil personnel provided testimony to the PCAOB under oath and on the record. These included several Firm partners who were aware of the improper alteration of work papers, including the GoI Senior Manager and the GoI Engagement Partner. Those witnesses provided

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testimony that was consistent with the false story that the GoI engagement team had identified IAS 8 Paragraph 44 as an applicable accounting standard at the time of the 2010 GoI Audit. The GoI Engagement Partner also concealed the nature of the Firm's conduct relating to GoI's accounting for its unsupported maintenance deposits. Additionally, the Division presented several improperly altered work papers from the 2010 GoI Audit and quarterly reviews to the GoI Engagement Partner and GoI Senior Manager without being aware of their altered nature. The GoI Engagement Partner and GoI Senior Manager falsely affirmed that those altered work papers were the original work papers from the 2010 GoI Audit.

Certain Deloitte Brazil Personnel Attempted to Conceal the Scope of the Misconduct After the Improper Alterations Were Exposed

80. On October 8 and 9, 2015, the Division confronted the GoI Engagement Partner during his testimony with evidence that the GoI Audit Committee presentations for the third quarter of 2010 and year-end 2010 had been improperly altered. The GoI Engagement Partner falsely denied that any alteration had occurred. Deloitte Brazil, however, commenced an internal investigation, in which it retained forensic personnel employed by a Deloitte entity in the United States and assigned an independent Firm team to analyze the differences between the original 2010 GoI Audit work papers and the work papers that the Firm had made available to Inspections and had produced to the Division. Based on that work, in October and November 2015 the Firm reported to the Division that 56 work papers from the 2010 GoI Audit and fourteen work papers from the 2010 quarterly reviews had in fact been altered after the relevant documentation completion dates, and provided the Division with redlines showing the changes. The original work papers showed that the GoI Engagement Partner had acquiesced in GoI's accounting for its unsupported maintenance deposits and that the engagement team had not considered IAS 8 Paragraph 44 at the time of the audit. The Firm also placed the GoI Engagement Partner, the GoI Senior Manager, and the Two Senior Managers who had altered GoI work papers on leave, and took steps to improve its quality controls relating to the archiving of audit work papers.

81. Other Deloitte Brazil partners continued their efforts, however, to conceal the scope of the wrongdoing. Additionally, they caused the Firm to represent to the Division that the GoI-related alterations were an isolated incident and that the work papers for the other audits inspected in 2012, including the Issuer 2 Audit, did not appear to have been improperly altered.

82. In January 2016, Deloitte Brazil produced a set of Issuer 2 Audit work papers to the PCAOB. On February 3, 2016, the Division notified the Firm that certain of the Issuer 2 work papers had electronic metadata showing last-modified dates well after the documentation completion date for the Issuer 2 Audit. In response, the Firm

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expanded its internal investigation, and subsequently disclosed that a large number of the work papers for the Issuer 2 Audit had not been properly archived in the electronic archive, and that certain of those work papers had been improperly added to or modified in the Issuer 2 Audit file in advance of the 2012 inspection. The Firm also placed the Issuer 2 Partner on leave and took steps to adopt additional remedial measures concerning audit documentation.

83. Certain Firm personnel, however, continued in 2016 to fail to cooperate with the Division's investigation. These included Senior Partner 3, who during his testimony falsely denied having any knowledge of obstruction or work paper alteration. Additionally, the ERS Manager, who was still associated with the Firm, refused to appear for additional testimony.

84. In January 2016, the GoI Senior Manager alerted the Division to the efforts by certain senior personnel to obstruct its investigation and to the fact that he had recorded conversations with some of those personnel concerning the obstruction. Certain Deloitte Brazil personnel subsequently took steps to dissuade the GoI Senior Manager from cooperating with the Division or asked the GoI Senior Manager not to reveal their participation in the obstruction.

85. In July 2016, the Division confronted Senior Partner 3 in his testimony with evidence of his obstruction obtained from the GoI Senior Manager. After that testimony, Deloitte Brazil's new leadership, which had taken office on June 1, 2016, removed Senior Partner 2 and Senior Partner 3 from their leadership positions, and terminated or placed on administrative leave personnel who had been identified as participating in the wrongdoing. Additionally, the Firm implemented remedial measures to improve the Firm's audit quality and regulatory compliance.

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86. Through the conduct described above, Deloitte Brazil failed to cooperate with a Board investigation, warranting the imposition of sanctions against the Firm pursuant to Section 105(b)(3) of the Act and PCAOB Rule 5300(b).

J. Deloitte Brazil Violated PCAOB Quality Control Standards

87. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[59] PCAOB quality control standards, in turn, require

[59] PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

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that a registered firm "shall have a system of quality control for its accounting and auditing practice."[60]

88. Pursuant to PCAOB quality control standards, firms should establish policies and procedures to provide reasonable assurance that: (a) "personnel … perform all professional responsibilities with integrity, and maintain objectivity in discharging professional responsibilities";[61] (b) "the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality,"[62] including with respect to "performing, supervising, reviewing, documenting, and communicating the results of each engagement";[63] and (c) the firm's quality control policies and procedures "are suitably designed and are being effectively applied."[64]

89. In light of the knowing issuance of false audit reports concerning Gol's 2010 financial statements and ICFR and the acquiescence in accounting that was understood to be improper, Deloitte Brazil failed to maintain a system of quality control during the period of wrongdoing that provided reasonable assurance that its personnel would meet applicable professional standards and regulatory requirements concerning the performance, supervision, review, and documentation of audit engagements.

90. Additionally, in light of the improper alteration of work papers for two audits and the provision of misleading documents and information to the Board, which involved several members of the Firm's senior leadership, Deloitte Brazil failed to maintain a system of quality control during the period of wrongdoing that provided reasonable assurance that its personnel would act with integrity.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

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[60] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*; see also QC §§ 20.17 - .20.

[61] QC § 20.09.

[62] QC § 20.17.

[63] QC § 20.18.

[64] QC § 20.20; see also QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

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A. Pursuant to Sections 105(b)(3)(A) and 105(c)(4)(E) of the Act and PCAOB Rules 5300(a)(5) and 5300(b)(1), Deloitte Brazil is censured;

B. Pursuant to Sections 105(b)(3)(A) and 105(c)(4)(D) of the Act and PCAOB Rules 5300(a)(4) and 5300(b)(1), a civil money penalty in the amount of $8,000,000 is imposed upon Deloitte Brazil. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Deloitte Brazil shall pay $4,000,000 of this civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. Deloitte Brazil shall pay an additional $2,000,000 of the penalty by March 31, 2017, pursuant to the same procedures; and shall pay the remaining $2,000,000 of the penalty prior to its issuance of the Interim Certificate of Compliance (discussed below), pursuant to the same procedures.

C. Pursuant to Sections 105(c)(4)(C), (F), and (G) of the Act and PCAOB Rules 5300(a)(3), (6), (7), and (9), the Board orders that:

1. Definitions: The following definitions shall apply to the provisions of this section:

(a) *Immediate Practice Limitations*: The limitations imposed on Deloitte Brazil's audit practice until the Interim Compliance Date pursuant to subsection C.2.

(b) *Interim Certificate of Compliance*: A certificate submitted by Deloitte Brazil to the PCAOB, after review and approval by the Independent Monitor, certifying that certain requirements of this Order have been fulfilled pursuant to subsection C.6.

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(c) *Interim Compliance Date*: The date on which Deloitte Brazil submits the Interim Certificate of Compliance.

(d) *Pre-Issuance Reviews*: Reviews of audits performed by Deloitte Brazil pursuant to subsection C.2(b).

(e) *Final Certificate of Compliance*: A certificate submitted by Deloitte Brazil to the PCAOB, after review and approval by the Independent Monitor, certifying that all requirements of this Order have been fulfilled pursuant to subsection C.7.

(f) *Final Compliance Date*: The date on which Deloitte Brazil submits the Final Certificate of Compliance.

(g) *Independent Monitor*: An independent monitor retained by Deloitte Brazil to monitor, evaluate, and report on the Firm's compliance with the requirements of this Order pursuant to subsection C.4.

(h) *Monitor Period*: The period of the Independent Monitor's required retention by Deloitte Brazil, ending on the Final Compliance Date.

(i) *Undertakings*: Actions required by subsection C.3.

(j) *Enhanced Reporting Procedures*: Procedures for the reporting of suspected wrongdoing required by subsection C.3(c).

2. Immediate Practice Limitations: From the date of this Order until the Interim Compliance Date, Deloitte Brazil shall be subject to the following Immediate Practice Limitations:

(a) *Prohibition on New Engagements to Prepare or Issue Audit Reports for Certain New Clients*. The Firm shall be prohibited from accepting new engagements to prepare or issue audit reports for new clients who are issuers, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), as well as for new clients who are brokers or dealers, as those terms are defined by PCAOB Rules 1001(b)(iii) and 1001(d)(iii); provided, however, that this prohibition does not preclude the Firm from accepting new engagements with respect to proposals it had submitted prior to October 1, 2016 to three issuers, which the Firm has identified to the Board.

(b) *Pre-Issuance Reviews*. As to any existing clients who are issuers, brokers, or dealers (as defined in subsection C.2(a)) for which the Firm prepares or issues an audit report or plays a substantial role in the preparation or

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furnishing of an audit report,[65] the Firm must retain or arrange for one or more auditors from Deloitte Global member or affiliate firms, experienced in the conduct of audits pursuant to PCAOB standards, to conduct a Pre-Issuance Review of the Firm's work on the engagement. The purpose of each Pre-Issuance Review shall be to support the Firm in identifying deficiencies, if any, in the application of PCAOB rules or standards, and remediating those deficiencies prior to the issuance of the audit report; and propose to the Firm actions it could take to prevent or timely detect such deficiencies in the future.

3. Undertakings: Deloitte Brazil shall carry out the following Undertakings:

(a) *Initial Certification*. Within 45 days of the date of this Order, Deloitte Brazil shall provide a certification, signed by its Managing Partner, stating that: (i) the Firm has adopted systems reasonably designed to ensure that electronically and manually stored work papers for audits conducted pursuant to PCAOB rules and standards are preserved and are modified only in compliance with those standards; and (ii) personnel in the Firm's PCAOB Engagements Group[66] have received 24 hours of additional training concerning work paper preparation and archiving, ethics, and professional skepticism.

(b) *Policies and Procedures*. Deloitte Brazil shall conduct a review of its quality control policies and procedures and determine whether modifications should be made or additional policies and procedures should be adopted concerning: (i) ethics and integrity; (ii) due professional care and professional skepticism; (iii) audit procedures relating to planning, materiality, risk assessment, fraud, analytical procedures, illegal acts by clients, and ICFR; (iv) sufficient appropriate audit evidence; (v) management representations; (vi) consultations with the Firm's Technical Area; (vii) engagement quality reviews; and (viii) participation in reviews conducted pursuant to SEC Practice Section § 1000.45, Appendix K, *SECPS Member Firms With Foreign*

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[65] See PCAOB Rule 1001(p)(ii).

[66] Deloitte Brazil has informed the PCAOB that the only Firm audit partners or audit managers who are authorized to work on audits and reviews governed by PCAOB rules and standards are those who are members of its PCAOB Engagements Group. Any partner or employee of any of the Deloitte Brazil Entities who does not belong to the PCAOB Engagements Group but who spends more than 50 hours in any year performing or supervising procedures on audits and reviews governed by PCAOB rules and standards is also covered by the requirements contained in subsections C.3(d) and (e) herein pertaining to the PCAOB Engagements Group for that year.

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Associated Firms That Audit SEC Registrants. No later than 90 days from the date of this Order, the Firm shall submit a written report to the PCAOB staff and Independent Monitor ("QC Report") summarizing its review, attaching any new or modified policies and procedures in the areas enumerated above, and, with respect to any of the areas enumerated above in which modifications will not be made and additional policies and procedures will not be adopted, providing an explanation concerning why new or modified policies and procedures are not required.

(c) *Enhanced Reporting Procedures*. No later than 90 days after the date of this Order, Deloitte Brazil shall adopt Enhanced Reporting Procedures for the reporting and investigation of suspected wrongdoing by Firm personnel. The Enhanced Reporting Procedures shall include processes for Firm personnel to report misconduct anonymously, and to report misconduct via telephone, email, website, or mail. The Enhanced Reporting Procedures shall include a prohibition on retaliation against Firm personnel making good faith reports of suspected wrongdoing, to the same extent as the protections established by Section 806(a), (d), and (e) of the Act, as amended. During the Monitor Period, the Firm shall promptly notify the Independent Monitor of all reports received and shall allow the Monitor to oversee and assess all actions taken in response to reports received. After the expiration of the Monitor Period, the Enhanced Reporting Procedures shall provide that every report received shall be directed to at least two persons at the Firm, including one member of the Policy Committee.

(d) *Training*. In addition to the training required in paragraph C.3(a), within one year after the date of this Order, Deloitte Brazil shall provide 40 hours of training to personnel in its PCAOB Engagements Group concerning: (i) ethics and integrity; (ii) PCAOB rules and standards, including those related to work paper preparation and archiving, due professional care and professional skepticism, planning, materiality, risk assessment, fraud, analytical procedures, illegal acts by clients, ICFR, sufficient appropriate audit evidence, and management representations; (iii) consultations with the Firm's Technical Area; (iv) engagement quality reviews; and (v) participation in reviews conducted pursuant to SEC Practice Section § 1000.45, Appendix K, *SECPS Member Firms With Foreign Associated Firms That Audit SEC Registrants*. During each year thereafter until the end of the Monitor Period, the Firm shall provide at least 25 hours of training to personnel in its PCAOB Engagements Group concerning the above topics.

(e) *Certifications*. No less than annually until the Final Compliance Date, Deloitte Brazil shall obtain from every member of its PCAOB Engagements

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Group a signed certification stating that the member, during the prior year, (i) has complied with all applicable Firm policies and procedures; (ii) has cooperated with the Independent Monitor and all internal and external reviews and inspections of audit work governed by PCAOB standards; and (iii) is not aware of, or has reported to Firm management, all violations of PCAOB rules and standards of which the member has become aware.

4. Independent Monitor: (a) *Retention and Term*. Deloitte Brazil shall retain and pay the fees and reasonable expenses for a third-party Independent Monitor, not unacceptable to the PCAOB staff, who has experience with public company reporting in the United States and is knowledgeable concerning PCAOB rules and standards. Within 60 days of the date of this Order, the Firm shall submit the name, qualifications, and proposed terms of engagement of the Independent Monitor to the PCAOB staff. The Firm may not retain as Independent Monitor any person who has been employed by or had a professional relationship with the Firm, any other Deloitte Global member or affiliate firm, or any audit client of the Firm in the previous two years; and the Firm shall require the Independent Monitor to agree not to enter into any employment or other professional relationship with the Firm, any other Deloitte Global member or affiliate firm, or any audit client of the Firm for two years following the expiration of the monitorship. The Monitor Period shall end as of the Final Compliance Date, or before the Final Compliance Date with the written pre-approval of the PCAOB staff.

   (b) *Monitor QC Report*. The Independent Monitor shall review the QC Report and determine whether, as supplemented and modified, Deloitte Brazil's policies and procedures appear reasonably designed to ensure compliance with PCAOB rules and standards. No later than 60 days after receiving the QC Report, the Independent Monitor shall provide a report ("Monitor QC Report") to the Firm and the PCAOB staff setting out the Independent Monitor's recommendations concerning any additional policies or procedures or modifications to policies or procedures that should be made to reasonably assure compliance with PCAOB rules and standards. The Firm shall adopt the Independent Monitor's recommendations as soon as practicable, except that the Firm may notify the Independent Monitor within 30 days of receiving the Monitor QC Report of any recommendations contained therein that the Firm believes to be unnecessary, impractical, unduly burdensome, or outside the scope of this Order, and the bases of the Firm's objection(s). In connection with that notification, the Firm may propose alternative policies and procedures that it believes will achieve the objectives of the recommendations contained in the Monitor QC Report. The Firm and the Independent Monitor shall engage in good-faith negotiations concerning any

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objection raised by the Firm, but if the Firm and the Independent Monitor are unable to come to agreement within 45 days, the Firm shall be required to adopt the Independent Monitor's recommendations to which it objects.

(c) *Additional Responsibilities*. The Independent Monitor shall have, and the engagement agreement between Deloitte Brazil and the Independent Monitor shall provide for the Independent Monitor to have, the following additional powers and responsibilities: (i) to review and assess the Firm's quality control system, including but not limited to its policies, procedures, and practices relating to audit documentation (including archiving) and ethics and integrity; (ii) to monitor the Firm's compliance with the Immediate Practice Limitations; (iii) to monitor the performance and results of the Pre-Issuance Reviews that are performed pursuant to subsection C.2(b); (iv) to review and assess the Firm's process for training its PCAOB Engagements Group, including the training materials used and the conduct of the training sessions; (v) to monitor the Firm's implementation of the other Undertakings described above, including the Firm's processes for investigating and addressing reports made pursuant to the Enhanced Reporting Procedures; (vi) to review and assess the results of any review or inspection that occurs during the Monitor Period of audit or review work governed by PCAOB standards that Firm personnel have performed (including reviewing and assessing any inspection comments and responses to comments); and (vii) to make recommendations to the Firm concerning improvements to its policies, procedures, or practices in light of any of the Independent Monitor's activities.

(d) *Cooperation with Independent Monitor*. Deloitte Brazil shall cooperate fully with the Independent Monitor and shall provide reasonable access to any Firm personnel, information, and records that the Independent Monitor may reasonably request to fulfill his or her responsibilities, subject to the Firm's right to withhold or redact any information based on attorney-client privilege or other applicable privileges. During the Monitor Period, the Firm shall preserve all communications, electronic or otherwise, concerning its quality control system and its audit work under PCAOB standards.

5. Documentation and Reporting:

(a) *Documentation Requirements*. During the Monitor Period, Deloitte Brazil shall maintain documentation sufficient to describe in reasonable detail all steps that it has taken to comply with Section C of this Order. Deloitte Brazil shall make such documentation available at any time to the Independent Monitor or the PCAOB staff, upon reasonable request, and shall retain such documentation for two years after the Final Compliance Date.

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(b) *Reporting Requirements*. No later than six months from the date of this Order, Deloitte Brazil shall submit to the Independent Monitor and the PCAOB staff a report: (i) detailing its progress in implementing and complying with the Undertakings and other requirements of this Order; (ii) identifying any recommendations that the Independent Monitor has made to the Firm and the Firm's response to those recommendations; and (iii) identifying any non-compliance by the Firm with this Order or any material non-compliance by the Firm with PCAOB rules and standards it has identified in its audit and review work. The Independent Monitor shall review and evaluate the report and, within 60 days of the receipt of the report, provide a separate report to the PCAOB staff, with a copy to the Firm: (i) describing the Independent Monitor's work during the previous six months; and (ii) concurring with the Firm's report or listing the points of non-concurrence. Deloitte Brazil shall make subsequent reports of an identical nature no later than one year from the date of this Order and every six months thereafter until the end of the Monitor Period, all of which shall be subject to the Independent Monitor's review, evaluation, and report as described above.

(c) *PCAOB Staff Access*. Throughout the Monitor Period, the PCAOB staff shall have reasonable access to the Independent Monitor and to the content and results of the Independent Monitor's work. The Independent Monitor shall be required to provide prompt responses to all PCAOB staff requests for documents and information concerning the content and results of the Independent Monitor's work, and neither the Independent Monitor nor the Firm shall assert any basis on which to fail to comply with such requests. The engagement agreement between Deloitte Brazil and the Independent Monitor shall require the Independent Monitor to comply with the terms of this subsection.

6. Interim Certificate of Compliance: After the Firm has issued all audit reports for which Pre-Issuance Reviews are required by subsection C.2(b), Deloitte Brazil may submit to the Independent Monitor (with a copy to the PCAOB staff) a report ("Interim Firm Report") stating its intention to submit an Interim Certificate of Compliance to the PCAOB staff, and containing a summary of its compliance with this Order and any other supporting material the Firm believes appropriate. Within 45 days of receiving the Interim Firm Report, the Independent Monitor shall submit a report ("Interim Monitor Report") to the Firm and the PCAOB staff setting out the Independent Monitor's conclusion concerning whether: (a) the Firm has complied with the Immediate Practice Limitations; (b) the Firm has made substantial progress in implementing the recommendations in the Monitor QC Report; (c) the Firm has taken appropriate steps to ensure compliance by Firm personnel with its policies

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and procedures, as supplemented and modified; (d) the Firm has made substantial progress in addressing the Independent Monitor's other recommendations; (e) the Firm has made substantial progress in implementing and complying with the Undertakings, including by conducting all required training sessions and implementing the Enhanced Reporting Procedures and responding appropriately to reports made pursuant to those procedures; (f) the Firm has made substantial progress implementing policies, procedures, and practices to establish and maintain a quality control system that provides reasonable assurance that Firm personnel will comply with PCAOB standards, including with regard to audit documentation (including archiving) and ethics and integrity; and (g) the performance and results of the Pre-Issuance Reviews required by subsection C.2(b) indicate that the Firm is conducting its audit work for issuers substantially in compliance with PCAOB standards. The PCAOB staff shall have the right to request documentation and other evidence supporting any original or supplementary Interim Firm Report or Interim Monitor Report, and the Firm and/or the Independent Monitor shall promptly comply with any such requests. Additionally, the Independent Monitor shall inform the PCAOB staff with fourteen days' advance notice of the Independent Monitor's intention to issue the Interim Monitor Report and shall provide the Division with a summary of the Independent Monitor's intended findings, the basis for those findings, and any draft of the intended report. If the Interim Monitor Report concludes that each of the above conditions has been met, the Firm may submit an Interim Certificate of Compliance to the PCAOB staff. If the Interim Monitor Report does not conclude that each of the above conditions has been met, the Firm shall have an opportunity to remediate any deficiencies and submit supplementary Interim Firm Reports every 30 days thereafter, as necessary. The Independent Monitor shall consider any supplementary Interim Firm Reports promptly, and shall issue a new Interim Monitor Report when he or she has concluded that each of the above conditions has been met, at which time the procedures above relating to an Interim Certificate of Compliance shall apply. The date on which the Firm submits the Interim Certificate of Compliance to the PCAOB staff shall be the Interim Compliance Date.

7. Final Certificate of Compliance: No less than one year from the Interim Compliance Date, Deloitte Brazil may submit to the Independent Monitor (with a copy to the PCAOB staff) a report ("Final Firm Report") stating its intention to submit a Final Certificate of Compliance to the PCAOB staff, and containing a summary of its compliance with this Order since the Interim Compliance Date and any other supporting material the Firm believes appropriate. Within 60 days of receiving the Final Firm Report, the

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Independent Monitor shall submit a report ("Final Monitor Report") to the Firm and the PCAOB staff setting out the Independent Monitor's conclusion concerning whether: (a) the Firm has adequately implemented the recommendations in the Monitor QC Report; (b) the Firm has taken appropriate steps to ensure compliance by Firm personnel with its policies and procedures, as supplemented and modified; (c) the Firm has adequately addressed the Independent Monitor's other recommendations; (d) the Firm has implemented and complied with the Undertakings, including by conducting all required training sessions and implementing the Enhanced Reporting Procedures and responding appropriately to reports made pursuant to those procedures; and (e) the Firm has made adequate progress implementing policies, procedures, and practices to establish and maintain a quality control system that provides reasonable assurance that Firm personnel will comply with PCAOB standards, including with regard to audit documentation (including archiving) and ethics and integrity. The PCAOB staff shall have the right to request documentation and other evidence supporting any original or supplementary Final Firm Report or Final Monitor Report, and the Firm and/or the Independent Monitor shall promptly comply with any such requests. Additionally, the Independent Monitor shall inform the PCAOB staff with fourteen days' advance notice of the Independent Monitor's intention to issue the Final Monitor Report and shall provide the Division with a summary of the Independent Monitor's intended findings, the basis for those findings, and any draft of the intended report. If the Final Monitor Report concludes that each of the above conditions has been met, the Firm may submit a Final Certificate of Compliance to the PCAOB staff. If the Final Monitor Report does not conclude that each of the above conditions has been met, the Firm shall have an opportunity to remediate any deficiencies and submit supplementary Final Firm Reports every 30 days thereafter, as necessary. The Independent Monitor shall consider any supplementary Final Firm Reports promptly, and shall issue a new Final Monitor Report when he or she has concluded that each of the above conditions has been met, at which time the procedures above relating to a Final Certificate of Compliance shall apply. The date on which the Firm submits the Final Certificate of Compliance to the PCAOB staff shall be the Final Compliance Date.

8. Provision of Order: No later than 30 days after the date of this Order, Deloitte Brazil shall provide a copy of this Order to all of its associated persons who are employees or partners of the Firm.

9. Extension of Deadlines: For good cause shown, the PCAOB staff may provide Deloitte Brazil or the Independent Monitor with a reasonable

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extension of any of the deadlines contained in this Order. Both the request for an extension and the provision of an extension must occur in writing.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 5, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of José Domingos do Prado*, Respondent.	PCAOB Release No. 105-2016-032 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring José Domingos do Prado ("Prado" or "Respondent"); and (2) barring Prado from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings that Prado: (a) directly and substantially contributed to a registered public accounting firm's violation of securities laws, including Section 10(b) of the Securities Exchange Act of 1934, as amended ("Exchange Act"), in connection with the audit of an issuer client; (b) violated PCAOB rules and standards in connection with the audit of an issuer client; (c) violated PCAOB rules and standards in connection with a Board inspection; and (d) obstructed and otherwise failed to cooperate with a Board investigation.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) and (3) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent

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consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds[2] that:

A. Respondent

1. José Domingos do Prado, 53, is a former partner at Deloitte Touche Tohmatsu Auditores Independentes ("Deloitte Brazil" or "Firm"). Prado was the lead engagement partner on Deloitte Brazil's audits and reviews of Gol Linhas Aéreas Inteligentes S.A., also known as Gol Intelligent Airlines, Inc. ("Gol" or "Company"), for 2009 through 2011, and was a partner on the Gol engagement for 2012 and 2013. He was also the engagement quality reviewer for certain audits and reviews of another Firm issuer client ("Issuer 2"). Prado served as a member of the Policy Committee, the governing board of the Firm, from February 23, 2010 through March 24, 2011. From February 23, 2011 through August 7, 2014, Prado was Audit Practice Leader of the Firm, and in that capacity also served on the Executive Committee. Prado stepped down as Audit Practice Leader on August 8, 2014 due to the pendency of the PCAOB investigation but continued to serve as Regions Leader and a member of the Executive Committee through October 31, 2015. On or about October 31, 2015, Prado was removed from the Executive Committee and placed on administrative leave due to his participation in the improper alteration of Gol work papers described herein, and on March 28, 2016, he separated from the Firm. At all relevant times, Prado was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Prado is currently affiliated with another PCAOB-registered public accounting firm in Brazil.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard.

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B. Other Relevant Persons and Entities

2. Deloitte Touche Tohmatsu Auditores Independentes is a partnership organized under the laws of Brazil, and is headquartered in São Paulo, Brazil. The Firm registered with the Board on June 2, 2004, pursuant to Section 102 of the Act and PCAOB rules.[3]

3. Gol Linhas Aéreas Inteligentes S.A., a/k/a Gol Intelligent Airlines, Inc., is a Brazil corporation headquartered in São Paulo, Brazil. Its common stock is listed on the BM&F Bovespa exchange in Brazil and its American Depositary Shares are listed on the New York Stock Exchange under the symbol "GOL." At all relevant times, Gol was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Deloitte Brazil served as the external auditor for Gol for the fiscal years ended December 31, 2009 through December 31, 2013, after which the Firm rotated off the Gol engagement pursuant to Brazilian audit firm rotation requirements.

4. "Senior Partner 2" is a partner of Deloitte Brazil. At all relevant times, Senior Partner 2 held a leadership position in the Firm's Audit function.[4]

5. "Senior Partner 3" is a partner of Deloitte Brazil. At all relevant times, Senior Partner 3 held multiple senior leadership positions at the Firm, including at certain relevant times a position on the Policy Committee. By virtue of his specific leadership positions, Senior Partner 3 was one of the Firm partners most responsible for ensuring the compliance by Firm personnel with ethical and regulatory requirements.[5]

6. The "Gol Senior Manager" is a partner of Deloitte Brazil. The Gol Senior Manager was a senior manager for the Firm's audit of Gol's financial statements and ICFR for the year ended December 31, 2010.[6]

7. The "GIOS Managers" were at all relevant times two senior managers in the Global IFRS and Offering Services ("GIOS") group within the Deloitte entities in

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[3] See *Deloitte Touche Tohmatsu Auditores Independentes*, PCAOB Rel. No. 105-2016-031 (Dec. 5, 2016).

[4] See *Wanderley Olivetti*, PCAOB Rel. No. 105-2016-034 (Dec. 5, 2016).

[5] See *Maurício Pires de Andrade Resende*, PCAOB Rel. No. 105-2016-033 (Dec. 5, 2016).

[6] See *André Ricardo Aguillar Paulon*, PCAOB Rel. No. 105-2016-035 (Dec. 5, 2016).

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Brazil.[7]

8. "Issuer 2" is an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Deloitte Brazil served as the external auditor for Issuer 2 for fiscal year 2010, among others.

9. The "Issuer 2 Partner" is a partner of Deloitte Brazil, and was a partner on the Firm's audit of Issuer 2's financial statements and ICFR for fiscal year 2010.[8]

C. Summary

10. This matter concerns Prado's abdication of his responsibilities as a partner and leader of Deloitte Brazil. By engaging in intentional and reckless wrongdoing, Prado himself violated a number of PCAOB rules and standards, and he also directly and substantially contributed to Deloitte Brazil's violation of federal securities laws as well as PCAOB rules and standards.

11. For fiscal years 2009 through 2011, Prado served as the engagement partner for Deloitte Brazil's audits and reviews of GOL. In that capacity, Prado authorized the issuance of unqualified audit reports concerning GOL's 2010 financial statements and internal control over financial reporting ("ICFR"). As Prado knew, those reports falsely stated that Deloitte Brazil had conducted the audit of GOL's 2010 financial statements and ICFR ("2010 GOL Audit") in accordance with PCAOB standards. Prado's violations of PCAOB standards during that audit included the failure to exercise due professional care and professional skepticism and the failure to obtain sufficient competent audit evidence concerning GOL's "maintenance deposit" assets, passenger revenue, and advance ticket sales. In light of his knowledge of significant unresolved problems with those accounts, Prado's authorization to issue the unqualified reports directly and substantially contributed to the Firm's commission of securities fraud.

12. In March and April 2012, the PCAOB Division of Registration and Inspections ("Inspections") performed primary field work procedures for an inspection of Deloitte Brazil. The audits inspected included the 2010 GOL Audit and the 2010 audit of Issuer 2, an issuer client for which Prado had served as engagement quality reviewer ("Issuer 2 Audit"). In advance of the inspection, Prado directed the GOL Senior Manager that he and certain other Firm personnel should improperly alter numerous 2010 GOL

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[7] See *Joao Rafael Belo de Araujo Filho*, PCAOB Rel. No. 105-2016-037 (Dec. 5, 2016); *Leonardo Fonseca de Freitas Maia*, PCAOB Rel. No. 105-2016-038 (Dec. 5, 2016).

[8] See *Marco Aurelio Paulino Neves*, PCAOB Rel. No. 105-2016-041 (Dec. 5, 2016).

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Audit work papers to conceal the nature of the engagement team's audit work on GOL's maintenance deposits, passenger revenue, advance ticket sales, and ICFR. Prado also made certain improper alterations to the GOL work papers himself. Additionally, in connection with the inspection, Prado approved the improper addition of documentation for the Issuer 2 Audit. Prado thereby failed to cooperate with a Board inspection and directly and substantially contributed to the Firm's failure to cooperate with the inspection.

13. After the PCAOB Division of Enforcement and Investigations ("Division") opened an investigation into the 2010 GOL Audit, Prado continued his efforts to prevent detection of the Firm's wrongdoing. Prado also provided false testimony under oath to the Division on October 5 through 9, 2015.

14. Finally, in November 2015, after the Division learned of the improper alteration of the 2010 GOL Audit work papers, it issued an Accounting Board Demand to Prado requiring him to appear again for testimony. Prado did not appear.

D. Respondent Violated Applicable PCAOB Rules and Standards in Connection with the 2010 GOL Audit, and Caused the Firm to Commit Securities Fraud

Applicable Securities Laws and PCAOB Rules and Standards

15. Section 10(b) of the Exchange Act prohibits the use of "any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the [U.S. Securities and Exchange Commission ("Commission" or "SEC")] may prescribe as necessary or appropriate in the public interest or for the protection of investors."[9] In implementing that section, the Commission has prohibited the making of "any untrue statement of a material fact" or the omission of "a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.[10]

16. To violate Exchange Act Section 10(b) or Exchange Act Rule 10b-5, a respondent must act with scienter,[11] which the Supreme Court has defined as "a mental

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[9] Exchange Act § 10(b), 78 U.S.C. § 78j(b). All references to laws, regulations, and PCAOB rules and standards are to the versions of those laws, regulations, and PCAOB rules and standards in effect at the time of the relevant conduct.

[10] Exchange Act Rule 10b-5(b), 17 C.F.R. § 240.10b-5(b).

[11] See *Aaron v. SEC*, 446 U.S. 680, 695, 701-02 (1980).

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state embracing intent to deceive, manipulate, or defraud."[12] Scienter encompasses knowing or intentional conduct, or recklessness.[13] An auditor violates Section 10(b) and Rule 10b-5 thereunder by issuing an audit report stating that the audit has been performed in accordance with PCAOB standards when he or she knows, or is reckless in not knowing, that the statement is false.[14]

17. PCAOB rules prohibit associated persons of registered public accounting firms from taking or omitting to take any action "knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of," among other things, the provisions of the securities laws relating to the preparation and issuance of audit reports and the Board's rules and standards.[15]

18. In connection with the preparation or issuance of an audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[16] Among other things, those standards require that an auditor express an opinion concerning an issuer's financial statements only when the auditor has performed the audit in compliance with PCAOB standards.[17]

19. PCAOB standards also require that auditors exercise due professional care and professional skepticism, and plan and perform audit procedures to obtain sufficient competent evidential matter to provide a reasonable basis for the audit

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[12] *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 n.12 (1976).

[13] See, e.g., *IIT v. Cornfeld*, 619 F.2d 909, 923 (2d Cir. 1980).

[14] See *Eugene M. Egeberg III, CPA*, Exchange Act Rel. No. 71348, at *7-9 (Jan. 17, 2014); *Hood & Associates CPAs, P.C.*, PCAOB Rel. No. 105-2013-012, at *16-17 (Nov. 21, 2013*); Harris F Rattray CPA, PL,* PCAOB Rel. No. 105-2013-009, at *4-5 (Nov. 21, 2013); *Richard P. Scalzo, CPA*, Exchange Act Rel. No. 48328, 2003 WL 21938985, at *14 (Aug. 13, 2003).

[15] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

[16] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[17] See AU § 508.07, *Reports on Audited Financial Statements.*

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report.[18] While that evidential matter can include management representations, such representations "are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[19]

20. PCAOB standards also establish requirements for auditors who audit, and express an opinion regarding, an issuer's ICFR.[20] Among other things, "the auditor must plan and perform the audit to obtain competent evidence that is sufficient to obtain reasonable assurance about whether material weaknesses exist" in the issuer's internal control as of the date specified in management's internal control assessment.[21] PCAOB standards provide that "a company's internal control cannot be considered effective if one or more material weaknesses exist."[22] In order to obtain reasonable assurance about whether a material weakness exists, the auditor must evaluate the severity of each control deficiency that is identified during the audit "to determine whether the deficiencies, individually or in combination, are material weaknesses."[23]

21. PCAOB standards state that an auditor needs to consider audit risk, including control risk, to assist in determining the scope of auditing procedures.[24] Assessment of control risk at below the maximum level may support the auditor's decision to reduce the scope of substantive audit procedures.[25] If a control deficiency is identified, however, an auditor "should determine the effect of the deficiency, if any, on the nature, timing, and extent of substantive procedures to be performed."[26]

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[18] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230.01, .07 - .08, *Due Professional Care in the Performance of Work*; AU § 326.01, *Evidential Matter*.

[19] AU § 333.02, *Management Representations.*

[20] See PCAOB Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That Is Integrated with an Audit of Financial Statements* ("AS5").

[21] AS5 ¶ 3 (footnote omitted).

[22] Id.

[23] Id. ¶ 62.

[24] See AU §§ 312.26 - .27, *Audit Risk and Materiality in Conducting an Audit*.

[25] See AU §§ 319.05, .86 - .89, .106 - .107, *Consideration of Internal Control in a Financial Statement Audit*.

[26] AS5 ¶ B6; see also AU § 312.33.

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22. PCAOB standards provide that "[t]he auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud."[27] The possibility of a material misstatement due to fraud requires the auditor to exercise professional skepticism when gathering and evaluating audit evidence, and to engage in "an ongoing questioning of whether the information and evidence obtained suggests that a material misstatement due to fraud has occurred."[28]

23. PCAOB standards direct that identified fraud risks be taken into account when conducting an audit, including (a) in the auditor's consideration of management's selection and application of significant accounting principles, and (b) in assessing the nature, timing, and extent of the procedures to be performed, including whether controls over revenue recognition are required to be tested.[29] Those standards also state that, when planning the audit, an auditor "should ordinarily presume that there is a risk of material misstatement due to fraud relating to revenue recognition."[30]

24. PCAOB standards also state that an auditor's "assessment of the risks of material misstatement due to fraud should be ongoing throughout the audit."[31] Among the indications of potential fraud that may arise during an audit are "[t]ransactions that are not recorded in a complete or timely manner or are improperly recorded as to amount, accounting period, classification, or entity policy"; "unsupported or unauthorized balances or transactions"; and "significant unexplained items on reconciliations."[32]

25. Additionally, under PCAOB standards, if an auditor identifies misstatements in the financial statements, the auditor should consider whether those misstatements are indicative of fraud; if fraud may be present, the auditor should perform certain additional procedures, even if the misstatements do not appear to be material to the financial statements.[33]

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27 AU § 316.01, *Consideration of Fraud in a Financial Statement Audit*.

28 Id. § 316.13.

29 See id. §§ 316.48, .50 - .54.

30 Id. § 316.41.

31 See id. § 316.68.

32 See id.

33 See id. §§ 316.75 - .78.

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Overview of the 2010 Gol Audit

26. During the relevant time period, Gol operated an airline that offered service primarily in Brazil but also to certain other countries in the Americas. Deloitte Brazil became the external auditor for Gol during the second quarter of 2009. The Firm issued audit reports expressing unqualified opinions on Gol's financial statements and ICFR for both 2009 and 2010, and Gol included those audit reports in Forms 20-F that it filed with the Commission for each of those years. Prado was the engagement partner for the Firm's audits in each of those years.

27. The 2010 Gol Audit was conducted as an integrated audit of Gol's financial statements and its ICFR. Prado set planning materiality for the 2010 Gol Audit at 54.6 million Brazilian reais ("R$") (US$32.8 million).[34]

Prado Improperly Acquiesced in Gol's Accounting for its Maintenance Deposit Assets

28. During the 2010 Gol Audit, Prado violated numerous PCAOB standards in connection with his audit work on Gol's maintenance deposit assets. Among other violations, Prado failed to exercise due professional care and professional skepticism and failed to obtain sufficient competent audit evidence to support Gol's accounting for its maintenance deposits. Prado then caused the Firm to issue unqualified opinions concerning Gol's 2010 financial statements and ICFR while knowing that these material failures had occurred.

29. As part of its operations, Gol leased aircraft and engines. In connection with these leases, Gol deposited monies with the lessor to be used in future aircraft and engine maintenance work. Gol reported these monies as maintenance deposit assets. For the years ended December 31, 2009 and 2010, Gol reported maintenance deposits of R$522.7 million and R$456.7 million, respectively, which amounted to 6 percent and 5 percent of Gol's total reported assets for those respective years.[35]

30. During the 2009 audit of Gol, Prado concluded that Gol had failed to appropriately track its use of maintenance deposits on a contract-by-contract basis, thereby preventing the Firm from obtaining sufficient competent evidence to support

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[34] Amounts provided in U.S. dollars relating to the 2010 Gol Audit are based on the exchange rate at December 31, 2010 of approximately R$1 = US$0.60. As of November 30, 2016, the exchange rate was approximately R$1 = US$0.30.

[35] Certain amounts in this Order are rounded, which may affect the outcome of described calculations.

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GoI's reported 2009 maintenance deposits. Prado was also on notice that GoI's reported maintenance deposit assets may have been overstated and that its ICFR may not have been operating effectively at year-end 2009. Based on GoI's representation that it intended to hire a consultant to analyze its maintenance deposit records during 2010, however, Prado acquiesced in the Company's accounting and caused Deloitte Brazil to issue audit reports expressing unqualified opinions on GoI's financial statements and ICFR for 2009.

31. During the reviews of GoI's quarterly financial statements for 2010, Prado monitored GoI's progress in both quantifying the amount of maintenance deposits that were unsupported and writing down those deposits. Prado understood, however, that GoI was treating those write-downs as current period expenses despite the fact that most of the unsupported deposits related to prior periods.

32. During the 2010 GoI Audit, Prado understood that GoI still planned to report R$52.6 million (US$31.6 million) of unsupported maintenance deposits related to aircraft and equipment already returned to lessors as assets on its 2010 balance sheet. Prado further understood that GoI planned to improperly spread its write-off of that remaining R$52.6 million of unsupported maintenance deposits over its quarterly financial statements in 2011.

33. During the 2010 GoI Audit, Prado failed to obtain sufficient competent audit evidence concerning either the R$52.6 of remaining unsupported maintenance deposits (which represented 14 percent of reported pre-tax income) or the amounts written off during 2010 as current year expenses (which totaled R$116.5 million, or 30 percent of reported pre-tax income). Prado also: (a) failed to consider whether the misstatements in GoI's accounting for its maintenance deposits were indicative of fraud; (b) failed to assess the materiality to GoI's 2010 financial statements of either the R$52.6 million in unsupported deposits or the amounts written off in 2010 that he understood to represent prior-year expenses; and (c) failed to evaluate controls over GoI's accounting for its maintenance deposits, including whether there was a deficiency in its ICFR, and whether that deficiency, individually or in combination with other deficiencies, represented a material weakness. Instead, Prado knowingly acquiesced in GoI's unsupported reporting of both expenses and a potentially material amount of assets.

Prado Failed to Obtain Sufficient Evidence Concerning GoI's Reported Advance Ticket Sales and Passenger Revenue

34. During the 2010 GoI Audit, Prado also violated numerous PCAOB standards in connection with GoI's reported passenger revenue and its advance ticket sales liability. Among other violations, Prado failed to exercise due professional care

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and professional skepticism and failed to obtain sufficient competent evidence concerning GOL's accounting for and controls over passenger revenue and advance ticket sales.

35. GOL's financial statements included two related accounts, passenger revenue and advance ticket sales. Advance ticket sales was a deferred revenue liability account that represented passenger tickets sold for future travel dates. GOL reduced the advance ticket sales liability and recorded passenger revenue either when transportation was provided or when an unused ticket expired. In its 2010 Form 20-F, GOL reported passenger revenue of R$6.3 billion (US$3.8 billion) and an advance ticket sales liability of R$517 million (US$310 million).

36. In planning the engagement team's audit procedures for passenger revenue and advance ticket sales for the 2010 GOL Audit, Prado identified both accounts as significant accounts, and concluded that a control reliance approach was appropriate as to each account, meaning that the engagement team would reduce its level of substantive testing based on a belief that the controls over those accounts were operating effectively. Additionally, Prado identified significant risks of material misstatement relating to those accounts, including: (a) for passenger revenue, the risk that revenue would not effectively correspond to embarkations made; and (b) for advance ticket sales, the risk that the estimates used by management would be incorrect. Prado planned that each risk would be addressed by both control procedures and substantive procedures.

37. Despite the instruction in PCAOB standards that an "auditor should ordinarily presume that there is a risk of material misstatement due to fraud relating to revenue recognition,"[36] Prado did not, during his planning of the 2010 GOL Audit, identify improper revenue recognition as presenting a risk of material misstatement due to fraud. Prado also did not document any basis for overcoming the presumption that improper revenue recognition presented a risk of material misstatement due to fraud.

38. During the 2010 GOL Audit, one of the engagement team's procedures to audit the advance ticket sales liability balance was to review a reconciliation between the advance ticket sales balance reported in GOL's accounting system and the balance reported by its separate reservation system. Prado did not, however, obtain sufficient competent evidence to support the nature or appropriateness of material adjustments and reconciling items included in that reconciliation.

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[36] AU § 316.41.

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39. For example, the reconciliation included an adjustment that reduced the liability balance by R$74.8 million, or 15 percent, based only on GOL management's representation that a certain subset of advance ticket sales—"interline" tickets booked by partner airlines rather than customers—were being properly excluded from the reported advance ticket sales liability. Prado failed to obtain any evidence to corroborate either (a) how the adjustment was reflected in GOL's accounting system; or (b) whether management's accounting treatment was appropriate, especially given that GOL had not made a similar adjustment for interline tickets in the prior year.

40. Even after the adjustments and reconciling items, including the "interline" adjustment described above, the reconciliation still identified a significant difference between the reservation and accounting system balances of R$38.3 million (US$23.0 million). That difference represented ten percent of GOL's reported pre-tax income, seven percent of its reported advance ticket sales liability, and 70 percent of the engagement team's planning materiality. Prado directed his engagement team to describe the difference in the work papers as an unexplained misstatement ("Potential Misstatement") and to document that the difference caused GOL's passenger revenue to be overstated and its advance ticket sales to be understated. Prado was aware, however, that the R$38.3 million Potential Misstatement amount was still only a preliminary figure, and that at the time it filed its Form 20-F, GOL had not completed its analysis of the Potential Misstatement.

41. Prado proposed to GOL management that it reduce its reported 2010 revenue by the preliminary R$38.3 million figure, and increase the advance ticket sales liability by the same amount, to reflect the Potential Misstatement. Management declined, however, stating, according to the engagement team's work papers, that it preferred to complete the analysis of the Potential Misstatement before making any adjustment. Although the team included that R$38.3 million amount as a known misstatement in its Summary of Uncorrected Misstatements (the work paper in which the team listed and evaluated the materiality of uncorrected misstatements), Prado did not otherwise address his inability to obtain sufficient competent evidence concerning GOL's passenger revenue and advance ticket sales liability while GOL's analysis was pending.

42. Prado was aware that he was causing the Firm to issue unqualified audit reports while the analysis of the Potential Misstatement was still pending. In fact, even using the preliminary amount of R$38.3 million, the engagement team's analysis of the identified misstatements indicated that it should consider performing additional procedures before issuing the audit reports. Prado determined, however, that the team should not perform any additional procedures.

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43. Prado's conduct of the 2010 Gol Audit was deficient in other ways related to its reported passenger revenue as well. For example, in addition to failing to identify improper revenue recognition as presenting a fraud risk (as he should have), Prado and the engagement team abandoned procedures they planned to perform that might have addressed, at least in part, that risk. For example, Prado planned that the team would test the electronic interface by which the reservation system reported to the accounting system what tickets had been used and what revenue should be recognized, yet neither he nor the team ever carried out such a test. Prado also relied to an inappropriate extent on analytical procedures to test passenger revenue, for example by relying solely on substantive analytical procedures to test revenue from credit card sales, which represented a significant portion of Gol's passenger revenue. Moreover, even the substantive analytical procedures that the team did perform indicated a potential overstatement of passenger revenue by as much as R$76.4 million. Prado failed to take any steps to respond to the results of that procedure, including failing to evaluate whether the nature, timing, and extent of audit procedures needed to be modified.

44. The results of the engagement team's substantive procedures, including the identification of the Potential Misstatement, put Prado on notice that a significant deficiency existed in Gol's controls over passenger revenue and advance ticket sales. Additionally, a team of specialists that was engaged by the audit team to test the IT general controls and automated business process controls applicable to Gol's accounting system and reservation system identified other deficiencies. Prado failed, however, to appropriately evaluate the severity of the identified deficiencies, both individually and in the aggregate. Further, Prado failed to consider whether the results of the team's audit procedures, and the deficiencies that those procedures had identified, called into question the appropriateness of his control reliance approach to the passenger revenue and advance ticket sales accounts.

Prado Improperly Caused Deloitte Brazil to Issue Unqualified Reports on Gol's Financial Statements and ICFR, in Violation of Securities Laws and PCAOB Rules and Standards

45. On February 23, 2011, while the 2010 Gol Audit was ongoing, Prado was promoted to Audit Practice Leader of Deloitte Brazil, placing on him substantial responsibility for the culture and the tone at the top within the Firm's audit practice.

46. On April 8, 2011, Prado authorized Deloitte Brazil's issuance of two audit reports containing unqualified opinions on Gol's 2010 financial statements and ICFR. Gol included those reports in a Form 20-F that it filed with the Commission the same day. The audit reports stated that the 2010 Gol Audit had been conducted in accordance with PCAOB standards. Prado knew that those statements were materially false, given the audit deficiencies described above concerning maintenance deposits,

ORDER

advance ticket sales, passenger revenue, and ICFR. Specifically: (a) Prado knew that he had not obtained sufficient competent evidence concerning Gol's reported maintenance deposits; (b) Prado knew that he had not obtained sufficient competent evidence concerning Gol's passenger revenue and advance ticket sales; and (c) Prado knew that he had not adequately evaluated the severity of all identified control deficiencies, and had not re-evaluated his reliance on controls, or the nature and scope of his audit procedures, in light of those identified deficiencies.

47. In the face of this knowledge, Deloitte Brazil's issuance of two unqualified audit reports, which falsely stated that the 2010 Gol Audit had been conducted in accordance with PCAOB standards, violated Exchange Act Section 10(b), Exchange Act Rule 10b-5, and AU Section 508. In authorizing the issuance of those two reports, Prado knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's commission of securities fraud and its violation of PCAOB standards. As a result, Prado violated PCAOB rule 3502.

48. During the 2010 Gol Audit, Prado also violated numerous PCAOB standards, specifically by: (a) failing to act with due professional care, including professional skepticism, and failing to obtain sufficient competent evidential matter in the procedures concerning Gol's maintenance deposits, passenger revenue, advance ticket sales, and ICFR;[37] (b) failing to plan and perform the audit to obtain reasonable assurance about whether one or more material weaknesses existed in Gol's ICFR;[38] (c) failing to adequately evaluate the severity of identified control deficiencies and to adequately determine the effect of those deficiencies on the nature, timing, and extent of the procedures to be performed;[39] and (d) failing to perform adequate procedures relating to fraud risks, including by failing to respond adequately to indications of fraud and failing to treat Gol's revenue recognition as presenting a risk of material misstatement due to fraud.[40]

E. After the 2010 Gol Audit, Prado Became Aware of a New Accounting Treatment for the Potential Misstatement

49. Months after issuing Deloitte Brazil's unqualified audit reports concerning Gol's 2010 financial statements and ICFR, members of the Firm, including Prado, belatedly became aware of a provision in the accounting literature that they believed

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37 See AU § 150.02; AU §§ 230.01, 07; AU § 326.01.

38 See AS5 ¶ 3.

39 See id. ¶¶ 62, B6; AU § 312.33.

40 See AU §§ 316.13, .41, .46 - .68, .74 - .78.

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would have applied to the Potential Misstatement. As discussed below, Prado later directed and participated in the improper alteration of the 2010 GoI Audit work papers to suggest that the accounting provision had in fact been considered at the time of the audit.

50. During the first quarter of 2011, GoI completed its analysis of the Potential Misstatement. Its quantification of that misstatement rose from R$38.3 million to R$56.8 million. On May 10, 2011, GoI announced that it would reduce its reported first-quarter 2011 revenue by R$56.8 million to account for the misstatement.

51. On December 2, 2011, the Commission's Division of Corporation Finance ("Corporation Finance") issued a comment letter to GoI concerning certain aspects of its 2010 Form 20-F and 2011 quarterly filings. Among the issues raised by the comment letter was the R$56.8 million write-down of revenue for the first quarter of 2011. The comment letter requested an explanation concerning how International Accounting Standard 8, *Accounting Policies, Changes in Accounting Estimates and Errors* ("IAS 8"), under International Financial Reporting Standards ("IFRS") applied to the write-down.

52. During December 2011 and early 2012, Prado participated in meetings to discuss how to provide assistance to GoI in responding to the comment letter and follow-up correspondence. In connection with those meetings, Prado became aware that a particular provision of IAS 8, Paragraph 44, might have applied to the Potential Misstatement. IAS 8 Paragraph 44 directs that, if it is "impracticable" for an entity "to determine the period-specific effects of an error on comparative information for one or more prior periods presented, the entity shall restate" the opening balance sheet "for the earliest period for which retrospective restatement is practicable (which may be the current period)."[41] Although Prado had not considered IAS 8 Paragraph 44 at the time of the 2010 GoI Audit, he adopted the view that IAS 8 Paragraph 44 would have been the correct way to account for the Potential Misstatement at year-end 2010. Specifically, he concluded that IAS 8 Paragraph 44 would have directed GoI to book the Potential Misstatement as a reduction to shareholders' equity in the Company's opening 2011 balance sheet, rather than as a reduction in revenue and increase in advance ticket sales in 2010. After Prado communicated this conclusion to GoI, GoI cited IAS 8 Paragraph 44 to Corporation Finance in arguing that its 2010 accounting had been materially correct.

53. As explained below, in connection with the 2012 PCAOB inspection, Prado participated in providing misleading documents and information to PCAOB inspectors. Among other things, the misleading documents and information falsely

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[41] IAS 8 ¶ 44.

indicated that, during the 2010 GoI Audit, the engagement team had considered IAS 8 Paragraph 44 and had concluded that the Potential Misstatement was a multi-period error whose allocation was impracticable, thereby purportedly necessitating its treatment exclusively as a balance-sheet error (with no income statement impact).

F. Prado Approved and Participated in a Widespread Effort to Improperly Alter Work Papers in Connection with the Board's 2012 Inspection

Applicable PCAOB Rules and Standards

54. Auditing Standard No. 3, *Audit Documentation* ("AS3"), requires that the complete and final set of documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its report.[42] After the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date of the addition, the person who prepared the additional documentation, and the reason for adding the documentation.[43]

55. PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. The cooperation requirement of Rule 4006 includes an obligation "not to provide misleading documents or information in connection with the Board's inspection processes."[44]

Prado Approved and Participated in the Concealment of the Firm's Audit Violations from Board Inspectors

56. The Board conducted an inspection of Deloitte Brazil in 2012. On or about March 8, 2012, Inspections notified the Firm that the 2010 GoI Audit and the Issuer 2 Audit would be two of the audits inspected, and that the focus areas for GoI would be revenue, deferred revenue, accounts receivable, and property, plant, and equipment. On or about the same day, Prado learned of Inspections' notification. Primary field work procedures for the inspection commenced on March 26, 2012.

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[42] AS3 ¶¶ 14, 15.

[43] See id. ¶ 16.

[44] *Nathan M. Suddeth, CPA*, PCAOB Rel. No. 105-2013-007, ¶ 4 (Sept. 10, 2013).

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57. In response to Inspections' notification, Prado initiated an effort to thwart the Board's oversight of Deloitte Brazil's audit work by improperly altering the work papers for the 2010 Gol Audit. He instructed the Gol Senior Manager to carry out the improper alterations and also determined that the GIOS Managers, two senior managers from the GIOS group, would also participate.

58. After receiving from the Gol Senior Manager a set of the 2010 Gol Audit work papers with the improper alterations that he had ordered, Prado made even more improper alterations on his own. In total, 56 work papers from the 2010 Gol Audit were improperly altered, as were fourteen work papers from the 2010 quarterly reviews. The altered documents included work papers relating to the engagement team's auditing of Gol's maintenance deposits, passenger revenue, advance ticket sales, accounts receivable, and ICFR, as well as its Summary of Uncorrected Misstatements and its presentation to the Gol Audit Committee.

59. Among the improper alterations were (1) changes to multiple work papers that concealed Prado's acquiescence in what he understood to be Gol's plan to improperly manage the write-off of unsupported maintenance deposits over time; and (2) changes to other work papers that created the appearance that Prado and his team had considered IAS 8 Paragraph 44 to apply to the Potential Misstatement at the time of the 2010 Gol Audit, when in fact he had not become aware of the potential applicability of that accounting provision until months later.

60. After the improper alterations of the 2010 Gol Audit work papers were complete, Prado participated in the Firm's making the altered work papers available to Inspections for use in the inspection. Prado also provided other misleading documents and information during the inspection. For example, when Inspections asked for additional support for the engagement team's treatment of the Potential Misstatement during the audit, Prado improperly altered a presentation that he had used during a consultation with Senior Partner 2 during the 2010 Gol Audit ("Technical Presentation") so that it cited IAS 8, thereby providing further false support for his claim that he had considered that provision at the time of the audit. Prado then caused the Firm to provide the improperly altered Technical Presentation to Inspections.

61. Prado also approved the improper alteration of the work papers for the Issuer 2 Audit in connection with the 2012 Board inspection. In advance of the inspection, the Issuer 2 Partner informed Prado (who was still the Firm's Audit Practice Leader and had been the engagement quality reviewer on the Issuer 2 audit) that certain work papers from the audit contained on CDs were missing. The Issuer 2 Partner proposed to improperly alter non-final versions of numerous Issuer 2 Audit work papers, save those work papers onto new CDs, and present those new CDs to PCAOB inspectors as documentation that had been prepared in a timely manner and in

ORDER

accordance with PCAOB standards. Prado approved the plan, which the Issuer 2 Partner then carried out.

62. Through the conduct described above, Prado both failed to cooperate with the Board's 2012 inspection of the Firm, in violation of PCAOB Rule 4006, and directly and substantially contributed to the Firm's repeated failures to cooperate with the inspection, in violation of PCAOB Rule 3502.

G. Prado Failed to Cooperate with the Board's Investigation

Applicable Statutory Provision and PCAOB Rules

63. Section 105(b)(3)(A) of the Act authorizes the Board to sanction a registered public accounting firm for "refus[ing] to…cooperate with the Board in connection with an investigation."[45] Board rules include procedures for implementing that authority.[46] Noncooperation with a Board investigation includes: (a) "fail[ing] to comply with an accounting board demand"; (b) "knowingly mak[ing] any false material declaration or mak[ing] or us[ing] any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration"; (c) "abus[ing] the Board's processes for the purpose of obstructing an investigation"; and (d) "otherwise [failing] to cooperate in connection with an investigation."[47]

Prado Failed to Cooperate with the PCAOB's Formal Investigation

64. On October 15, 2013, the Division issued a request to Deloitte Brazil ("2013 Request") for, among other things, "the complete and final set of audit documentation assembled for retention" concerning the 2010 Gol Audit.

65. After the Firm received the 2013 Request, Prado continued the effort to thwart the PCAOB's oversight, an effort that expanded to concealing both his Gol audit violations and the improper alteration of documents in connection with the 2012 PCAOB inspection. In furtherance of this effort, Prado participated in causing the Firm to produce the improperly altered 2010 Gol Audit work papers to the Division, and to withhold the original versions.

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45 15 U.S.C. § 7215(b)(3)(A).

46 See PCAOB Rules 5110, 5200(a)(3).

47 PCAOB Rule 5110(a).

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66. In addition, by no later than February 2014, Prado discussed the improper alteration of the GoI work papers with other senior partners at Deloitte Brazil, including Senior Partner 2 and Senior Partner 3. Prado subsequently engaged in various meetings and conversations with senior partners at which they discussed the Firm's concealment of the GoI work paper alteration and crafted a false story of the 2010 GoI Audit to present to the Division to reflect the improperly altered work papers that had been produced.

67. In June 2014, the Board issued an Order of Formal Investigation, and the Division issued a document demand covering the 2010 GoI Audit work papers. In response, Prado continued to participate in the Firm's obstruction, including by causing the Firm to continue to withhold the original versions of the GoI work papers and to make repeated false material statements to the Division. Among the false material statements were representations contained in a July 2014 presentation that Deloitte Brazil made to the Division. For example, the presentation provided a false explanation for Prado's treatment of the Potential Misstatement during the 2010 GoI Audit that was consistent with the improperly altered, but not with the original, work papers. Prado reviewed the presentation in advance and knew that it contained false material statements.

68. In April 2015, the Division informed Deloitte Brazil that it believed Prado may have used a presentation when consulting with Senior Partner 2 about the Potential Misstatement during the 2010 GoI Audit. Prado knew that the Firm possessed the Technical Presentation, and that he had altered it during the 2012 inspection, yet he allowed the Firm to deny that the presentation existed.

69. Prado provided testimony to the Division under oath from October 5 through 9, 2015. During that testimony, he falsely stated that the improperly altered work papers he was shown were the original work papers from the 2010 GoI Audit. He also made other false statements, which included a description of the engagement team's treatment of the Potential Misstatement during the 2010 GoI Audit that was consistent with the altered, but not with the original, work papers.

70. On November 12, 2015, the Division issued an Accounting Board Demand to Prado requiring him to appear for additional testimony. Prado did not appear.

71. Through the conduct described above, Prado failed to cooperate with a Board investigation, warranting the imposition of sanctions against him pursuant to Section 105(b)(3) of the Act and PCAOB Rule 5300(b), and he directly and substantially contributed to Deloitte Brazil's failure to cooperate with a Board investigation, in violation of PCAOB Rule 3502.

PCAOB
Public Company Accounting Oversight Board

ORDER

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(iii) and 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5) and (b)(1), José Domingos do Prado is censured; and

B. Pursuant to Sections 105(b)(3)(A)(i) and 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2) and (b)(1), José Domingos do Prado is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[48]

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 5, 2016

[48] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Prado. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Maurício Pires de Andrade Resende*, Respondent.	PCAOB Release No. 105-2016-033 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Maurício Pires de Andrade Resende ("Resende" or "Respondent"); and (2) barring Resende from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings that Resende failed to cooperate with a Board investigation.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) and (3) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent

[1] Resende may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

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consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Maurício Pires de Andrade Resende, 51, is a former partner of the PCAOB registered firm Deloitte Touche Tohmatsu Auditores Independentes ("Deloitte Brazil" or "Firm"). From June 2010 until July 2016, Resende was the Risk and Reputation Leader for the Deloitte Touche Tohmatsu Limited ("Deloitte Global") entities in Brazil, including Deloitte Brazil. Resende was also a member of the Executive Committee and Chairman of the Deloitte Brazil Attest Committee from June 2010 until July 2016, and was a member of the Policy Committee, the governing board of the Firm, from June 1, 2012 until May 31, 2016. Resende was also the Firm's Ethics Partner from 2010 to 2014. In or about July 2016, the Firm removed Resende from his leadership positions and placed him on administrative leave. At all relevant times, Resende was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Resende separated from the Firm in November 2016.

B. Respondent Failed to Cooperate with a Board Investigation

Applicable PCAOB Rules

2. Section 105(b)(3)(A) of the Act authorizes the Board to sanction an associated person of a registered public accounting firm for "refus[ing] to…cooperate with the Board in connection with an investigation[.]"[4] Board rules include procedures for implementing that authority.[5] Noncooperation with a Board investigation includes: (a) "fail[ing] to comply with an accounting board demand ['ABD']"; (b) "knowingly

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The sanctions that the Board is imposing on Respondent in this Order are imposed pursuant to Section 105(b)(3) of the Act, 15 U.S.C. § 7215(b)(3), and PCAOB Rule 5300(b).

[4] 15 U.S.C. § 7215(b)(3)(A).

[5] See PCAOB Rules 5110, 5200(a)(3).

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mak[ing] any false material declaration or mak[ing] or us[ing] any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration"; (c) "abus[ing] the Board's processes for the purpose of obstructing an investigation"; and (d) "otherwise [failing] to cooperate in connection with an investigation."[6]

3. PCAOB rules also prohibit associated persons of registered public accounting firms from taking or omitting to take any action "knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of," among other things, the Rules of the Board.[7]

Respondent Violated PCAOB Rules in Connection with a Board Investigation

4. On October 15, 2013, the PCAOB Division of Enforcement and Investigations (the "Division") issued a document request to Deloitte Brazil as part of an informal inquiry, requesting that the Firm produce, among other things, the work papers from the Firm's audit of Gol Linhas Aéreas Inteligentes S.A., also known as Gol Intelligent Airlines Inc. ("Gol"), for fiscal year 2010 ("2010 Gol Audit"). In response to that request, the Firm produced a set of 2010 Gol Audit work papers that had been improperly altered in connection with a 2012 Board inspection of the audit. At the time the Firm produced the work papers to the Division in 2013, it did not disclose the improper alterations, which it had made to conceal deficiencies in the 2010 Gol Audit.

5. On Saturday, February 22, 2014, Resende and another senior Firm partner[8] met with a Deloitte Brazil colleague who had been the senior manager on the 2010 Gol Audit ("Gol Senior Manger").[9] At that meeting, the Gol Senior Manager disclosed the improper alteration of the 2010 Gol Audit work papers to Resende and the other senior partner. Resende subsequently discussed the Firm's production of improperly altered work papers to the Division with other senior Firm partners, including the engagement partner for the 2010 Gol Audit ("Gol Engagement Partner").[10] By no

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[6] See PCAOB Rule 5110(a).

[7] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

[8] See *Wanderley Olivetti*, PCAOB Rel. No. 105-2016-034 (Dec. 5, 2016).

[9] See *André Ricardo Aguillar Paulon*, PCAOB Rel. No. 105-2016-035 (Dec. 5, 2016).

[10] See *José Domingos do Prado*, PCAOB Rel. No. 105-2016-032 (Dec. 5, 2016).

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later than February 2014, therefore, Resende was aware that the Firm had provided the Division with improperly altered versions of the 2010 GoI Audit work papers.

6. After February 2014, Resende participated in the effort to obstruct the Division's inquiry. For example, on March 10, 2014, Resende told the GoI Senior Manager to remove documents that would reveal the improper alteration of the 2010 GoI Audit work papers from his computer or office. That instruction, which was recorded by the GoI Senior Manager, included the following exchange:[11]

Resende:	Any evidence that you have of this, remove it from your machine. Keep it in a—if you have that, keep it somewhere else, but not in your machine, not in the office. Okay?
GoI Senior Manager:	No. Okay.
Resende:	Okay? Another thing, considering that he [the GoI Engagement Partner] will take the responsibility for all this, everything you told me, everything we discussed, never happened.[12]
GoI Senior Manager:	Okay.
Resende:	Never! Whatever happens—I, if somebody says, "No, [GoI Senior Manager] said to you—," I will say, "No, there must be a mistake!" I will never admit that it was said.

7. In June 2014, after the Board issued an Order of Formal Investigation, the Division issued an ABD to Deloitte Brazil requiring it to produce relevant documents, including the 2010 GoI Audit work papers. In response, Resende continued to participate in the obstruction of the investigation. For example, in July 2014 Deloitte Brazil made a presentation to the Division. Resende reviewed the presentation in

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[11] The conversation, which was held in Portuguese, has been translated into English.

[12] The GoI Engagement Partner had previously informed senior Deloitte Brazil partners that, if the improper alteration of GoI work papers were ever discovered, the GoI Engagement Partner would assume all responsibility for the work paper alterations.

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advance and knew it to contain false statements, yet he concurred in the Firm's making the presentation.[13]

8. On September 29, 2014, Resende signed a certification on behalf of the Firm (which he knew the Firm would provide to the Division) stating that the Firm had produced all documents responsive to the Division's ABD. Resende knew that this certification was false because the Firm was continuing to withhold the original work papers for the 2010 GoI Audit as well as other inculpatory documents.[14]

9. On July 13 and 14, 2016, Resende provided investigative testimony to the Division under oath and on the record. During this testimony, Resende made false statements, including that he had not been aware of the improper alteration of GoI audit documentation before October 2015 and that he had not instructed any Firm personnel to remove documents from their computers or offices.[15]

10. Based on the conduct described above, Resende failed to cooperate with a Board investigation and directly and substantially contributed to Deloitte Brazil's failure to cooperate with that investigation.[16]

* * * * *

11. During September and October 2016, Resende provided substantial assistance to the Division's investigation by offering material information concerning the actions of the Firm and its personnel in this matter.[17] The Board took that substantial assistance into account in ordering the sanctions under Section IV of this Order.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

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13 See PCAOB Rule 3502.

14 See PCAOB Rule 5110(a).

15 See id.

16 See PCAOB Rule 3502; PCAOB Rule 5110(a).

17 See "Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations," Apr. 24, 2013.

PCAOB
Public Company Accounting Oversight Board

ORDER

A. Pursuant to Sections 105(b)(3)(A)(iii) and 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5) and (b)(1), Maurício Pires de Andrade Resende is censured;

B. Pursuant to Sections 105(b)(3)(A)(i) and 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2) and (b)(1), Maurício Pires de Andrade Resende is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[18] and

C. After five (5) years from the date of this Order, Maurício Pires de Andrade Resende may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 5, 2016

[18] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Resende. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Wanderley Olivetti*, Respondent.	PCAOB Release No. 105-2016-034 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Wanderley Olivetti ("Olivetti" or "Respondent"); and (2) barring Olivetti from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings that Olivetti failed to cooperate with a Board investigation.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) and (3) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent

[1] Olivetti may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

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consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Wanderley Olivetti, 51, is a former partner of the PCAOB registered firm Deloitte Touche Tohmatsu Auditores Independentes ("Deloitte Brazil" or "Firm"). From June 2006 until July 2016, Olivetti was the National Professional Practice Director ("NPPD") of Deloitte Brazil. Olivetti was also a member of the Policy Committee, the governing board of the Firm, from June 1, 2005 through May 31, 2012; was a member of the Firm Attest Committee from June 2008 through July 2016; and was a member of the Firm's Technical Area from 2006 until July 2016. In or about July 2016, the Firm removed Olivetti from his leadership positions and placed him on administrative leave. At all relevant times, Olivetti was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Olivetti separated from the Firm in November 2016.

B. Respondent Failed to Cooperate with a Board Investigation

Applicable PCAOB Rules

2. Section 105(b)(3)(A) of the Act authorizes the Board to sanction an associated person of a registered public accounting firm for "refus[ing] to…cooperate with the Board in connection with an investigation[.]"[4] Board rules include procedures for implementing that authority.[5] Noncooperation with a Board investigation includes: (a) "fail[ing] to comply with an accounting board demand ['ABD']"; (b) "knowingly mak[ing] any false material declaration or mak[ing] or us[ing] any other information, including any book, paper, document, record, recording, or other material, knowing the

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The sanctions that the Board is imposing on Respondent in this Order are imposed pursuant to Section 105(b)(3) of the Act, 15 U.S.C. § 7215(b)(3), and PCAOB Rule 5300(b).

[4] 15 U.S.C. § 7215(b)(3)(A).

[5] See PCAOB Rules 5110, 5200(a)(3).

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same to contain any false material declaration"; (c) "abus[ing] the Board's processes for the purpose of obstructing an investigation"; and (d) "otherwise [failing] to cooperate in connection with an investigation."[6]

3. PCAOB rules also prohibit associated persons of registered public accounting firms from taking or omitting to take any action "knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of," among other things, the rules of the Board.[7]

Respondent Violated PCAOB Rules in Connection with a Board Investigation

4. On October 15, 2013, the PCAOB Division of Enforcement and Investigations (the "Division") issued a document request to Deloitte Brazil as part of an informal inquiry, requesting that the Firm produce, among other things, the work papers from the Firm's audit of Gol Linhas Aéreas Inteligentes S.A., also known as Gol Intelligent Airlines Inc. ("Gol"), for fiscal year 2010 ("2010 Gol Audit"). In response to that request, the Firm produced a set of 2010 Gol Audit work papers that had been improperly altered in connection with a 2012 Board inspection of the audit. At the time the Firm produced the work papers to the Division in 2013, it did not disclose the improper alterations, which it had made to conceal deficiencies in the 2010 Gol Audit.

5. On Saturday, February 22, 2014, Olivetti and another senior Firm partner ("Other Senior Partner")[8] met with a Deloitte Brazil colleague who had been the senior manager on the 2010 Gol Audit ("Gol Senior Manger").[9] At that meeting, the Gol Senior Manager disclosed the improper alteration of the 2010 Gol Audit work papers to Olivetti and the Other Senior Partner. Olivetti and the Other Senior Partner subsequently met with the engagement partner for the 2010 Gol Audit ("Gol Engagement Partner"),[10] who confirmed that the 2010 Gol Audit work papers had been improperly altered in connection with the 2012 Board inspection, and that those improperly altered work

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[6] PCAOB Rule 5110(a).

[7] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

[8] See *Maurício Pires de Andrade Resende*, PCAOB Rel. No. 105-2016-033 (Dec. 5, 2016).

[9] See *André Ricardo Aguillar Paulon*, PCAOB Rel. No. 105-2016-035 (Dec. 5, 2016).

[10] See *José Domingos do Prado*, PCAOB Rel. No. 105-2016-032 (Dec. 5, 2016).

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papers had subsequently been produced to the Division in connection with its inquiry. By no later than February 2014, therefore, Olivetti was aware that the Firm had provided the Division with improperly altered versions of the 2010 GoI Audit work papers.

6. As Olivetti was aware, Deloitte Brazil continued its obstruction after the Board issued an Order of Formal Investigation in June 2014 and the Division issued an ABD to the Firm requiring that it produce responsive documents and information. For example, Olivetti knew that the Firm was continuing to withhold the original 2010 GoI Audit work papers from the Division.

7. In his position as NPPD of Deloitte Brazil, Olivetti directly and substantially contributed to the Firm's failure to cooperate with the Division's investigation. For example, the Firm made a presentation to the Division on July 31, 2014 concerning the 2010 GoI Audit. Olivetti reviewed the presentation in advance and knew it to contain statements that were consistent with the improperly altered work papers. Olivetti acceded, however, to the Firm's presentation of false material information to the Division.[11]

8. Olivetti also failed to cooperate with the Division's investigation. For example, on July 13 and 14, 2015, and on December 11, 2015, Olivetti provided investigative testimony to the Division under oath and on the record. Despite his position as NPPD of Deloitte Brazil and his obligation to cooperate with the Division's investigation, Olivetti failed in that testimony to disclose his knowledge concerning the Firm's improper alteration of work papers, even when asked about that alteration.[12]

9. Based on the conduct described above, Olivetti repeatedly failed to cooperate with a Board investigation and directly and substantially contributed to Deloitte Brazil's failure to cooperate with that investigation.[13]

* * * * *

10. During September and October 2016, Olivetti provided information concerning others at Deloitte Brazil that was of substantial assistance to the Division's

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[11] See PCAOB Rule 3502.

[12] See PCAOB Rule 5110(a).

[13] See PCAOB Rule 3502; PCAOB Rule 5110(a).

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investigation.[14] The Board took that substantial assistance into account in ordering the sanctions under Section IV of this Order.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Sections 105(b)(3)(A)(iii) and 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5) and (b)(1), Wanderley Olivetti is censured;

B. Pursuant to Sections 105(b)(3)(A)(i) and 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2) and (b)(1), Wanderley Olivetti is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[15] and

C. After five (5) years from the date of this Order, Wanderley Olivetti may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 5, 2016

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[14] See "Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations," Apr. 24, 2013.

[15] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Olivetti. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of André Ricardo Aguillar Paulon*, Respondent.	PCAOB Release No. 105-2016-035 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring André Ricardo Aguillar Paulon ("Paulon" or "Respondent"); and (2) limiting Paulon's activities in connection with any audit of an issuer for a period of one year. The Board is imposing these sanctions on the basis of its findings that Paulon failed to cooperate with a Board inspection and a Board investigation.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) and (3) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

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III.

On the basis of Respondent's Offer, the Board finds[2] that:

A. Respondent

1. André Ricardo Aguillar Paulon, 40, is a former partner of the registered public accounting firm Deloitte Touche Tohmatsu Auditores Independentes ("Deloitte Brazil" or "Firm"). For fiscal years 2009 and 2010, Paulon served as a senior manager on Deloitte Brazil's audits and reviews of Gol Linhas Aéreas Inteligentes S.A., also known as Gol Intelligent Airlines Inc. ("Gol"). In 2011, Paulon was promoted to Associate Partner. In 2013, Paulon was promoted to Equity Partner. On or about November 10, 2015, Deloitte Brazil placed Paulon on administrative leave. At all relevant times, Paulon was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Paulon separated from the Firm in November 2016.

B. Respondent Violated Applicable PCAOB Rules and Standards in Connection with a Board Inspection and Board Investigation

Applicable PCAOB Rules and Standards

2. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[3] Auditing Standard No. 3, *Audit Documentation* ("AS3"), requires that the complete and final set of documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its report.[4] After the documentation completion date, audit

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[2] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard.

[3] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct.

[4] AS3 ¶¶ 14, 15.

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documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date of the addition, the person who prepared the additional documentation, and the reason for adding the documentation.[5]

3. PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. The cooperation requirement of Rule 4006 includes an obligation "not to provide misleading documents or information in connection with the Board's inspection processes."[6]

4. Section 105(b)(3)(A) of the Act authorizes the Board to sanction an associated person of a registered public accounting firm for "refus[ing] to…cooperate with the Board in connection with an investigation."[7] Board rules include procedures for implementing that authority.[8] Noncooperation includes "knowingly mak[ing] any false material declaration or mak[ing] or us[ing] any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration."[9]

Background

5. During the relevant time period, Gol was one of Deloitte Brazil's issuer audit clients. As stated above, Paulon acted as a senior manager on Deloitte Brazil's audit of Gol's 2010 financial statements and internal control over financial reporting ("2010 Gol Audit").

6. During the 2010 Gol Audit, Paulon became aware that the engagement partner for the audit ("Gol Engagement Partner")[10] intended to acquiesce in what Paulon understood to be Gol's improper reporting of a potentially material amount of unsupported "maintenance deposit" assets. Paulon also became aware of a potential misstatement of Gol's passenger revenue and advance ticket sales liability, initially estimated at 38.3 million Brazilian reais ("Potential Misstatement"). Based on this

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[5] See id. ¶ 16.

[6] *Nathan M. Suddeth, CPA*, PCAOB Rel. No. 105-2013-007, ¶ 4 (Sept. 10, 2013).

[7] 15 U.S.C. § 7215(b)(3)(A).

[8] See PCAOB Rules 5110, 5200(a)(3).

[9] PCAOB Rule 5110(a)(2).

[10] See *José Domingos do Prado*, PCAOB Rel. No. 105-2016-032 (Dec. 5, 2016).

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understanding, Paulon believed that it might be inappropriate for Deloitte Brazil to issue unqualified audit reports concerning GoI's 2010 financial statements and internal control over financial reporting ("ICFR"). Paulon understood, however, that the GoI Engagement Partner nevertheless authorized the Firm's issuance of the unqualified reports. GoI included those reports in a Form 20-F filed with the U.S. Securities and Exchange Commission on April 8, 2011.

Respondent Violated PCAOB Rules and Standards in Connection with the 2012 Board Inspection

7. The Board conducted an inspection of Deloitte Brazil in 2012. On or about March 8, 2012, the Board's Division of Registration and Inspections ("Inspections") informed the Firm that the 2010 GoI Audit would be one of the audits inspected, and that the focus areas for the inspection would be revenue, deferred revenue, accounts receivable, and property, plant, and equipment. Primary field work procedures for the inspection commenced on March 26, 2012.

8. After being informed that the 2010 GoI Audit would be inspected, the GoI Engagement Partner instructed Paulon that the 2010 GoI Audit work papers must be improperly altered. The GoI Engagement Partner informed Paulon that the two principal objectives of the alterations would be: (a) to conceal Deloitte Brazil's acquiescence in what it understood to be GoI's incorrect accounting for its maintenance deposits; and (b) changes to work papers relating to passenger revenue and advance ticket sales to alter the Firm's documented conclusions concerning the Potential Misstatement. Specifically, the GoI Engagement Partner directed Paulon to create the appearance that the Firm engagement team had considered a particular paragraph in the International Financial Reporting Standards ("IFRS") literature, International Accounting Standard 8 ("IAS 8") Paragraph 44, to apply to the Potential Misstatement at the time of the 2010 GoI Audit. In fact, Deloitte Brazil had not identified IAS 8 Paragraph 44 as potentially applicable to the Potential Misstatement until well after the completion of the 2010 GoI Audit.

9. At the GoI Engagement Partner's direction, Paulon, along with two Firm senior managers,[11] made improper alterations to the 2010 GoI Audit work papers in compliance with the GoI Engagement Partner's instructions described above, including alterations concerning the Firm's procedures relating to GoI's ICFR and to certain of the areas identified by Inspections as focus areas for the inspection. Paulon made certain of

[11] See *Joao Rafael Belo de Araujo Filho*, PCAOB Rel. No. 105-2016-037 (Dec. 5, 2016); *Leonardo Fonseca de Freitas Maia*, PCAOB Rel. No. 105-2016-038 (Dec. 5, 2016).

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the alterations himself, and in doing so failed to document the date on which the alterations were being made, the person making them, or the reason for the alterations.

10. Paulon then sent the improperly altered work papers to the GoI Engagement Partner, who made even more improper alterations on his own. After the GoI Engagement Partner sent the additional alterations to Paulon, Paulon added all of the improperly altered work papers to the audit file, which was made available to Inspections for use in the GoI inspection.

11. Paulon's actions violated PCAOB audit documentation standards and his duty to cooperate with Inspections.[12]

Respondent Violated PCAOB Rules in Connection with the 2014-16 Board Investigation

12. On October 15, 2013, the PCAOB Division of Enforcement and Investigations ("Division") issued a request to Deloitte Brazil ('2013 Request") for, among other things, "the complete and final set of audit documentation assembled for retention" concerning the 2010 GoI Audit. The 2013 Request also asked the Firm to preserve all documents relating to the 2010 GoI Audit.

13. Paulon became aware that, after the Firm received the 2013 Request, the Firm produced the improperly altered versions of the 2010 GoI Audit work papers (the same versions that had been produced to Inspections) to the Division, and withheld the original, unaltered versions. Additionally, Paulon was instructed to withhold inculpatory documents in his possession. For example, on March 10, 2014, a senior partner of the Firm who held an important compliance position ("Senior Partner")[13] instructed Paulon to remove from his computer and office any documents that would reveal the improper alteration of the 2010 GoI Audit work papers, to prevent their being produced to the Division. Paulon recorded the conversation:[14]

> Senior Partner: Any evidence that you have of this, remove it from your machine. Keep it in a—if you have that, keep it somewhere else, but not in your machine, not in the office. Okay?

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[12] See AS3 ¶ 16; PCAOB Rule 4006.

[13] See *Maurício Pires de Andrade Resende*, PCAOB Rel. No. 105-2016-033 (Dec. 5, 2016).

[14] The conversation, which was held in Portuguese, has been translated into English.

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Paulon:	No. Okay.
Senior Partner:	Okay? Another thing, considering that he [the GoI Engagement Partner] will take the responsibility for all this, everything you told me, everything we discussed, never happened.[15]
Paulon:	Okay.
Senior Partner:	Never! Whatever happens—I, if somebody says, "No, Paulon said to you—," I will say, "No, there must be a mistake!" I will never admit that it was said.

14. In response to the Senior Partner's instruction, Paulon deleted relevant documents from his computer. Paulon participated in other meetings and consultations at which he became aware of the Firm's efforts to provide false information to the Division.

15. After the Board issued an Order of Formal Investigation in June 2014, Paulon provided testimony under oath to the Division from September 14 through 19, 2015. During that testimony, Paulon made false declarations, including by (a) falsely representing that improperly altered versions of 2010 GoI Audit work papers were the actual work papers from the audit; and (b) falsely testifying that the GoI engagement team had considered IAS 8 Paragraph 44 to apply to the Potential Misstatement during the audit, when in fact he knew that the team had not considered IAS 8 Paragraph 44 during the audit.

16. Through his actions, Paulon failed to cooperate with a Board investigation.[16]

* * * * *

[15] The GoI Engagement Partner had previously informed Paulon that, if the improper alteration of GoI work papers were ever discovered, the GoI Engagement Partner would assume all responsibility for the work paper alterations and would protect other Firm personnel from being implicated in the misconduct.

[16] See PCAOB Rule 5110(a).

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17. After the PCAOB discovered in October 2015 that the 2010 Gol Audit work papers had been improperly altered, Deloitte Brazil placed Paulon on administrative leave. In January 2016, Paulon reported the Firm's obstruction of the investigation to the Division, and Paulon subsequently provided substantial assistance to the investigation by, among other things: (a) making himself available for extensive interviews and other consultations, during which he provided detailed information concerning events relating to the 2010 Gol Audit, the 2012 inspection, and the Firm's obstruction of the Division's inquiry and investigation; and (b) providing the Division with multiple audio recordings that he had made of conversations with senior Firm partners concerning the obstruction of the investigation, including the conversation set out above, and assisting the Division in understanding the context and import of the recordings.[17] The Board took that reporting and substantial assistance into account in ordering the sanctions under Section IV of this Order.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(iii) and 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5) and (b)(1), André Ricardo Aguillar Paulon is censured; and

B. Pursuant to Sections 105(b)(3)(A)(iii) and 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3) and (b)(1), for a period of one year from the date of this Order, André Ricardo Aguillar Paulon's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Paulon shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's Auditing Standard No. 10 or AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's Auditing Standard No. 7 or AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to, but differently denominated from, engagement partner (such as "lead partner" or "practitioner-in-charge") or engagement

[17] See "Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations," Apr. 24, 2013.

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quality reviewer (such as "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's Interim Auditing Standard AU Section 543 or AS 1205, *Part of the Audit Performed by Other Independent Auditors*.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

December 5, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of James Roderick Talbot Oram*, Respondent.	PCAOB Release No. 105-2016-036 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring James Roderick Talbot Oram ("Oram" or "Respondent"); and (2) suspending Oram from being an associated person of a registered public accounting firm for a period of one year from the date of this Order. The Board is imposing these sanctions on the basis of its findings that Oram violated PCAOB rules and standards in connection with the audit of an issuer.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

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III.

On the basis of Respondent's Offer, the Board finds[2] that:

A. Respondent

1. James Roderick Talbot Oram, 64, is a retired partner of the PCAOB registered firm Deloitte Touche Tohmatsu Auditores Independentes ("Deloitte Brazil" or "Firm"). From 2009 through 2013, Oram acted as the engagement quality reviewer for Deloitte Brazil's audits and reviews of the financial statements and internal control over financial reporting ("ICFR") of Gol Linhas Aéreas Inteligentes S.A., also known as Gol Intelligent Airlines Inc. ("Gol" or "Company"), including as engagement quality reviewer for the Firm's audit of Gol for the year ended December 31, 2010 ("2010 Gol Audit"). At all relevant times, Oram was an associated person of a registered public accounting firm, as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondent Violated Applicable PCAOB Rules and Standards

Applicable PCAOB Rules and Standards

2. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[3] During Mr. Oram's service as engagement quality reviewer for the 2010 Gol Audit, those standards included PCAOB Auditing Standard No. 7, *Engagement Quality Review* ("AS7").[4]

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[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct.

[4] As the Board stated in its release adopting AS7, "A well-performed engagement quality review ('EQR') can serve as an important safeguard against erroneous or insufficiently supported audit opinions and, accordingly, can contribute to audit quality." PCAOB Release No. 2009-004, at 1 (July 28, 2009).

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Among other things, AS7 states that an engagement quality reviewer should perform the following procedures:

- "[E]valuate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report," including, "to the extent necessary," by "hold[ing] discussions with the engagement partner and other members of the engagement team," and "review[ing] documentation";[5]

- "Evaluate the significant judgments made about (1) the materiality and disposition of corrected and uncorrected identified misstatements and (2) the severity and disposition of identified control deficiencies";[6]

- "Review the engagement completion document and confirm with the engagement partner that there are no significant unresolved matters";[7]

- "Based on the procedures required by this standard, evaluate whether appropriate consultations have taken place on difficult or contentious matters" and "[r]eview the documentation, including conclusions, of such consultations";[8] and

- Evaluate whether the engagement documentation that he or she reviewed "[s]upports the conclusions reached by the engagement team with respect to the matters reviewed."[9]

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5 AS7 ¶ 9.

6 *Id.* ¶ 10(c).

7 *Id.* ¶ 10(e).

8 *Id.* ¶ 10(h).

9 *Id.* ¶ 11(b).

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3. PCAOB standards state that "the engagement quality reviewer may provide concurring approval of issuance [for an audit report] only if, after performing with due professional care the review required" by AS 7 (including the procedures described above), "he or she is not aware of a significant engagement deficiency."[10]

Respondent Violated PCAOB Rules and Standards in Connection with the 2010 GoI Audit

4. During the 2010 GoI Audit, Oram became aware through his review of the GoI audit team's engagement completion documentation that the team had identified a potential misstatement in GoI's accounting for revenue and deferred revenue ("Potential Misstatement"). The documentation that Oram reviewed indicated the size of the Potential Misstatement to be 38.3 million Brazilian reais ("R$") (US$23.0 million).[11] Additionally, the documentation stated that, in light of the Potential Misstatement, a significant deficiency existed in GoI's ICFR.

5. The documentation Oram reviewed stated that the Potential Misstatement was caused by a reconciliation failure in GoI's systems, but did not otherwise explain how the difference had been calculated. Oram did not request, and the documentation he reviewed did not contain, any further explanation concerning the Potential Misstatement. Oram assumed that the R$38.3 million figure represented the engagement team's best estimate of the Potential Misstatement amount. He was unaware that the R$38.3 million amount was a preliminary calculation and that, according to other work papers prepared by the engagement team, the Company was still analyzing the Potential Misstatement at the time it issued its financial statements.

6. The documentation Oram reviewed stated that the GoI engagement team did not consider the misstatements identified during the 2010 GoI Audit, individually or in the aggregate, to be material, but did not provide any further explanation of the team's analysis. Oram did not request any additional analysis from the engagement team. Instead, Oram made an independent materiality assessment, from which he concluded that the Potential Misstatement, even when combined with the other

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[10] Id. ¶ 12 (citing AU § 230, *Due Professional Care in the Performance of Work*). A "significant engagement deficiency" includes, among other things, (a) the engagement team's failure to obtain sufficient appropriate evidence in accordance with PCAOB standards; and (b) the engagement team's reaching an inappropriate overall conclusion concerning the engagement. See id. Note.

[11] The amount provided in U.S. dollars is based on the exchange rate at December 31, 2010 of approximately R$1 = US$0.60.

ORDER

identified misstatements, was not material to GoI's 2010 financial statements. As a result, Oram was unaware that the engagement team's own analysis, documented elsewhere, indicated that it should consider expanding the scope of its procedures before issuing an unqualified opinion on GoI's financial statements.

7. Oram also failed to take any steps to evaluate the engagement team's judgment concerning the effect of the identified misstatements, including the Potential Misstatement, on GoI's ICFR. Instead, he simply concluded that, because the misstatements did not appear to be material in the aggregate, they could not represent a material weakness in GoI's ICFR.[12]

8. Oram communicated with the engagement partner on the 2010 GoI Audit during the planning procedures for the audit, but did not directly communicate with him during the remainder of the audit. Accordingly, Oram was unaware of: (a) the results of a consultation that the engagement partner had held with a senior Firm partner concerning the implications of the Potential Misstatement for the audit; and (b) whether there were any other significant unresolved matters at the close of the audit.

9. In performing his EQR in the manner described above, Oram violated AS7 in several respects, including by: (a) failing to adequately evaluate the engagement team's significant judgments and related conclusions;[13] (b) failing to adequately evaluate the engagement team's significant judgments with regard to the materiality and disposition of the Potential Misstatement, the materiality and disposition of the identified misstatements in the aggregate, and the severity and disposition of identified control deficiencies;[14] (c) failing to confirm with the engagement partner that there were no

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[12] Oram's analysis concerning GoI's ICFR was inconsistent with PCAOB auditing standards. PCAOB Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That Is Integrated with an Audit of Financial Statements* ("AS5"), defines a material weakness as a deficiency or combination of deficiencies in ICFR that create "a reasonable possibility that a material misstatement of the company's annual or interim financial statements will not be prevented or detected on a timely basis." AS5 ¶ A7. AS5 also states that "[t]he severity of a deficiency does not depend on whether a misstatement actually has occurred but rather on whether there is a reasonable possibility that the company's controls will fail to prevent or detect a misstatement." Id. ¶ 64.

[13] See AS7 ¶ 9.

[14] See id. ¶ 10(c).

ORDER

significant unresolved matters;[15] (d) failing to adequately evaluate whether appropriate consultations had taken place on a difficult or contentious matter, and to review the documentation and conclusions of the engagement partner's consultation;[16] and (e) failing to adequately review the engagement team's documentation concerning the Potential Misstatement and to adequately evaluate whether that documentation supported the team's conclusions.[17]

10. Oram provided concurring approval of issuance of the Firm's unqualified audit reports concerning GoI's 2010 financial statements and ICFR without having performed an EQR with due professional care and as required by PCAOB standards. When he provided that concurring approval, Oram was not in a position to know whether there was a significant engagement deficiency with respect to the 2010 GoI Audit.[18]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), James Roderick Talbot Oram is censured; and

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15 See id. ¶ 10(e).

16 See id. ¶ 10(h).

17 See id. ¶ 11(b).

18 See AS7 ¶ 12.

PCAOB
Public Company Accounting Oversight Board

ORDER

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), James Roderick Talbot Oram is suspended from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i), for a period of one (1) year from the date of this Order.[19]

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

December 5, 2016

[19] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Oram. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Joao Rafael Belo de Araujo Filho*, Respondent.	PCAOB Release No. 105-2016-037 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Joao Rafael Belo de Araujo Filho ("Respondent" or "Araujo"); (2) barring Araujo from being an associated person of a registered public accounting firm;[1] and (3) imposing a civil money penalty in the amount of $10,000 on Araujo. The Board is imposing these sanctions on the basis of its findings that Araujo violated PCAOB rules and standards in connection with a Board inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent

[1] Araujo may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

PCAOB
Public Company Accounting Oversight Board

ORDER

consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Joao Rafael Belo de Araujo Filho, 39, is a former partner of the PCAOB registered firm Deloitte Touche Tohmatsu Auditores Independentes ("Deloitte Brazil" or Firm"). From August 2010 through June 2013, Araujo was a member of the Firm's Global IFRS and Offering Services group. In June 2013, Araujo was promoted to Associate Partner, and in June 2015 he was promoted to Equity Partner. On or about December 2, 2015, Araujo was placed on administrative leave due to his participation in the improper alteration of work papers described herein. At all relevant times, Araujo was an associated person of a registered public accounting firm, as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Araujo separated from the Firm in November 2016.

B. Respondent Violated Applicable PCAOB Rules and Standards

Applicable PCAOB Rules and Standards

2. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[4] Auditing Standard No.

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct.

ORDER

3, *Audit Documentation* ("AS3"), requires that the complete and final set of documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its audit report.[5] After the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date of the addition, the person who prepared the additional documentation, and the reason for adding the documentation.[6]

3. PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. The cooperation requirement of Rule 4006 includes an obligation "not to provide misleading documents or information in connection with the Board's inspection processes."[7]

Respondent Violated PCAOB Rules and Standards in Connection with a PCAOB Inspection

4. During the relevant time period, one of Deloitte Brazil's audit clients was Gol Linhas Aéreas Inteligentes S.A., also known as Gol Intelligent Airlines Inc. ("Gol"). On April 8, 2011, the Firm issued two unqualified audit reports concerning Gol's 2010 financial statements and internal control over financial reporting ("ICFR"). Gol included those reports in a Form 20-F filed with the U.S. Securities and Exchange Commission ("Commission") on April 8, 2011. Araujo did not perform procedures in connection with those reports.

5. The Board conducted an inspection of Deloitte Brazil in 2012. In early March 2012, the PCAOB Division of Registration and Inspections ("Inspections") informed Deloitte Brazil that primary field work procedures for the inspection would begin on March 26, 2012. Inspections identified the Firm's audit of Gol's 2010 financial statements and ICFR ("2010 Gol Audit") as one of the audits to be inspected, and identified the focus areas for the inspection, which included revenue, deferred revenue, and accounts receivable.

6. On or about March 16, 2012, Araujo was informed by a colleague who had served as senior manager for the 2010 Gol Audit and had since become a partner ("Gol

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[5] AS3 ¶¶ 14, 15.

[6] See id. ¶ 16.

[7] *Nathan M. Suddeth, CPA*, PCAOB Rel. No. 105-2013-007, ¶ 4 (Sept. 10, 2013).

ORDER

Senior Manager")[8] that the engagement partner for the 2010 Gol Audit, who also served as the Firm's Audit Practice Leader ("Gol Engagement Partner"),[9] had directed the Gol Senior Manager to improperly alter the 2010 Gol Audit work papers to attempt to conceal certain matters from Inspections. The Gol Senior Manager stated that the Gol Engagement Partner had determined that Araujo should also participate in the alteration effort, and Araujo agreed to do so.

7. During the week of March 12, 2012, Araujo reviewed the work papers for the 2010 Gol Audit and identified audit areas and work papers for which the PCAOB inspectors might have questions. Araujo reported the findings of his review to the Senior Manager.

8. On Saturday, March 17, 2012, Araujo, the Gol Senior Manager, and another Deloitte Brazil colleague[10] met in a Deloitte Brazil conference room where alterations were discussed and then made to numerous 2010 Gol Audit work papers, including work papers that addressed the audit areas that Inspections had previously identified as focus areas for the inspection. Araujo himself assisted with certain of the alterations. Araujo did not document when those alterations were made, why they were made, or who made them. Araujo knew that the improperly altered work papers would be made available to Inspections as the original work papers from the 2010 Gol Audit. Araujo's actions violated PCAOB audit documentation standards and his duty to cooperate with Inspections.[11]

9. While Inspections personnel were conducting their primary procedures for the inspection at Deloitte Brazil's offices, Araujo attended a meeting on or about April 3, 2012 in which the PCAOB inspectors interviewed two information-technology ("IT") specialists at the Firm[12] who had performed or supervised IT-related procedures during the 2010 Gol Audit. Araujo was asked to serve as a translator for the meeting. In

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[8] See *André Ricardo Aguillar Paulon*, PCAOB Rel. No. 105-2016-035 (Dec. 5, 2016).

[9] See *José Domingos do Prado*, PCAOB Rel. No. 105-2016-032 (Dec. 5, 2016).

[10] See *Leonardo Fonseca de Freitas Maia*, PCAOB Rel. No. 105-2016-038 (Dec. 5, 2016).

[11] See AS3 ¶ 16; PCAOB Rule 4006. The documentation completion date for the 2010 Gol Audit was no later than May 23, 2011.

[12] See *José Fernando Alves*, PCAOB Rel. No. 105-2016-039 (Dec. 5, 2016); *Renata Coelho de Sousa Castelli*, PCAOB Rel. No. 105-2016-040 (Dec. 5, 2016).

ORDER

advance of the PCAOB interview, Araujo attended two internal pre-meetings, each involving one or both of the IT specialists and one or more members of the audit engagement team, to prepare for the interview. During one of the pre-meetings, the audit team made the IT specialists aware that IT-related work papers for the 2010 Gol Audit had been improperly altered before being made available to Inspections. Araujo subsequently attended the PCAOB interview and assisted the IT specialists in answering the inspectors' questions. Araujo did not inform Inspections that the IT-related work papers had been improperly altered and thus that the interview was based on misleading information. Araujo also did not inform Inspections that the IT specialists were aware that the work papers had been improperly altered and were thus aware that the interview was based on misleading information. Under the circumstances, Araujo's participation in the interview while failing to disclose these facts violated his duty to cooperate with Inspections.[13]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Joao Rafael Belo de Araujo Filho is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Joao Rafael Belo de Araujo Filho is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[14]

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[13] See PCAOB Rule 4006.

[14] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Araujo. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

PCAOB
Public Company Accounting Oversight Board

ORDER

C. After one (1) year from the date of this Order, Joao Rafael Belo de Araujo Filho may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;[15] and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Joao Rafael Belo de Araujo Filho. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Araujo shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Araujo as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 5, 2016

[15] In considering such a petition, the Board will address all of the factors described in PCAOB Rule 5302(b) and, among other things, will give weight to whether Araujo has, in the period after the date of this Order, completed at least 20 hours of continuing professional education directly related to ethics.

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Leonardo Fonseca de Freitas Maia*, Respondent.	PCAOB Release No. 105-2016-038 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Leonardo Fonseca de Freitas Maia ("Respondent"); (2) barring Maia from being an associated person of a registered public accounting firm;[1] and (3) imposing a civil money penalty in the amount of $10,000 on Maia. The Board is imposing these sanctions on the basis of its findings that Maia violated PCAOB rules and standards in connection with a Board inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent

[1] Maia may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

PCAOB
Public Company Accounting Oversight Board

ORDER

consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Leonardo Fonseca de Freitas Maia, 42, is a former partner of the PCAOB registered firm Deloitte Touche Tohmatsu Auditores Independentes ("Deloitte Brazil" or "Firm"). From June 2008 through May 2012, Maia served as a member of the Firm's Global IFRS and Offering Services group. Maia became a partner of Deloitte Brazil in 2013. On or about January 11, 2016, the Firm placed Maia on administrative leave. At all relevant times, Maia was an associated person of a registered public accounting firm, as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Maia separated from the Firm in November 2016.

B. Respondent Violated Applicable PCAOB Rules and Standards

Applicable PCAOB Rules and Standards

2. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[4] Auditing Standard No. 3, *Audit Documentation* ("AS3"), requires that the complete and final set of

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct.

ORDER

documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its audit report.[5] After the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date of the addition, the person who prepared the additional documentation, and the reason for adding the documentation.[6]

3. PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. The cooperation requirement of Rule 4006 includes an obligation "not to provide misleading documents or information in connection with the Board's inspection processes."[7]

Respondent Violated PCAOB Rules and Standards in Connection with a PCAOB Inspection

4. During the relevant time period, one of Deloitte Brazil's audit clients was Gol Linhas Aéreas Inteligentes S.A., also known as Gol Intelligent Airlines Inc. ("Gol"). On April 8, 2011, the Firm issued two unqualified audit reports concerning Gol's 2010 financial statements and internal control over financial reporting ("ICFR"). Gol included those reports in a Form 20-F filed with the U.S. Securities and Exchange Commission ("Commission") on April 8, 2011. Maia did not perform procedures in connection with those reports.

5. The Board conducted an inspection of Deloitte Brazil in 2012. In early March 2012, the PCAOB Division of Registration and Inspections ("Inspections") informed Deloitte Brazil that primary field work procedures for the inspection would begin on March 26, 2012. Inspections identified the Firm's audit of Gol's 2010 financial statements and ICFR ("2010 Gol Audit") as one of the audits to be inspected, and identified the focus areas for the inspection, which included revenue, deferred revenue, and accounts receivable.

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[5] AS3 ¶¶ 14, 15.

[6] See id. ¶ 16.

[7] *Nathan M. Suddeth, CPA*, PCAOB Rel. No. 105-2013-007, ¶ 4 (Sept. 10, 2013).

ORDER

6. On or about March 12, 2012, Maia was informed by a colleague who had served as senior manager for the 2010 Gol Audit and had since become a partner ("Gol Senior Manager")[8] that the engagement partner[9] for the 2010 Gol Audit, a senior partner of Deloitte Brazil, had directed the Gol Senior Manager to improperly alter the 2010 Gol Audit work papers to attempt to conceal certain matters from Inspections. The Gol Senior Manager stated that the engagement partner had determined that Maia should also participate in the alteration effort.

7. As a result, on Saturday, March 17, 2012, Maia, the Gol Senior Manager, and another colleague[10] met in a Deloitte Brazil conference room and both discussed and made alterations to numerous 2010 Gol Audit work papers, including work papers that addressed the audit areas that Inspections had identified as focus areas for the inspection. Maia himself made certain of the alterations. Maia did not document when those alterations were made, why they were made, or who made them. Maia knew that others would make the improperly altered work papers available to Inspections as the original work papers from the 2010 Gol Audit. Maia's actions violated PCAOB audit documentation standards and his duty to cooperate with Inspections.[11]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Leonardo Fonseca de Freitas Maia is censured;

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[8] See *André Ricardo Aguillar Paulon*, PCAOB Rel. No. 105-2016-035 (Dec. 5, 2016).

[9] See *José Domingos do Prado*, PCAOB Rel. No. 105-2016-032 (Dec. 5, 2016).

[10] See *Joao Rafael Belo de Araujo Filho*, PCAOB Rel. No. 105-2016-037 (Dec. 5, 2016).

[11] See AS3 ¶ 16; PCAOB Rule 4006. The documentation completion date for the 2010 Gol Audit was no later than May 23, 2011.

ORDER

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Leonardo Fonseca de Freitas Maia is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[12]

C. After one (1) year from the date of this Order, Leonardo Fonseca de Freitas Maia may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;[13] and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Leonardo Fonseca de Freitas Maia. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Maia shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Maia as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary,

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[12] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Maia. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[13] In considering such a petition, the Board will address all of the factors described in PCAOB Rule 5302(b) and, among other things, will give weight to whether Maia has, in the period after the date of this Order, completed at least 20 hours of continuing professional education directly related to ethics.

PCAOB
Public Company Accounting Oversight Board

ORDER

Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 5, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of José Fernando Alves*, Respondent.	PCAOB Release No. 105-2016-039 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring José Fernando Alves ("Alves" or "Respondent"); (2) barring Alves from being an associated person of a registered public accounting firm;[1] and (3) imposing a civil money penalty of $20,000 on Alves. The Board is imposing these sanctions on the basis of its findings that Alves failed to cooperate with a Board inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent

[1] Alves may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

PCAOB
Public Company Accounting Oversight Board

ORDER

consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. José Fernando Alves, 57, is a retired partner in the Enterprise Risk Services ("ERS") group of a Deloitte Touche Tohmatsu Limited member firm in Brazil. In that role, Alves provided services in connection with audits conducted by Deloitte Touche Tohmatsu Auditores Independentes ("Deloitte Brazil" or "Firm"), a registered public accounting firm. Those audit-related services included supervising and performing testing of audit clients' information technology general controls, business process automated controls, and journal entries. At all relevant times, Alves was an associated person of a registered public accounting firm as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). For fiscal year 2010, Alves was the partner in charge of ERS procedures for the Firm's audit of the financial statements and internal control over financial reporting ("ICFR") of Gol Linhas Aéreas Inteligentes S.A., also known as Gol Intelligent Airlines Inc. ("Gol"). Alves retired in November 2016.

B. Respondent Violated PCAOB Rule 4006

Applicable PCAOB Rule

2. PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. The cooperation requirement of Rule 4006 includes an obligation "not to provide

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

PCAOB
Public Company Accounting Oversight Board

ORDER

misleading documents or information in connection with the Board's inspection processes."[4]

Respondent Violated PCAOB Rule 4006 in Connection with a PCAOB Inspection

3. For Deloitte Brazil's audit of Gol's financial statements and ICFR for fiscal year 2010 ("2010 Gol Audit"), Alves oversaw the work of a team of specialists performing information technology-related and journal entry-related audit procedures to support the 2010 Gol Audit. During the 2010 Gol Audit, those ERS procedures identified a number of ineffective controls in Gol's computer systems.

4. In March and April 2012, the PCAOB Division of Registration and Inspections ("Inspections") performed primary field work procedures for an inspection of the Firm, including an inspection of the 2010 Gol Audit. In anticipation of that inspection, certain Deloitte Brazil personnel improperly altered certain work papers for the 2010 Gol Audit before making those work papers available to Inspections. Among the improper alterations were changes to numerous of the ERS work papers for which the conclusions that certain controls were "ineffective" were changed to "effective." Alves did not participate in the alterations.

5. On or about April 3, 2012, Alves, along with other Deloitte Brazil associated persons, met with Inspections personnel concerning the ERS audit procedures for the 2010 Gol Audit. In advance of that meeting with Inspections, Alves attended a pre-meeting with certain members of the 2010 Gol Audit engagement team, including the engagement partner for that audit.[5] At that pre-meeting, the engagement partner informed Alves that certain of the ERS work papers for the 2010 Gol Audit had been improperly altered and that those work papers had been made available to Inspections. Alves provided misleading information to Inspections by participating in the subsequent meeting without informing Inspections that the discussion was based on documents that had been improperly altered.[6]

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[4] *Nathan M. Suddeth, CPA*, PCAOB Rel. No. 105-2013-007 (Sept. 10, 2013).

[5] See *José Domingos do Prado*, PCAOB Rel. No. 105-2016-032 (Dec. 5, 2016).

[6] See PCAOB Rule 4006.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), José Fernando Alves is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), José Fernando Alves is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[7]

C. After one (1) year from the date of this Order, José Fernando Alves may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;[8] and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon José Fernando Alves. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Alves shall pay this civil money penalty within thirty (30) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting

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[7] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Alves. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[8] In considering such a petition, the Board will address all of the factors described in PCAOB Rule 5302(b) and, among other things, will give weight to whether Alves has, in the period after the date of this Order, completed at least 20 hours of continuing professional education directly related to ethics.

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Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Alves as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 5, 2016

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Renata Coelho de Sousa Castelli*, Respondent.	PCAOB Release No. 105-2016-040 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Renata Coelho de Sousa Castelli ("Coelho" or "Respondent"); and (2) barring Coelho from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings that Coelho failed to cooperate with both a Board inspection and a Board investigation.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) and (3) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over her and the subject matter of these proceedings, which are admitted, Respondent

[1] Coelho may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

ORDER

consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Renata Coelho de Sousa Castelli, 40, was, at all relevant times, a manager in the Enterprise Risk Services ("ERS") group of a Deloitte Touche Tohmatsu Limited member firm in Brazil. In that role, Coelho provided services in connection with audits conducted by Deloitte Touche Tohmatsu Auditores Independentes ("Deloitte Brazil" or "Firm"), a registered public accounting firm. Those audit-related services included supervising and performing testing of audit clients' information technology general controls, business process automated controls, and journal entries. At all relevant times, Coelho was an associated person of a registered public accounting firm as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). For fiscal year 2010, Coelho was the manager in charge of ERS procedures for the Firm's audit of the financial statements and internal control over financial reporting ("ICFR") of Gol Linhas Aéreas Inteligentes S.A., also known as Gol Intelligent Airlines Inc. ("Gol"). Deloitte Brazil terminated Coelho in July 2016.

B. Respondent Violated Applicable PCAOB Rules

Applicable PCAOB Rules

2. PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. The cooperation requirement of Rule 4006 includes an obligation "not to provide

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provide that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

PCAOB
Public Company Accounting Oversight Board

ORDER

misleading documents or information in connection with the Board's inspection processes."[4]

3. Section 105(b)(3)(A) of the Act authorizes the Board to sanction an associated person of a registered public accounting firm for "refus[ing] to…cooperate with the Board in connection with an investigation."[5] Board rules include procedures for implementing that authority.[6] Noncooperation with an investigation includes failing to comply with an accounting board demand ("ABD").[7]

Respondent Violated PCAOB Rules in Connection with a PCAOB Inspection and Investigation

4. For Deloitte Brazil's audit of GoI's financial statements and ICFR for fiscal year 2010 ("2010 GoI Audit"), Coelho led a team of specialists performing information technology-related and journal entry-related audit procedures to support the 2010 GoI Audit. During the 2010 GoI Audit, those ERS procedures identified a number of ineffective controls in GoI's computer systems.

5. In March and April 2012, the PCAOB Division of Registration and Inspections ("Inspections") performed primary field work procedures for an inspection of the Firm, including an inspection of the 2010 GoI Audit. In anticipation of that inspection, certain Deloitte Brazil personnel improperly altered the work papers for the 2010 GoI Audit before making those work papers available to Inspections. Among the improper alterations were changes to numerous ERS work papers for which the conclusions that certain controls were "ineffective" were changed to "effective." Coelho did not participate in the alterations.

6. On or about April 3, 2012, Coelho, along with other Deloitte Brazil associated persons, met with Inspections personnel concerning the ERS audit procedures for the 2010 GoI Audit. In advance of that meeting, Coelho learned from other Firm personnel that certain ERS work papers for the 2010 GoI Audit had been improperly altered, and that the altered work papers had been made available to

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[4] *Nathan M. Suddeth, CPA*, PCAOB Rel. No. 105-2013-007, ¶ 4 (Sept. 10, 2013).

[5] 15 U.S.C. § 7215(b)(3)(A).

[6] See PCAOB Rules 5110, 5200(a)(3).

[7] See PCAOB Rule 5110(a)(1).

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Public Company Accounting Oversight Board

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Inspections. Coelho therefore knew during her subsequent meeting with Inspections that the GoI work papers had been provided to the inspectors without disclosure that they had been altered. Coelho provided misleading information to Inspections by participating in the meeting without informing Inspections that the discussion was based on documents that had been improperly altered.[8]

7. On January 13, 2016, the Division issued an ABD to Coelho requiring her to appear for testimony. Although Coelho initially agreed to appear for testimony on March 30 and 31, 2016, she informed the Division on March 29, 2016 that she refused to appear for testimony, thereby failing to comply with the ABD.[9]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Sections 105(b)(3)(A)(iii) and 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5) and (b)(1), Renata Coelho de Sousa Castelli is censured;

B. Pursuant to Sections 105(b)(3)(A)(i) and 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2) and (b)(1), Renata Coelho de Sousa Castelli is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[10] and

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[8] See PCAOB Rule 4006.

[9] See PCAOB Rule 5110(a)(1).

[10] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Coelho. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

C. After three (3) years from the date of this Order, Renata Coelho de Sousa Castelli may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.[11]

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 5, 2016

[11] In considering such a petition, the Board will address all of the factors described in PCAOB Rule 5302(b) and, among other things, will give weight to whether Coelho has, in the period after the date of this Order, completed at least 20 hours of continuing professional education directly related to ethics.

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Marco Aurelio Paulino Neves*, Respondent.	PCAOB Release No. 105-2016-041 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Marco Aurelio Paulino Neves ("Neves" or "Respondent"); (2) barring Neves from being an associated person of a registered public accounting firm;[1] and (3) imposing a civil money penalty in the amount of $20,000 on Neves. The Board is imposing these sanctions on the basis of its findings that Neves violated PCAOB rules and standards in connection with a Board inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent

[1] Neves may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

PCAOB
Public Company Accounting Oversight Board

ORDER

consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Marco Aurelio Paulino Neves, 42, is a former partner of the PCAOB registered firm Deloitte Touche Tohmatsu Auditores Independentes ("Deloitte Brazil" or "Firm"). From July 1, 2011 through January 31, 2015, Neves served as a member of the Firm's Attest Committee. In July 2015, the Firm appointed Neves Partner in Charge of its Rio de Janeiro office. On or about March 9, 2016, the Firm placed Neves on administrative leave. At all relevant times, Neves was an associated person of a registered public accounting firm, as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Neves separated from the Firm in November 2016.

B. Respondent Violated Applicable PCAOB Rules and Standards

Applicable PCAOB Rules and Standards

2. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[4] Auditing Standard No. 3, *Audit Documentation* ("AS3"), requires that the complete and final set of documentation for an audit be assembled for retention by the "documentation

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provide that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct.

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completion date," a date no later than 45 days from the date on which the auditor grants permission to use its audit report.[5] After the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date of the addition, the person who prepared the additional documentation, and the reason for adding the documentation.[6]

3. PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. The cooperation requirement of Rule 4006 includes an obligation "not to provide misleading documents or information in connection with the Board's inspection processes."[7]

Respondent Violated PCAOB Rules and Standards in Connection with a PCAOB Inspection

4. During the relevant time period, one of Deloitte Brazil's audit clients was a company ("Issuer") that was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). In early 2011, the Firm issued two unqualified audit reports concerning the Issuer's 2010 financial statements and internal control over financial reporting ("ICFR"). The Issuer included those reports in a Form 20-F filed with the U.S. Securities and Exchange Commission ("Commission") during the first half of 2011. Both the "report release date"[8] and the documentation completion date for the Firm's audit of the Issuer's 2010 financial statements and ICFR ("2010 Issuer Audit") occurred prior to the end of 2011.

5. In March and April 2012, staff of the PCAOB Division of Registration and Inspections ("Inspections") performed primary field work procedures for an inspection of Deloitte Brazil, including an inspection of the 2010 Issuer Audit. Neves had served as a second partner on the 2010 Issuer Audit. Inspections informed the Firm that the 2010 Issuer Audit had been selected for inspection on or about March 8, 2012.

6. Prior to and during the inspection, Neves improperly added information, and directed others to improperly add information, to the 2010 Issuer Audit documentation. Specifically, after Inspections informed Deloitte Brazil that it would

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[5] AS3 ¶¶ 14, 15.

[6] See id. ¶ 16.

[7] *Nathan M. Suddeth, CPA*, PCAOB Rel. No. 105-2013-007, ¶ 4 (Sept. 10, 2013).

[8] AS3 ¶ 14.

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inspect the 2010 Issuer Audit, Neves informed the engagement quality reviewer for the audit[9] that certain compact discs ("CDs") that purportedly contained final audit work papers were missing. Neves proposed to alter non-final versions of certain 2010 Issuer Audit work papers, burn those altered work papers onto new CDs, and present those new CDs to Inspections as documentation that had been prepared timely and in accordance with PCAOB standards. The engagement quality reviewer approved the plan, which Neves then carried out. In furtherance of that plan, Neves instructed a manager from the audit[10] to back-date his computer clock to create the appearance that the new CDs had been burned at the time of the 2010 Issuer Audit.

7. Neves also caused other, newly created documentation to be included in the 2010 Issuer Audit work papers provided to the PCAOB inspectors. For example, after causing the creation of three new work papers during the inspection to respond to questions raised by the inspectors about the audit, Neves then inserted the three newly created work papers into the binders of manual work papers that had previously been provided to Inspections. Neves then directed the inspectors to the three new work papers as documenting answers to their questions about the audit, without disclosing that he had recently caused the work papers to be created, and had inserted them into the manual work paper binders when the inspectors were absent from the conference room.

8. Through his actions, Neves violated PCAOB audit documentation standards and his duty to cooperate with Inspections.[11]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

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[9] See *José Domingos do Prado*, PCAOB Rel. No. 105-2016-032 (Dec. 5, 2016).

[10] See *Walter Vinicius Barreto Brito Silva*, PCAOB Rel. No. 105-2016-043 (Dec. 5, 2016).

[11] See AS3 ¶ 16; PCAOB Rule 4006.

ORDER

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Marco Aurelio Paulino Neves is censured.

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Marco Aurelio Paulino Neves is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[12]

C. After three (3) years from the date of this Order, Marco Aurelio Paulino Neves may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.[13]

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon Marco Aurelio Paulino Neves. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Neves shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Neves as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary,

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[12] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Neves. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[13] In considering such a petition, the Board will address all of the factors described in PCAOB Rule 5302(b) and, among other things, will give weight to whether Neves has, in the period after the date of this Order, completed at least 30 hours of continuing professional education directly related to ethics.

PCAOB
Public Company Accounting Oversight Board

ORDER

Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 5, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Simone Pacheco Lemos do Amaral*, Respondent.	PCAOB Release No. 105-2016-042 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Simone Pacheco Lemos do Amaral ("Amaral" or "Respondent"); and (2) barring Amaral from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings that Amaral violated PCAOB rules and standards in connection with a Board inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over her and the subject matter of these proceedings, which are admitted, Respondent

[1] Amaral may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

PCAOB
Public Company Accounting Oversight Board

ORDER

consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Simone Pacheco Lemos do Amaral, 38, was, at all relevant times, a senior manager at the PCAOB registered firm Deloitte Touche Tohmatsu Auditores Independentes ("Deloitte Brazil" or "Firm"). Amaral was an associated person of a registered public accounting firm, as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). The Firm terminated Amaral in July 2016.

B. Respondent Violated Applicable PCAOB Rules and Standards

Applicable PCAOB Rules and Standards

2. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[4] Auditing Standard No. 3, *Audit Documentation* ("AS3"), requires that the complete and final set of documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its report.[5] After the documentation completion date, audit

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provide that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct.

[5] AS3 ¶¶ 14, 15.

ORDER

documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date of the addition, the name of the person who prepared the additional documentation, and the reason for adding the documentation.[6]

3. PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. The cooperation requirement of Rule 4006 includes an obligation "not to provide misleading documents or information in connection with the Board's inspection processes."[7]

Respondent Violated PCAOB Rules and Standards in Connection with a PCAOB Inspection

4. During the relevant time period, one of Deloitte Brazil's audit clients was a company ("Issuer") that was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). In early 2011, the Firm issued two unqualified audit reports concerning the Issuer's 2010 financial statements and internal control over financial reporting ("ICFR"). The Issuer included those reports in a Form 20-F filed with the U.S. Securities and Exchange Commission ("Commission") during the first half of 2011. Both the "report release date"[8] and the documentation completion date for the Firm's audit of the Issuer's 2010 financial statements and ICFR ("2010 Issuer Audit") occurred prior to the end of 2011.

5. In March and April 2012, the PCAOB Division of Registration and Inspections ("Inspections") performed primary field work procedures for an inspection of Deloitte Brazil, including an inspection of the 2010 Issuer Audit. Amaral had served as a senior manager on the 2010 Issuer Audit. Inspections staff informed the Firm that the 2010 Issuer Audit had been selected for inspection on or about March 8, 2012.

6. During the PCAOB inspection, a partner on the 2010 Issuer Audit ("Partner")[9] directed Amaral to create three work papers to document certain work purportedly performed by the engagement team during the 2010 Issuer Audit. The Partner informed Amaral, who was in a different Deloitte Brazil office, that his request related to the inspection. Amaral created the three work papers as requested. Although

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[6] See id. ¶ 16.

[7] *Nathan M. Suddeth, CPA*, PCAOB Rel. No. 105-2013-007 (Sept. 10, 2013).

[8] AS3 ¶ 14.

[9] See *Marco Aurelio Paulino Neves*, PCAOB Rel. No. 105-2016-041 (Dec. 5, 2016).

ORDER

she prepared the work papers months after the documentation completion date for the 2010 Issuer Audit, she did not document the date on which she prepared the work papers or the reason for adding the work papers after the documentation completion date. In fact, Amaral falsely indicated on the work papers that they had been prepared in January 2011, during the 2010 Issuer Audit.

7. Amaral provided the three work papers to the Partner on or about April 2, 2012, and the Partner subsequently added the work papers to the binders of manual work papers that had previously been provided to Inspections.

8. Through her actions, Amaral violated PCAOB audit documentation standards and her duty to cooperate with Inspections.[10]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Simone Pacheco Lemos do Amaral is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Simone Pacheco Lemos do Amaral is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[11] and

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[10] See AS3 ¶ 16; PCAOB Rule 4006.

[11] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Amaral. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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Public Company Accounting Oversight Board

ORDER

C. After one (1) year from the date of this Order, Simone Pacheco Lemos do Amaral may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.[12]

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

December 5, 2016

[12] In considering such a petition, the Board will address all of the factors described in PCAOB Rule 5302(b) and, among other things, will give weight to whether Amaral has, in the period after the date of this Order, completed at least 20 hours of continuing professional education directly related to ethics.

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Walter Vinicius Barreto Brito Silva*, Respondent.	PCAOB Release No. 105-2016-043 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Walter Vinicius Barreto Brito Silva ("Silva" or "Respondent"); and (2) barring Silva from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings that Silva violated PCAOB rules and standards in connection with a Board inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent

[1] Silva may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

ORDER

consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Walter Vinicius Barreto Brito Silva, 34, was, at all relevant times, a manager at the PCAOB registered firm Deloitte Touche Tohmatsu Auditores Independentes ("Deloitte Brazil" or "Firm"). Silva was an associated person of a registered public accounting firm, as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondent Violated Applicable PCAOB Rules and Standards

Applicable PCAOB Rules and Standards

2. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[4] Auditing Standard No. 3, *Audit Documentation* ("AS3"), requires that the complete and final set of documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its audit report.[5] After the documentation completion date, audit

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provide that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct.

[5] AS3 ¶¶ 14, 15.

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documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date of the addition, the person who prepared the additional documentation, and the reason for adding the documentation.[6]

3. PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. The cooperation requirement of Rule 4006 includes an obligation "not to provide misleading documents or information in connection with the Board's inspection processes."[7]

Respondent Violated PCAOB Rules and Standards in Connection with a PCAOB Inspection

4. During the relevant time period, one of Deloitte Brazil's audit clients was a company ("Issuer") that was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). In early 2011, the Firm issued two unqualified audit reports concerning the Issuer's 2010 financial statements and internal control over financial reporting ("ICFR"). The Issuer included those reports in a Form 20-F filed with the U.S. Securities and Exchange Commission ("Commission") during the first half of 2011. Both the "report release date"[8] and the documentation completion date for the Firm's audit of the Issuer's 2010 financial statements and ICFR ("2010 Issuer Audit") occurred prior to the end of 2011.

5. In March and April 2012, staff of the PCAOB Division of Registration and Inspections ("Inspections") performed primary field work procedures for an inspection of Deloitte Brazil, including an inspection of the 2010 Issuer Audit. Silva had served as a manager on the 2010 Issuer Audit. Inspections staff informed the Firm that the 2010 Issuer Audit had been selected for inspection on or about March 8, 2012.

6. Just prior to the commencement of primary field work procedures for the inspection, Silva and a partner on the 2010 Issuer Audit ("Partner")[9] determined that certain 2010 Issuer Audit work papers that purportedly had been stored on compact discs ("CDs") and archived with the complete and final set of documentation for the

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[6] See id. ¶ 16.

[7] *Nathan M. Suddeth, CPA*, PCAOB Rel. No. 105-2013-007, ¶ 4 (Sept. 10, 2013).

[8] AS3 ¶ 14.

[9] See *Marco Aurelio Paulino Neves*, PCAOB Rel. No. 105-2016-041 (Dec. 5, 2016).

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2010 Issuer Audit were missing from the manual work paper binders in which they had been kept. After determining that the work papers were missing, the Partner provided Silva with draft versions of those work papers, which Silva, at the Partner's direction, then reviewed and assisted the Partner in preparing in final form. In preparing these work papers, Silva failed to appropriately document the date on which they were being prepared or the reason for preparing them.[10]

7. After the work papers had been prepared, Silva and the Partner burned the new documents onto new CDs. In order to conceal the date on which the new CDs had been burned, Silva, at the Partner's direction, changed the system date of his computer so that the metadata of the CDs would indicate that they had been burned during the 2010 Issuer Audit. The work papers on the new CDs were subsequently provided to the PCAOB inspectors for their use, without disclosure that certain of the work papers had just been placed in final form shortly before the inspection began.

8. Silva subsequently attended meetings with the PCAOB inspectors at which areas of the 2010 Issuer Audit for which he had prepared new work papers were discussed. Silva provided misleading information to the inspectors by participating in these meetings and discussing the work papers pertaining to those audit areas without disclosing that certain of the work papers had only recently been prepared.

9. Through his actions, Silva violated PCAOB audit documentation standards and his duty to cooperate with Inspections.[11]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Walter Vinicius Barreto Brito Silva is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Walter Vinicius Barreto Brito Silva is barred from being an associated

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[10] See AS3 ¶ 16.

[11] See AS3 ¶ 16; PCAOB Rule 4006.

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person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[12] and

C. After one (1) year from the date of this Order, Walter Vinicius Barreto Brito Silva may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.[13]

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 5, 2016

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[12] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Silva. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[13] In considering such a petition, the Board will address all of the factors described in PCAOB Rule 5302(b) and, among other things, will give weight to whether Silva has, in the period after the date of this Order, completed at least 20 hours of continuing professional education directly related to ethics.

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Galaz, Yamazaki, Ruiz Urquiza, S.C.* *Respondent.*	PCAOB Release No. 105-2016-044 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring Galaz, Yamazaki, Ruiz Urquiza, S.C. ("Deloitte Mexico," "Firm," or "Respondent"); (2) imposing a civil money penalty in the amount of $750,000 on Deloitte Mexico; (3) requiring the Firm to certify that it has remediated the quality control deficiencies identified in this Order; (4) requiring the Firm to report quarterly for one year from the date of this Order to the Board any noncompliance with its quality control policies and procedures related to timely assembly for retention of audit documentation ("archiving") in compliance with PCAOB Auditing Standard No. 3, *Audit Documentation*, ("AS3"); and (5) requiring the Firm to provide additional professional education and training to its associated persons related to AS3.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and standards from 2011 to 2015: (1) by repeatedly archiving audit documentation late in connection with issuer audits, in violation of AS3; (2) by failing to effectively implement policies and procedures to provide it with reasonable assurance that its engagement personnel were timely archiving issuer audit documentation in compliance with AS3; and (3) by failing to take timely and necessary corrective action, including making improvements to its quality control system, upon becoming aware of repeated failures by engagement personnel to archive issuer audit documentation in compliance with AS3.

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ORDER

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Deloitte Mexico is a partnership organized under the laws of Mexico, and is headquartered in Mexico City, Mexico. The Firm is a foreign registered public accounting firm as that term is defined in PCAOB Rule 1001(f)(ii). The Firm registered with the PCAOB on May 28, 2004, pursuant to Section 102 of the Act and PCAOB rules. The Firm is a member of the Deloitte Touche Tohmatsu Limited global network ("Deloitte Global") and currently serves as the auditor for approximately six issuer audit clients.[2] Additionally, the Firm performs audit work that other PCAOB registered firms, including member firms of Deloitte Global, use or rely on in issuing audit reports for their

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] See Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii) (defining "issuer").

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issuer clients. The Firm currently plays a substantial role in approximately nine of those audits.[3] The Firm has approximately 304 partners and 3,669 employees.

B. Summary

2. The Firm serves as an external auditor for certain issuer clients who file Forms 20-F and Forms 10-K with the U.S. Securities and Exchange Commission. The PCAOB standard concerning audit documentation, AS3, provides that "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[4] In connection with numerous issuer audits ("PCAOB Audits") from 2011 to 2015, the Firm failed to archive a complete and final set of audit documentation by the relevant documentation completion date, thereby violating AS3.

3. As a registered firm, Deloitte Mexico has a responsibility to have a system of quality control for its accounting and auditing practice.[5] That system of quality control should include policies and procedures to provide reasonable assurance that the work performed by engagement personnel meets applicable professional standards, including with respect to documenting the results of each engagement.[6] During the period 2011 to 2015, the Firm also violated PCAOB quality control standards by failing to effectively implement policies and procedures to provide it with reasonable assurance that its engagement teams would timely archive audit documentation for PCAOB Audits.

4. A Firm's system of quality control also should include a monitoring element to provide the Firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with

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[3] See PCAOB Rule 1001(p)(ii) (containing definition of "play a substantial role in the preparation or furnishing of an audit report").

[4] AS3 ¶ 15. Audit documentation is the written record of the basis for the auditor's conclusions that provides the support for the auditor's representations, whether those representations are contained in the auditor's report or otherwise. Audit documentation also may be referred to as work papers or working papers. AS3 ¶ 2. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct.

[5] See QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[6] QC §§ 20.17, .18.

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the Firm's policies and procedures.[7] As a result of its monitoring procedures, the Firm became aware, as early as 2011 and continuing to 2015, that Firm personnel had failed to comply with the Firm's policies and procedures, and with PCAOB standards, regarding timely archiving of audit documentation in numerous PCAOB Audits. Despite identifying late archiving of audit documentation as a significant problem each year from 2011 to 2015, the Firm failed to timely determine corrective actions to be taken and improvements to be made in its quality control system. That failure constituted a further violation of PCAOB quality control standards.[8]

C. The Firm Violated PCAOB Standards in Connection with its Repeated Failures to Timely Archive Audit Documentation from 2011 to 2015

5. PCAOB rules require that registered public accounting firms comply with applicable auditing and related professional practice standards.[9] PCAOB standards provide, among other things, that the auditor must prepare audit documentation in connection with each engagement conducted pursuant to the standards of the PCAOB.[10] The auditor must document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[11] This documentation requirement applies to the work of all those who participate in the engagement.[12] As noted above, "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[13]

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[7] QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*; see also QC § 20.07.

[8] See QC §§ 30.03, .06.

[9] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[10] AS3 ¶ 4.

[11] AS3 ¶ 6.

[12] See AS3 ¶ 6.

[13] AS3 ¶ 15.

ORDER

6. From 2011 to 2015, the Firm's engagement teams failed to timely archive audit documentation for numerous PCAOB Audits. As a result of the above-described conduct, the Firm violated AS3.

D. The Firm Violated PCAOB Standards by Failing to Effectively Implement Policies and Procedures to Provide It with Reasonable Assurance Related to Timely Archiving of Audit Work Papers and Failed to Take Timely and Necessary Corrective Action

The Firm Failed to Implement Policies and Procedures to Provide It with Reasonable Assurance That Its Engagement Teams Were Timely Archiving Audit Work Papers in Compliance with PCAOB Standards

7. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[14] PCAOB quality control standards, in turn, require that a registered firm "shall have a system of quality control for its accounting and auditing practice."[15]

8. Pursuant to PCAOB quality control standards, firms should establish policies and procedures to provide reasonable assurance that: (a) "personnel … perform all professional responsibilities with integrity, and maintain objectivity in discharging professional responsibilities;"[16] (b) "the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality,"[17] including with respect to "planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement;"[18] and (c) the firm's quality control policies and procedures "are suitably designed and are being effectively applied."[19]

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[14] PCAOB Rule 3400T, *Interim Quality Control Standards*.

[15] QC § 20.01; see also QC §§ 20.17 - .20.

[16] QC § 20.09.

[17] QC § 20.17.

[18] QC § 20.18.

[19] QC § 20.20; see also QC § 30.03.

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9. PCAOB quality control standards provide that one required element of a quality control system is monitoring.[20] Monitoring involves an ongoing consideration and evaluation of the: (a) relevance and adequacy of the firm's policies and procedures; (b) appropriateness of the firm's guidance materials and any practice aids; (c) effectiveness of professional development activities; and d) compliance with the firm's policies and procedures.[21] Monitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective.[22]

10. Internal inspection procedures contribute to the monitoring function because findings are evaluated and changes in or clarifications of quality control policies and procedures are considered.[23] The adequacy of and compliance with a firm's quality control system are evaluated by performing such inspection procedures as: (a) summarization of the findings from the inspection procedures, at least annually, and consideration of the systemic causes of findings that indicate improvements are needed, and (b) consideration of inspection findings by appropriate firm management personnel who should also determine that any actions necessary, including necessary modifications to the quality control system, are taken on a timely basis.[24]

11. Review of work papers after the issuance of the audit report may constitute inspection procedures provided: (a) the review is sufficiently comprehensive to enable the firm to assess compliance with all applicable professional standards and the firm's quality control policies and procedures, (b) findings of such reviews that may indicate the need to improve compliance with or modify the firm's quality control policies and procedures are periodically summarized, documented, and communicated to the firm's management personnel having the responsibility and authority to make changes in those policies and procedures; (c) the firm's management personnel consider on a timely basis the systemic causes of findings that indicate improvements are needed and determine appropriate actions to be taken; and (d) the firm implements on a timely basis

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[20] QC § 20.07.

[21] QC § 30.02; see also QC § 20.20.

[22] QC § 30.03.

[23] QC § 30.04.

[24] QC § 30.06.

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such planned actions, communicates changes to personnel who might be affected, and follows up to determine that the planned actions were taken.[25]

The Firm Was Aware for Years That Audit Engagement Teams Were Not Timely Archiving Audit Documentation in Compliance with Professional Standards

12. At all relevant times, the Firm's quality control personnel performed annual internal practice reviews of the Firm's audit practice. The annual internal practice reviews were intended to provide reasonable assurance that the Firm's policies and procedures were relevant, adequate, operating effectively and were being complied with in practice.

13. As part of annual internal practice reviews, the Firm's quality control personnel evaluated, among other things, whether audit engagement teams archived audit work papers in accordance with the Firm's policies and the requirements of AS3 regarding the archiving of audit documentation. The annual internal practice reviews included reviews of PCAOB Audits. Quality control personnel reported the findings of these practice reviews to the Managing Partner of the Firm each year.

14. During its annual practice reviews from 2011 to 2015, the Firm identified numerous problems with timely archiving of audit work papers in connection with PCAOB Audits. After each of those annual practice reviews from 2011 to 2015, the Firm's Practice Review Director informed the Firm's Managing Partner at the time about the archiving problems that had been identified.

15. Notwithstanding the repeated identification of the problems concerning the timely archiving of work papers and the communication of those problems to the Firm's Managing Partner, the Firm's archiving problems persisted.[26]

16. As a result of the above-described conduct, the Firm violated PCAOB rules and standards by failing to effectively implement policies and procedures to

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[25] QC § 30.08.

[26] Not only did those failures to timely archive work papers for PCAOB Audits violate AS3, they also increased the risk that the work papers might be improperly altered after the documentation completion date. See *Miguel Angel Asencio Asencio*, PCAOB Rel. No. 105-2016-046 (Dec. 5, 2016).

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provide it with reasonable assurance that its engagement personnel were timely archiving audit documentation in connection with PCAOB Audits.[27]

The Firm Failed to Take Timely and Necessary Corrective Action Upon Becoming Aware of Repeated Instances of Late Archiving

17. Despite identifying late archiving of audit work papers as a significant problem each year from 2011 to 2015, the Firm failed to timely implement necessary corrective actions to address this problem. As a result, the Firm failed to adequately monitor compliance with its quality control policies and procedures regarding archiving of audit work papers and timely determine corrective actions to be taken and improvements to be made to its quality control system.[28]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Galaz, Yamazaki, Ruiz Urquiza, S.C. is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $750,000 is imposed upon Galaz, Yamazaki, Ruiz Urquiza, S.C. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Galaz, Yamazaki, Ruiz Urquiza, S.C. shall pay this civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter which identifies Galaz, Yamazaki, Ruiz Urquiza, S.C. as a respondent in these proceedings, sets forth the title and PCAOB Release number of

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[27] See QC § 20.17.

[28] See QC § 20.20; QC § 30.03, .06.

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these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

C. Pursuant to Sections 105(c)(4)(F) and (G) of the Act and PCAOB Rules 5300(a)(6) and (9), the Board orders that:

1. Undertakings: The Firm shall carry out the following Undertakings:

(a) *Initial Certification*.

Within ten (10) days of the entry of this Order, the Firm shall provide a certification, signed by its Managing Partner, stating that the Firm has adopted systems designed to provide reasonable assurance that, for any audit, review or specified procedures conducted pursuant to PCAOB rules and standards, a complete and final set of audit documentation is archived by the documentation completion date for that audit or review, and that any additions to that documentation after the documentation completion date are made only in accordance with PCAOB rules and standards.

(b) *Subsequent Certifications*.

(1) Within ninety (90) days of the entry of this Order, the Firm shall provide a certification, signed by its Managing Partner, stating that all audit professionals involved in the performance of PCAOB Audits have received 4 hours of additional training concerning AS3, including archiving of audit documentation in accordance with AS3.

(2) No less than quarterly for one (1) year after the date of this Order, the Firm shall provide a certification, signed by its Managing Partner, stating that: (i) the Firm has examined whether, with respect to all audits, reviews, and specified procedures conducted by the Firm pursuant to PCAOB rules and standards and for which the documentation completion date has occurred within the prior three months, a complete and final set of audit documentation has been timely archived in accordance with PCAOB standards and in accordance with the Firm's audit policies and procedures; and (ii) with respect to those audits, reviews, and specified procedures the Firm is not aware of, or has reported to the PCAOB's staff, any noncompliance with PCAOB rules and

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standards and/or the Firm's audit policies regarding the timely archiving of work papers.

(c) *Provision of Order*: No later than 30 days after the date of this Order, the Firm shall provide an electronic or paper copy of this Order to all of its associated persons who are audit professionals in the Firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 5, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Arturo Vargas Arellano, CPC,* *Respondent.*	PCAOB Release No. 105-2016-045 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring Arturo Vargas Arellano, CPC ("Vargas" or "Respondent"); (2) barring him from being an associated person of a registered public accounting firm;[1] and (3) imposing on him a civil money penalty in the amount of $50,000. The Board is imposing these sanctions on the basis of its findings that Vargas: (1) violated PCAOB rules and standards in connection with an audit of the financial statements of an issuer audit client; and (2) failed to cooperate with a Board inspection and Board investigation by providing improperly altered documents and misleading information to the Board's inspections and enforcement staff.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) and (3) against Respondent.

[1] Respondent may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

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ORDER

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. Arturo Vargas Arellano, age 61, of Mexico City, Mexico, is a registered public accountant who is licensed under the laws of Mexico (license no. 7455). At all relevant times, Vargas was a partner in the Mexico City, Mexico office of Galaz, Yamazaki, Ruiz Urquiza, S.C. ("Deloitte Mexico" or "Firm") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). The Firm is a member of the Deloitte Touche Tohmatsu Limited global network ("Deloitte Global"). Vargas served as the engagement partner for the audits of Southern Copper Corporation ("SCC" or "Company") for the years ending December 31, 2009 through December 31, 2012. In the second quarter of 2013, Deloitte Mexico removed Vargas from the SCC audit engagement team, and Vargas

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[2] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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retired from Deloitte Mexico on May 31, 2016, after the discovery of his improper alteration of 2010 SCC audit work papers.

B. Issuer

2. SCC is a Delaware corporation headquartered in Phoenix, Arizona. SCC's public filings disclose that SCC is a large integrated copper producer with mining, smelting and refining facilities located in Peru and Mexico. Its common stock is listed on both the New York and Lima Stock Exchanges under the symbol "SCCO." At all relevant times, SCC was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

3. This matter concerns Respondent's violations of PCAOB rules and standards during the course of the Firm's audits of the Company's December 31, 2010 financial statements and the Company's internal control over financial reporting ("ICFR") as of December 31, 2010 (the "Audit"), as well as his misconduct in connection with a subsequent PCAOB inspection and investigation. During the Audit, Respondent failed to exercise due professional care and professional skepticism and failed to: (1) gather sufficient competent evidential matter to support the appropriateness of the Company's tax treatment of unremitted earnings of a foreign subsidiary; (2) perform sufficient procedures to test journal entries for the existence of fraud; (3) sufficiently evaluate the qualifications, work, relationship to the audit client, and findings of the Company's employed and engaged specialists used for mineral reserves, labor obligations and employee benefits, and fixed asset lives; (4) sufficiently evaluate significant accounting estimates, including estimates related to mineral reserves and useful lives of fixed assets; and (5) timely assemble for retention all audit documentation required by PCAOB Auditing Standard No. 3, *Audit Documentation* ("AS3").[4]

4. After the documentation completion date for the Audit, Respondent and certain other members of the engagement team improperly altered the documentation for the Audit.[5] Specifically, in advance of a post-audit practice review, performed by the Firm, Respondent and certain other members of the engagement team violated AS3 by deleting work papers from and making other alterations to documentation that had

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[4] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct.

[5] See *Miguel Angel Asencio Asencio*, PCAOB Rel. No. 105-2016-046 (Dec. 5, 2016); *Aldo Hidalgo de la Rosa*, PCAOB Rel. No. 105-2016-047 (Dec. 5, 2016).

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previously been assembled for retention for the Audit. In addition, Respondent and certain other members of the engagement team made additions to the previously assembled documentation, without identifying when the additions were made, who made them, and why they were made, as required by AS3.

5. Beginning in March 2012, the staff of the Board's Division of Registration and Inspections ("Inspections") inspected the Audit. In connection with the inspection, Respondent and certain other members of the engagement team made available to the PCAOB inspectors the Audit work papers they had previously improperly altered, as well as other misleading information, in violation of PCAOB Rule 4006, *Duty to Cooperate with Inspectors*. Finally, when the Board's enforcement staff later investigated the Audit, Respondent made available to the PCAOB investigators the same improperly altered Audit work papers and other misleading information, thereby failing to cooperate with the Board's investigation.

D. Respondent Violated PCAOB Rules and Standards During the Course of the Audit

6. The Firm has been the external auditor for SCC since 2009. On February 25, 2011, the Firm issued unqualified opinions in the Audit reports that were included in the Company's Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") on February 28, 2011. The Audit reports stated that, in the Firm's opinion, the Company's financial statements presented fairly, in all material respects, the Company's financial position, and the results of its operations and cash flows in conformity with U.S. Generally Accepted Accounting Principles ("GAAP"), and that the Company maintained, in all material respects, effective ICFR as of December 31, 2010. The Audit reports also stated that the Audit was conducted in accordance with PCAOB standards. Respondent was the engagement partner for the Audit and had served as the engagement partner for the Company's audits since 2009. Respondent had overall responsibility for the Audit, including overall responsibility for supervising the members of the Audit engagement team.

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[6] Among other things, those standards require that an auditor express an opinion on an issuer's

[6] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards;* PCAOB Rule 3200T*, Interim Auditing Standards.*

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financial statements only when the auditor has performed the audit in compliance with PCAOB standards.[7]

8. PCAOB standards require that auditors exercise due professional care and professional skepticism, and plan and perform audit procedures to obtain sufficient competent evidential matter to provide a reasonable basis for the audit opinion.[8] While that evidential matter can include management representations, such representations "are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[9]

9. PCAOB standards also provide that the "auditor should consider relevant evidential matter regardless of whether it appears to corroborate or to contradict the assertions in the financial statements. To the extent the auditor remains in substantial doubt about any assertion of material significance, he or she must refrain from forming an opinion until he or she has obtained sufficient competent evidential matter to remove such substantial doubt, or the auditor must express a qualified opinion or a disclaimer of opinion."[10]

10. PCAOB standards provide that the auditor with final responsibility for the audit is responsible for adequately planning and properly supervising the work to be performed in the audit.[11] They also provide that "[t]he work performed by each assistant should be reviewed to determine whether it was adequately performed and to evaluate whether the results are consistent with the conclusions to be presented in the auditor's report."[12]

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[7] See AU § 508.07, *Reports on Audited Financial Statements.*

[8] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work;* AU § 326.01, *Evidential Matter*.

[9] AU § 333.02, *Management Representations*.

[10] AU § 326.25.

[11] AU § 310.01, *Appointment of the Independent Auditor*; AU §§ 311.01-.02, *Planning and Supervision*.

[12] AU § 311.13.

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11. PCAOB standards also provide that "[t]he auditor is responsible for evaluating the reasonableness of accounting estimates made by management in the context of the financial statements taken as a whole."[13]

Respondent Failed to Obtain Sufficient Competent Evidential Matter to Support the Appropriateness of the Company's Tax Treatment of Unremitted Earnings of a Foreign Subsidiary

12. SCC had a Mexican subsidiary that generated significant earnings in 2010. In 2010, and for at least the three years prior, this Mexican subsidiary paid significant dividends to SCC. SCC recorded a deferred tax liability in its 2010 consolidated financial statements for the tax consequences related to a portion of the Mexican subsidiary's earnings expected to be distributed to SCC in future years. Under U.S. GAAP there is a presumption "that all undistributed earnings of a subsidiary will be transferred to the parent entity."[14] SCC could overcome the presumption "if sufficient evidence show[ed] that the subsidiary ha[d] invested or [would] invest the undistributed earnings indefinitely ...."[15] In 2010, SCC did not record a deferred tax liability related to undistributed earnings from the Mexican subsidiary due to its assertion that those undistributed earnings were or would be indefinitely invested in the Mexican subsidiary.

13. During the Audit, Respondent and the engagement team determined that deferred taxes and income tax expense were significant risk areas and engaged U.S. tax specialists[16] to examine U.S. tax issues related to amounts recorded in SCC's 2010 consolidated financial statements. Respondent requested the assistance of the U.S. tax specialists to review SCC's indefinite investment assertion during the Audit. SCC primarily supported its indefinite investment assertion with management representations regarding its intent to indefinitely invest the earnings and its plans for the use of some undistributed earnings within its Mexican subsidiary. Respondent conveyed the management representations and other evidence to the U.S. tax specialists.

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[13] AU § 342.04, *Auditing Accounting Estimates*.

[14] Financial Accounting Standards Board Accounting Standards Codification ("ASC") Topic 740, *Income Taxes*, Subtopic, *Other Considerations or Special Areas*, Section 30, *Recognition*, paragraph 25-3.

[15] ASC 740-30-25-17.

[16] The U.S. tax specialists were employed by Deloitte & Touche Tax LLP.

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14. The U.S. tax specialists informed Respondent on February 1, 2011 that they could not conclude that the evidence the Company had provided at that time supported SCC's indefinite investment assertion. In fact, the U.S. tax specialists stated, among other things, that SCC's projected future earnings would be sufficient to cover expected future reinvestments and therefore that current accumulated Mexican earnings were not needed for reinvestment in the Mexican subsidiary. Thus, the U.S. tax specialists informed Respondent that they could not conclude as to the appropriateness of SCC's evidence concerning its determination not to record a deferred tax liability on those undistributed earnings. The U.S. tax specialists later drafted a memorandum ("2010 Tax Memorandum"), which stated their position that they could not conclude on the appropriateness of SCC's indefinite investment assertion because it was insufficiently supported.

15. After the U.S. tax specialists informed Respondent that they could not conclude that the evidence SCC had provided was sufficient to support the Company's indefinite investment assertion, neither Respondent nor anyone else on his engagement team performed any additional procedures or obtained any additional evidence regarding that assertion. Respondent also did not document that he believed the U.S. tax specialists were incorrect or unreasonable in determining that SCC's indefinite investment assertion was insufficiently supported. Given his failure to gather additional evidence, or direct others to gather additional evidence, after being informed by the U.S. tax specialists that they were unable to conclude as to the appropriateness of SCC's indefinite investment assertion, Respondent violated AU §§ 230,[17] 333,[18] and 326[19] by failing to exercise due professional care and professional skepticism, placing undue reliance on management representations, and failing to gather sufficient competent evidential matter to support his audit opinion.

Respondent Failed to Perform Sufficient Procedures to Test Journal Entries for the Existence of Fraud

16. PCAOB standards provide that "[t]he auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial

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[17] AU § 230.02.

[18] AU § 333.04.

[19] AU § 326.01.

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statements are free of material misstatement, whether caused by error or fraud."[20] The auditor should identify and address the risks of material misstatement due to fraud, including the risk of management override of controls.[21] Specifically, the auditor should examine journal entries and other adjustments for evidence of possible material misstatement due to fraud.[22]

17. During the Audit, Respondent and the engagement team identified the recording of journal entries as a fraud risk factor related to potential management override of controls. Respondent and the engagement team planned to respond to this risk by, among other things, testing journal entries.

18. The engagement team planned to use a journal entry testing tool ("JET Tool") to select and analyze journal entries for testing in response to the requirements of AU § 316.[23] During the Audit, however, the engagement team was unable to run the JET Tool due to an inability to reconcile the extracted journal entry data to the Company's general ledger. Respondent and the engagement team did not adjust their audit approach in response. And although Respondent and the engagement team selected journal entries for testing in various parts of the Audit, those journal entries were neither selected for purposes of identifying, nor examined for evidence of, possible material misstatements due to fraud. Respondent accordingly violated AU § 316,[24] as well as AU §§ 230,[25] 311,[26] and 326,[27] by failing to exercise due professional care and professional skepticism, failing to obtain reasonable assurance that SCC's 2010 financial statements were free of material misstatement, whether caused by error or

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[20] AU § 110.02, *Responsibilities and Functions of the Independent Auditor*; AU § 316.01, *Consideration of Fraud in a Financial Statement Audit*.

[21] AU § 316.57.

[22] AU §§ 316.58 and .61.

[23] AU §§ 316.58 and .61.

[24] AU §§ 316.58 and .61.

[25] AU § 230.02.

[26] AU § 311.11.

[27] AU § 326.01.

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fraud, and failing to adequately supervise the members of the engagement team responsible for testing journal entries for possible misstatements due to fraud.

Respondent Failed to Perform Necessary Procedures Regarding the Specialists Used on the Audit

19. During the course of the Audit, the Company used the services of three sets of specialists. One set of specialists was comprised of SCC employees who estimated the quantities of proven and probable mineral reserves.[28] The remaining two sets of specialists were engaged by the Company, one to determine labor obligations and employee benefits related to calculating the net pension assets, and one to determine the useful lives of certain equipment for purposes of calculating depreciation expense. In violation of PCAOB standards, Respondent and his engagement team used the work of those specialists in conducting the Audit without adequately reviewing their qualifications, the nature of the work they performed, their relationships with the Company, and other information necessary to determine whether to use their findings.

20. When using the work of a specialist on an audit, PCAOB standards provide that the auditor should evaluate the professional qualifications of the specialist in determining that the specialist possesses the necessary skill or knowledge in the particular field.[29] PCAOB standards also provide that the auditor should obtain an understanding of the nature of the work performed or to be performed by the specialist.[30]

21. PCAOB standards further provide that the auditor should evaluate the relationship of the specialist to the client, including circumstances that might impair the specialist's objectivity. Such circumstances include situations in which the client has the ability through employment to directly or indirectly control or significantly influence the specialist.[31]

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[28] SCC's mineral reserves were estimated quantities of proven and probable material that could be mined and processed for extraction of mineral content. The mineral reserves were used to determine the amortization of mine development and intangible assets, and depreciation of buildings and equipment.

[29] AU § 336.08, *Using the Work of a Specialist*.

[30] AU § 336.09 (footnote omitted).

[31] AU § 336.10 (footnote omitted).

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22. When using the work of a specialist, the auditor should (a) obtain an understanding of the methods and assumptions used by the specialist, (b) make appropriate tests of data provided to the specialist, taking into account the auditor's assessment of control risk, and (c) evaluate whether the specialist's findings support the related assertions in the financial statements.[32]

23. Respondent and the engagement team documented that mineral reserves and depreciation and depletion expense were significant risk areas for the Audit. Labor obligations were a significant risk area as to a material subsidiary in the Audit. Thus, some or all of each set of specialists' work arose in an area of the Audit considered a significant risk.

24. For two sets of specialists -- labor obligations and employee benefits, and mineral reserves -- Respondent and the engagement team failed to perform procedures regarding the qualifications of the specialists, the nature of the work performed by the specialists, the specialists' relationships with the Company, and information necessary to determine whether to use the findings of the specialists. As a result, with respect to these two sets of specialists, Respondent failed to exercise due professional care and professional skepticism, failed to gather sufficient competent evidential matter, and violated AU § 336.08, .09, .10, and .12.

25. For the remaining set of specialists working on useful lives of certain equipment, during the Audit, Respondent and the engagement team failed to perform procedures regarding the qualifications of the specialists, the specialists' relationships with the Company, and information necessary to determine whether to use the findings of the specialists. As a result, with respect to this set of specialists, Respondent failed to exercise due professional care and professional skepticism, failed to gather sufficient competent evidential matter, and violated AU § 336.08, .10, and .12.

26. In addition, with respect to all three sets of specialists, because Respondent did not adequately review the qualifications of the specialists, the specialists' relationships with the Company, and information necessary to determine whether to use the findings of the specialists, he did not sufficiently evaluate the reasonableness of estimates for which the specialists were responsible, including estimates related to mineral reserves and useful lives of certain equipment. As a result, Respondent failed to exercise due professional care and professional skepticism, and failed to sufficiently evaluate the reasonableness of significant accounting estimates in violation of AU § 342.04.

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[32] AU § 336.12.

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E. Respondent Violated PCAOB Rules and Standards After the Issuance of the Audit Reports

Respondent Violated the PCAOB Audit Documentation Standard in Connection with an Internal Inspection of the Audit

27. On April 11, 2011, the engagement team assembled for retention the complete and final set of documentation for the Audit (the "April Archive"). On or before July 20, 2011, Respondent was notified that the Audit had been selected for an internal practice review ("Practice Review"). The Practice Review, which was part of the Firm's system of quality control, was scheduled to take place in early August 2011. In connection with the Practice Review, Respondent violated PCAOB standards by improperly altering audit work papers.

28. PCAOB audit documentation standards require that the complete and final set of documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its report.[33] After the documentation completion date, audit documentation must not be deleted, modified, or discarded from the audit file, but it may be added as long as the auditor documents the date of the addition, the person who prepared the additional documentation, and the reason for adding the documentation.[34]

29. When Respondent and the engagement team created the April Archive, the work papers did not include certain audit documentation required to support the Audit reports Respondent had authorized. For example, the April Archive did not contain an engagement completion document, work papers related to the tax treatment of unremitted earnings of a foreign subsidiary, and other work papers that were necessary to support the Audit reports but were not timely assembled for retention.

30. Upon learning of the impending Practice Review, in late July 2011, Respondent directed certain other members of the engagement team to review the April Archive. Through that process, Respondent and certain other members of the engagement team became aware that the April Archive did not contain numerous work papers that were necessary to support the Audit reports and, in fact, contained work papers that did not even relate to the Audit.

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[33] See AS3 ¶ 15.

[34] See AS3 ¶ 16.

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31. In response, Respondent and certain other members of the engagement team reopened the April Archive in late July 2011 ("July Reopening"). The July Reopening of the April Archive was approved by Respondent and the Audit Engagement Quality Reviewer ("EQR"), in accordance with the Firm's internal policies. The form completed by the Respondent and other engagement team members stated that the July Reopening was necessary to make limited administrative corrections to a single work paper, and no other changes would be made to the April Archive. The EQR approved the July Reopening based on the information provided in this form. During the July Reopening, Respondent and certain other members of the engagement team violated AS3 by improperly deleting 21 work papers from the April Archive, improperly altering 36 existing work papers, and improperly adding 41 work papers.

32. Among the work papers added was a memorandum that Respondent directed other engagement team members to create in order to describe procedures purportedly performed during the Audit to address the journal entry testing requirements of PCAOB standards ("July JET Memorandum").[35] During the July Reopening, engagement team members created the July JET Memorandum, as Vargas directed, improperly backdated it to make it appear that it had been created during the Audit, backdated all electronic sign-offs, including Respondent's, and placed the memorandum in the Firm's documentation archiving system. During the July Reopening, Respondent and certain other members of the engagement team also added other significant work papers to the Audit documentation, including an engagement completion document, without indicating that those work papers were being added after the documentation completion date for the Audit. When Respondent and certain other members of the engagement team documented the reason for opening the Audit archive on July 29, 2011, they falsely stated the reason for reopening the archive, and failed to disclose the addition of necessary audit documentation, such as the July JET Memorandum and an engagement completion document.

33. During the July Reopening, Respondent and certain other members of the engagement team also backdated multiple review sign-offs on other work papers to make it appear that all of the reviews of work papers had taken place prior to the release date of the Audit reports. Once the Respondent and certain other members of the engagement team completed the improper alterations to the April Archive, they closed it, thus creating a new Audit archive ("July Archive").

34. The Practice Review team thereafter conducted its review of the Audit based on the July Archive, and not based on the audit work the team documented in the original April Archive. After reviewing the documentation contained in the July Archive,

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[35] See AU § 316.01, .57-.61.

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the Practice Review team made multiple negative observations concerning the work documented. In response, Respondent arranged for the July Archive to be reopened in December 2011 for the stated reason of adding work papers that existed prior to the documentation completion date but were not previously included in the Audit archive ("December Reopening").

35. On or about November 22, 2011, Respondent and others on the engagement team prepared a memorandum ("November Memorandum"), for inclusion in the Audit archive, which stated that seven work papers were modified and 39 work papers were added to the July Archive during the December Reopening. The November Memorandum, however, contained multiple errors and did not satisfy the requirements of AS3. Contrary to the text of the November Memorandum, during the December Reopening, four work papers were modified and 43 work papers were added to the July Archive. Among the work papers added during the December Reopening were the 2010 Tax Memorandum and other tax-related work papers. Once Respondent and certain other members of the engagement team completed the alterations to the July Archive, they closed the Audit archive, thus creating a new Audit archive ("December Archive").

36. As a result of his improper alteration of audit documentation, including the improper alteration of the work paper that was identified as the justification for the July Reopening, Respondent violated AS3.[36]

Respondent Failed to Cooperate with the Board's Inspection by Making Available to Inspections Improperly Altered Documents and Other Misleading Information

37. On February 6, 2012, the Board notified the Firm that Inspections would inspect the Audit ("Board's Inspection"). The Act "requires the Board to conduct a 'continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons . . . with [the Act], the rules of the Board, the rules of the Commission, or professional standards.'"[37]

38. PCAOB rules require an associated person of a registered public accounting firm to "cooperate with the Board in the performance of any Board

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[36] See AS3 ¶ 16.

[37] *Gately & Associates, LLC*, SEC Rel. No. 34-62656 at 2 (Aug. 5, 2010) (quoting Section 104(a) of the Act).

inspection."[38] This cooperation obligation "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes."[39]

Respondent Completed a Misleading Engagement Profile

39. Field work for the Board's Inspection took place during the weeks of March 26 and April 2, 2012. On or before February 23, 2012, Respondent was notified that the Audit would be inspected. Before field work began, Inspections asked the Firm to complete a document entitled Public Company Accounting Oversight Board 2011 Inspection Period International Engagement Profile ("Engagement Profile"). Respondent and certain other members of the engagement team drafted responses to relevant portions of the Engagement Profile, and Respondent reviewed and revised the document prior to its submission to Inspections. One of the sections in the Engagement Profile was entitled "Documentation completion date." In responding to this section, Respondent and certain other members of the engagement team made reference to the April Archive and the December Archive but failed to reveal the existence of the July Archive.

40. The next section in the Engagement Profile asked: "Have there been any changes made to the audit documentation subsequent to the documentation completion date [?] If yes, please explain the nature of the changes below, and provide a summary log of when the changes were made." In reply to this question, Respondent and certain other members of the engagement team checked the box signifying that changes had been made and attached the November Memorandum which described, in part, the alterations made during the December Reopening. Respondent did not, however, reveal any of the numerous alterations made to the April Archive during the July Reopening.

41. At no point in time did Respondent disclose to Inspections that Respondent and certain other members of the engagement team had, in fact, improperly created, added, backdated, modified, and deleted numerous work papers during the July Reopening, months after the documentation completion date, and

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[38] PCAOB Rule 4006.

[39] *Nathan M. Suddeth, CPA*, PCAOB Rel. No. 105-2013-007, ¶ 4 (Sept. 10, 2013).

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shortly before the Practice Review. By providing misleading information to Inspections in the Engagement Profile, Respondent violated PCAOB Rule 4006.

Respondent Made Misleading Work Papers and Other Documents Available to Inspections

42. During field work for the Board's Inspection, the Firm made the work papers from the December Archive available to Inspections in electronic form. The December Archive included the documents improperly created, added, backdated, and modified from the April Archive, and excluded the documents improperly deleted from the April Archive. During the inspection process, Respondent had numerous conversations with PCAOB inspectors concerning the work he and others had performed during the Audit. At no time, however, did Respondent advise the PCAOB inspectors that any of these documents were improperly altered during the July Reopening even though he understood that Inspections was relying upon the December Archive to perform the inspection.

43. Respondent understood that Inspections could request and receive copies of individual work papers from the Audit. During inspection field work, PCAOB inspectors requested copies of certain work papers, including certain of the improperly created, backdated, and added documents. In response to such a request, on April 5, 2012, Respondent emailed a PCAOB inspector copies of the engagement completion document and the audit planning memorandum.

44. At no time did Respondent disclose to Inspections that the engagement completion document was improperly added and the audit planning memorandum was improperly modified during the July Reopening.

45. On June 6, 2012, Inspections issued a Comment Form to the Firm describing audit work related to journal entry testing and specifically referencing the improperly created and backdated July JET Memorandum. On June 18, 2012, Respondent signed off as agreeing with the factual recitation within the Comment Form, including the recitation of certain facts pulled directly from the improperly created and backdated July JET Memorandum.

46. At no time did Respondent disclose to Inspections that the July JET Memorandum was improperly created, backdated, and added to the April Archive during the July Reopening.

47. As a result of the conduct described above, Respondent failed to cooperate with the Board's Inspection, in violation of Rule 4006.

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Respondent Failed to Cooperate with the Board's Investigation

48. On January 22, 2015, the Board's Division of Enforcement and Investigations staff (the "Division") began conducting a formal investigation of the Audit. Section 105(b)(3) of the Act authorizes the Board to impose disciplinary sanctions if a registered public accounting firm or associated person refuses to testify, produce documents, or otherwise cooperate with a Board investigation. PCAOB rules include procedures for implementing that authority.[40] Noncooperation with a Board investigation includes (a) knowingly making false material declarations; (b) using documents while knowing that such documents contain false material declarations; (c) failing to comply with an accounting board demand; (d) abusing the Board's processes to obstruct an investigation; and (e) otherwise failing to cooperate in connection with an investigation.[41]

49. On February 4, 2015, the Division issued an Accounting Board Demand ("ABD") to the Firm requiring the Firm to produce, among other things, all work papers and other documents concerning the Audit ("February 4 ABD").

50. On September 25, 2015, the Division issued an ABD to Respondent ("September 25 ABD") requiring him to appear for testimony and produce, among other things, the same SCC work papers sought from the Firm in the February 4 ABD.

51. Respondent took part in the production of work papers by the Firm in response to the February 4 ABD and the September 25 ABD. Respondent and the Firm failed to produce the work papers from the April Archive, as required by those ABDs, and instead, as Respondent was aware, the Firm produced work papers that had been improperly altered during the July Reopening. Production of those improperly altered work papers constituted use of documents that Respondent knew to contain false material declarations.

52. Pursuant to the September 25 ABD, Respondent testified under oath on January 18 through 21, 2016. Despite being questioned in testimony regarding work papers that were improperly added to the April Archive, Respondent failed to disclose the Board's enforcement staff that those work papers were improperly altered during the July Reopening.

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[40] See PCAOB Rule 5110, *Noncooperation with an Investigation*, and Rule 5200(a)(3), *Commencement of Disciplinary Proceedings*.

[41] See PCAOB Rule 5110(a).

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53. As described above, Respondent failed to cooperate with the Board's investigation by failing to comply with an ABD, using documents knowing them to contain false material declarations, and otherwise failing to cooperate in connection with the Board's investigation.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Sections 105(c)(4)(E) and 105(b)(3)(A)(iii) of the Act and PCAOB Rules 5300(a)(5) and (b)(1), Arturo Vargas Arellano, CPC is hereby censured;

B. Pursuant to Sections 105(c)(4)(B) and 105(b)(3)(A)(i) of the Act and PCAOB Rule 5300(a)(2) and (b)(1), Arturo Vargas Arellano, CPC is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[42]

C. After five (5) years from the date of this Order, Arturo Vargas Arellano, CPC may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4) and (b)(1), a civil money penalty in the amount of $50,000 is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the

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[42] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Vargas. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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Act. Arturo Vargas Arellano shall pay this civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Arturo Vargas Arellano, CPC as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

December 5, 2016

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Miguel Angel Asencio Asencio,* *Respondent.*	PCAOB Release No. 105-2016-046 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring Miguel Angel Asencio Asencio ("Asencio" or "Respondent"); (2) barring him from being an associated person of a registered public accounting firm;[1] and (3) imposing on him a civil money penalty in the amount of $25,000. The Board is imposing these sanctions on the basis of its findings that Asencio: (1) violated PCAOB rules and standards in connection with an audit of the financial statements of an issuer audit client; and (2) failed to cooperate with a Board inspection by providing misleading information to the Board's inspections staff.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted,

[1] Respondent may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. Miguel Angel Asencio Asencio, age 46, of Mexico City, Mexico, is a certified public accountant licensed by the State of New Hampshire (license no. 35019) and under the laws of Mexico (license no. 10795). At all relevant times and beginning in 2006, Asencio was a partner in the Mexico City, Mexico office of Galaz, Yamazaki, Ruiz Urquiza, S.C. ("Deloitte Mexico" or "Firm") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). The Firm is a member of the Deloitte Touche Tohmatsu Limited global network. Asencio served as a partner supervising the audit procedures performed for certain Mexican subsidiaries of Southern Copper Corporation ("SCC" or "Company") for the years ending December 31, 2009 through December 31, 2013. In the second quarter of 2014, Deloitte Mexico removed Asencio from the SCC audit engagement team, and in May, 2016 removed Asencio from the Firm's audit practice, after the discovery of his improper alteration of certain 2010 SCC audit work papers.

B. Issuer

2. SCC is a Delaware corporation headquartered in Phoenix, Arizona. SCC's public filings disclose that SCC is a large integrated copper producer with mining, smelting and refining facilities located in Peru and Mexico. Its common stock is listed on both the New York and Lima Stock Exchanges under the symbol "SCCO." At all

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[2] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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relevant times, SCC was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

3. This matter concerns Respondent's violations of PCAOB rules and standards during the course of the Firm's audits of the Company's December 31, 2010 financial statements and the Company's internal control over financial reporting ("ICFR") as of December 31, 2010 (the "Audit"), as well as his misconduct in connection with a subsequent PCAOB inspection. During the Audit, Respondent and other members of the engagement team failed to timely assemble for retention all audit documentation required by PCAOB Auditing Standard No. 3, *Audit Documentation* ("AS3").[4]

4. After the documentation completion date for the Audit, Respondent and certain other members of the engagement team improperly altered the documentation for the Audit.[5] Specifically, in advance of a post-audit internal practice review performed by the Firm ("Practice Review"),[6] Respondent and certain other members of the engagement team violated AS3 by deleting work papers from and making other alterations to the documentation that had previously been assembled for retention for the Audit. In addition, Respondent and certain other members of the engagement team made additions and other alterations to the previously assembled documentation, without identifying when the changes were made, who made them, and why they were made, in violation of AS3.

5. Beginning in March 2012, the staff of the Board's Division of Registration and Inspections ("Inspections") inspected the Audit. In connection with the inspection, the Firm made available to Inspections the Audit work papers Respondent and other members of the engagement team had previously improperly altered, as well as other misleading information. At no time did Respondent inform Inspections of the improper alterations and other misleading information. As a result, Respondent violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*.

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[4] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct.

[5] See *Arturo Vargas Arellano*, PCAOB Rel. No. 105-2016-045 (Dec. 5, 2016); *Aldo Hidalgo de la Rosa*, PCAOB Rel. No. 105-2016-047 (Dec. 5, 2016).

[6] During the relevant period, the Firm performed annual audit practice reviews. According to the Firm's policies, audit practice reviews serve to provide reasonable assurance that the firm's system of quality control is appropriately designed, relevant, adequate, operating effectively and complied with in practice.

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D. Respondent Violated PCAOB Rules and Standards During the Course of the Audit

6. The Firm has been the external auditor for SCC since 2009. On February 25, 2011, the Firm issued unqualified opinions in the Audit reports that were included in the Company's Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") on February 28, 2011. The Audit reports stated that, in the Firm's opinion, the Company's financial statements presented fairly, in all material respects, the Company's financial position, and the results of its operations and cash flows in conformity with U.S. Generally Accepted Accounting Principles, and that the Company maintained, in all material respects, effective ICFR as of December 31, 2010. The Audit reports also stated that the Audit was conducted in accordance with PCAOB standards.

7. Respondent served as a second partner on the Audit and was supervised by the engagement partner. In his role as a second partner for the Audit, Respondent was responsible for supervising certain other members of the Audit engagement team that worked on the part of the Audit relating to SCC's Mexican subsidiary, Industrial Minera Mexico, S.A. de CV ("IMMSA").

8. PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[7]

9. The auditor must prepare audit documentation in connection with each engagement conducted pursuant to the standards of the PCAOB.[8] That documentation should be prepared in sufficient detail to provide a clear understanding of its purpose, source, and the conclusions reached.[9]

10. PCAOB audit documentation standards require that the complete and final set of documentation for an audit be assembled for retention by the documentation completion date, a date no later than 45 days after the date on which the auditor grants permission to use its report.[10] After the documentation completion date, audit

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[7] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards.*

[8] AS3 ¶ 4.

[9] Id.

[10] See id. ¶ 15.

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documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date of the addition, the name of the person who prepared the additional documentation, and the reason for adding the documentation.[11]

11. As the partner supervising the IMMSA audit work, Respondent was responsible for documentation of the audit procedures performed on the IMMSA subsidiary. It was the responsibility of Respondent and the engagement partner to ensure that the IMMSA audit work papers were assembled for retention by the documentation completion date for the Audit in accordance with PCAOB standards.

12. The Audit engagement team assembled the SCC audit documentation for retention on April 11, 2011, the documentation completion date ("April Archive"). Within the April Archive was a work paper stating that the IMMSA work papers supporting the Audit reports were contained in a separate file. However, Respondent and the engagement partner failed to assemble those IMMSA-related work papers for retention by April 11, 2011. In fact, Respondent and the engagement partner did not assemble any IMMSA work papers for retention until June 8, 2011. As a result of this conduct, Respondent violated AS3.

E. Respondent Violated PCAOB Rules and Standards After the Issuance of the Audit Reports

Respondent Violated PCAOB Audit Documentation Standards in Connection with an Internal Inspection of the Audit

13. On or before July 20, 2011, Respondent was notified that the Audit had been selected for an internal Practice Review. The Practice Review, which was part of the Firm's system of quality control, was scheduled to take place in early August 2011. In connection with the Practice Review, Respondent violated PCAOB standards by improperly altering Audit work papers.

14. Upon learning of the impending Practice Review, in late July 2011, Respondent directed certain other members of the engagement team to review the IMMSA-related work papers that had been assembled for retention in June for completeness and to identify work papers that had been omitted.[12] Through that

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[11] See id. ¶ 16.

[12] As noted above, the IMMSA-related work papers were assembled for retention in June 2011, the month before Respondent was informed of the Practice Review. They had not been assembled for retention by the documentation completion date for the Audit, a violation of AS3.

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process, Respondent and certain other members of the engagement team became aware of deficiencies in the IMMSA-related work papers for the Audit.

15. In response, Respondent and certain other members of the engagement team accessed the IMMSA-related work papers that had been assembled for retention ("IMMSA Reopening"). The form completed by the Respondent and other engagement team members stated that the IMMSA Reopening was necessary to make limited administrative corrections to add a single work paper, and no other changes would be made to the separate IMMSA file. The senior manager on the engagement thereafter signed and entered into the Firm's archiving system a declaration stating that, during the IMMSA Reopening, only one IMMSA-related work paper would be added to the previously-assembled work papers and no IMMSA-related work papers would be deleted or altered. Respondent signed and entered into the Firm's archiving system a similar declaration and approved the IMMSA Reopening. The Engagement Quality Reviewer for the part of the Audit related to IMMSA approved the IMMSA Reopening based on the information in these declarations.

16. Contrary to Respondent's declaration, during the IMMSA Reopening, Respondent and certain other members of the engagement team violated AS3 by improperly deleting from the separate IMMSA file 26 IMMSA-related work papers that had previously been assembled for retention, improperly altering 90 existing IMMSA-related work papers, and improperly adding 17 IMMSA-related work papers to the separate IMMSA file.

17. As a result of his improper alteration of IMMSA-related audit documentation, Respondent violated AS3.

Respondent Failed to Cooperate with the Board's Inspection by Providing Misleading Information to Inspections

18. On February 6, 2012, Inspections notified the Firm that it would inspect the Audit ("Board's Inspection"). The Act "requires the Board to conduct a 'continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons . . . with [the Act], the rules of the Board, the rules of the Commission, or professional standards.'"[13]

19. PCAOB rules require an associated person of a registered public accounting firm to "cooperate with the Board in the performance of any Board

[13] *Gately & Associates, LLC*, SEC Rel. No. 34-62656 at 2 (Aug. 5, 2010) (quoting Section 104(a) of the Act).

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inspection."[14] This cooperation obligation "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes."[15]

20. Field work for the Board's Inspection took place during the weeks of March 26 and April 2, 2012. By that time, Respondent was aware that, in addition to the IMMSA-related work papers, other work papers for the Audit had been improperly altered in July 2011 in advance of the Practice Review. Those improperly altered work papers were then made available to Inspections in connection with the Board's Inspection of the Audit. During the inspection process, Respondent was interviewed by, and had discussions with, PCAOB inspectors based on the improperly altered work papers. Respondent provided misleading information to Inspections by participating in that interview and those discussions without informing Inspections that the interview and discussions were based on documents that had been improperly altered.

21. As a result of this conduct, Respondent failed to cooperate with the Board's Inspection, in violation of Rule 4006.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Miguel Angel Asencio Asencio, is hereby censured.

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Miguel Angel Asencio Asencio, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[16]

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[14] PCAOB Rule 4006.

[15] *Nathan M. Suddeth, CPA*, PCAOB Rel. No. 105-2013-007, ¶ 4 (Sept. 10, 2013).

[16] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Respondent. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection

ORDER

C. After two (2) years from the date of this Order, Miguel Angel Asencio Asencio, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Miguel Angel Asencio Asencio shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Miguel Angel Asencio Asencio as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 5, 2016

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willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Aldo Hidalgo de la Rosa,* *Respondent.*	PCAOB Release No. 105-2016-047 December 5, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Aldo Hidalgo de la Rosa ("Hidalgo" or "Respondent"). The Board is imposing this sanction on the basis of its findings that Hidalgo violated PCAOB rules and standards by improperly altering audit documentation for an issuer audit in violation of PCAOB Auditing Standard No. 3, *Audit Documentation* ("AS3").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

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III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Aldo Hidalgo de la Rosa, age 36, of Del Venustiano Carranza, Mexico, is a registered public accountant who is licensed under the laws of Mexico (license no. 4258172). At all relevant times and beginning in 2009, Hidalgo was an audit senior in the Mexico City, Mexico office of Galaz, Yamazaki, Ruiz Urquiza, S.C. ("Deloitte Mexico" or "Firm") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). The Firm is a member of the Deloitte Touche Tohmatsu Limited global network. Hidalgo served as an audit senior for the audits of Southern Copper Corporation ("SCC" or "Company") for the years ended December 31, 2009 through December 31, 2010. In the fourth quarter of 2011, Hidalgo took employment elsewhere and left Deloitte Mexico.

B. Issuer

2. SCC is a Delaware corporation headquartered in Phoenix, Arizona. SCC's public filings disclose that SCC is a large integrated copper producer with mining, smelting and refining facilities located in Peru and Mexico. Its common stock is listed on both the New York and Lima Stock Exchanges under the symbol "SCCO." At all relevant times, SCC was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

3. This matter concerns Respondent's violations of PCAOB rules and standards following the Firm's audits of the Company's December 31, 2010 financial statements and the Company's internal control over financial reporting ("ICFR") as of December 31, 2010 (the "Audit").[2] Respondent was the audit senior for the Audit and had served as the audit senior for the Company's audits since 2009. Respondent was supervised by the engagement partner and a senior manager on the Audit.[3]

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[2] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct.

[3] See *Arturo Vargas Arellano*, PCAOB Rel. No. 105-2016-045 (Dec. 5, 2016).

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4. After the issuance of the Audit reports, Respondent and certain other members of the engagement team improperly altered the documentation for the Audit after the documentation completion date. Specifically, in advance of a post-audit internal practice review performed by the Firm ("Practice Review"),[4] Respondent and certain other members of the engagement team violated AS3 by deleting work papers and making other alterations to documentation that had previously been assembled for retention for the Audit. In addition, Respondent and certain other members of the engagement team made additions to the previously assembled documentation without identifying when the additions were made, who made them, and why they were made, as required by AS3.

D. Respondent Violated PCAOB Rules and Standards After the Audit

5. The Firm has been the external auditor for SCC since 2009. On February 25, 2011, the Firm issued unqualified opinions in the Audit reports that were included in the Company's Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") on February 28, 2011. The Audit reports stated that, in the Firm's opinion, the Company's December 31, 2010 financial statements presented fairly, in all material respects, the Company's financial position, and the results of its operations and cash flows in conformity with U.S. Generally Accepted Accounting Principles, and that the Company maintained, in all material respects, effective ICFR as of December 31, 2010. The Audit reports also stated that the Audit was conducted in accordance with PCAOB standards.

6. PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[5]

7. The PCAOB audit documentation standard requires that the complete and final set of documentation for an audit be assembled for retention by the documentation completion date, a date no later than 45 days after the date on which the auditor grants permission to use its audit reports.[6] After the documentation completion date, audit

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[4] During the relevant period, the Firm performed annual audit practice reviews. According to the Firm's policies, audit practice reviews serve to provide reasonable assurance that the firm's system of quality control is appropriately designed, relevant, adequate, operating effectively and complied with in practice.

[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards.*

[6] See AS3 ¶ 15.

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documentation must not be deleted, modified, or discarded from the audit file, but it may be added as long as the auditor documents the date of the addition, the name of the person who prepared the additional documentation, and the reason for adding the documentation.[7]

Respondent Violated the PCAOB Audit Documentation Standard in Anticipation of an Internal Practice Review of the Audit

8. On April 11, 2011, the engagement team assembled for retention the complete and final set of documentation for the Audit (the "April Archive"). During July 2011, Respondent was informed by his supervisors on the engagement team that the Audit had been selected for a Practice Review. The Practice Review, which was part of the Firm's system of quality control, was scheduled to take place in early August 2011. In anticipation of the Practice Review, Respondent and other members of the engagement team violated PCAOB standards as a result of the improper creation, addition, modification, deletion, and backdating of audit work papers.

9. When Respondent and the engagement team created the April Archive, the work papers did not include certain audit documentation required to support the Audit reports pursuant to PCAOB standards. For example, the April Archive did not contain an engagement completion document, certain tax work papers, and other work papers that were necessary to support the Audit reports but were not timely assembled for retention.

10. Upon learning of the impending Practice Review, in late July 2011, Respondent and certain other members of the engagement team, at the direction of the SCC engagement partner, reviewed the April Archive for completeness and to identify work papers that were omitted from the April Archive. Through that process, Respondent and certain other members of the engagement team became aware that the April Archive did not contain numerous work papers that were necessary to support the Audit reports and, in fact, contained work papers that did not even relate to the Audit.

11. In response, Respondent and certain other members of the engagement team reopened the April Archive in late July 2011 ("July Reopening"). The request for the July Reopening was submitted by the senior manager and approved by the engagement partner and one other Firm audit partner, as required by the Firm's internal policies.

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[7] See id. ¶ 16.

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12. During the July Reopening, Respondent and certain other members of the engagement team violated AS3 by improperly deleting 21 work papers from the April Archive, improperly altering 36 existing work papers, and improperly adding 41 work papers.

13. Among the work papers added in the July Reopening was a memorandum that the engagement partner directed the Respondent and other engagement team members to create in order to describe procedures purportedly performed during the Audit to address the journal entry testing requirements of PCAOB standards ("July JET Memorandum"). During the July Reopening, engagement team members, including Respondent, created the July JET Memorandum, as the engagement partner directed, improperly backdated it to make it appear that it had been created during the Audit, backdated all electronic sign-offs, including Respondent's, and placed the July JET Memorandum in the Firm's documentation archiving system. During the July Reopening, Respondent and certain other engagement team members also added other significant work papers to the audit documentation, including an engagement completion document. Other engagement team members submitted a request to close the file which did not indicate the dates the documents were added to the work papers, the names of the persons preparing the additional documentation, and the reason for adding the documentation months after the documentation completion date.

14. During the July Reopening, Respondent and certain other members of the engagement team backdated multiple preparation and review sign offs on other work papers as well to make it appear that preparation and review of the work papers had taken place prior to the release date of the Audit reports.

15. As a result of his improper alteration of audit documentation, Respondent violated AS3.

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ORDER

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that, pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Aldo Hidalgo de la Rosa is hereby censured.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 5, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Bojan Stokic, CPA*, *Respondent.*	PCAOB Release No. 105-2016-048 December 13, 2016

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Bojan Stokic ("Respondent" or "Stokic") and suspending him from being an associated person of a registered public accounting firm for a period of one year from the date of this Order. The Board is imposing these sanctions on the basis of its findings that, in connection with his role as the engagement quality reviewer for the audit of Capstone Financial Group, Inc.'s ("Capstone") financial statements for the year ended December 31, 2013, and review of Capstone's financial statements for the quarter ended March 31, 2014, Stokic violated PCAOB Auditing Standard No. 7, *Engagement Quality Review* ("AS 7").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds[2] that:

A. Respondent

1. Bojan Stokic, CPA, age 38, of Las Vegas, Nevada, is a certified public accountant licensed by the Nevada State Board of Accountancy (License # CPA-5331). At all relevant times, Stokic was an audit partner with Seale and Beers, CPAs, LLC ("S&B" or "Firm"), a limited liability company headquartered in Las Vegas, Nevada. Stokic was, at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Stokic served as the engagement quality reviewer for S&B's audit and reviews of Capstone.

B. Summary

2. This matter concerns Stokic's violations of AS 7 while serving as the engagement quality reviewer for S&B's audit of Capstone's financial statements for the year ended December 31, 2013 ("FY 2013 Audit") and review of Capstone's financial statements for the quarter ended March 31, 2014 ("Q1 2014 Review").

3. During his engagement quality review ("EQR") for the FY 2013 Audit, Stokic failed to properly evaluate the significant judgments made, and the related conclusions reached, by the engagement team. Stokic also failed to properly evaluate the engagement documentation he reviewed, which did not contain an appropriate risk assessment or sufficient appropriate audit evidence for significant items in Capstone's

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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financial statements. As a consequence, Stokic provided his concurring approval of issuance without performing his review for the Firm's FY 2013 Audit with due professional care.

4. In connection with his EQR for the Q1 2014 Review, Stokic again failed to properly evaluate the significant judgments made, and the related conclusions reached, by the engagement team, failed to properly evaluate the engagement documentation he reviewed, and provided his concurring approval of issuance without performing his review with due professional care.

C. Requirements of PCAOB Auditing Standard No. 7

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with applicable auditing and related professional practice standards.[3]

6. AS 7 provides that an EQR and concurring approval of issuance are required for all audits and interim reviews conducted pursuant to PCAOB standards.[4]

7. The engagement quality reviewer may provide concurring approval of issuance for an audit report only if, after performing with due professional care the review required by AS 7, he or she is not aware of a significant engagement deficiency.[5]

8. In an audit engagement, an engagement quality reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[6] The engagement quality reviewer should, among other things,

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[3] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audit or review.

[4] See AS 7 ¶ 1.

[5] See id. ¶ 12 ("A *significant engagement deficiency* in an audit exists when (1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client.").

[6] See id. ¶ 9.

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evaluate the significant judgments that relate to engagement planning, including, but not limited to, the consideration of the company's business, recent significant activities, and related financial reporting issues and risks.[7] The engagement quality reviewer should also evaluate the engagement team's assessment of, and audit responses to, significant risks, including fraud risks, identified by the engagement team or other significant risks identified by the engagement quality reviewer through performance of the procedures required by AS 7.[8]

9. In an audit engagement, the engagement quality reviewer should review the engagement completion document and confirm with the engagement partner that there are no significant unresolved matters.[9] The engagement quality reviewer should also evaluate whether the engagement documentation that he or she reviewed indicates that the engagement team responded appropriately to significant risks and supports the conclusions reached by the engagement team with respect to the matters reviewed.[10]

10. In a review of interim financial information, the engagement quality reviewer may provide concurring approval of issuance only if, after performing with due professional care the review required by AS 7, he or she is not aware of a significant engagement deficiency.[11]

11. In performing an EQR for a review of interim financial information, the engagement quality reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement.[12] The engagement quality reviewer should also, among other things, evaluate the significant judgments that relate to engagement planning, including,

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[7] See id. ¶ 10(a).

[8] See id. ¶ 10(b).

[9] See id. ¶ 10(e).

[10] See id. ¶ 11.

[11] See id. ¶ 17 ("A *significant engagement deficiency* in a review of interim financial information exists when (1) the engagement team failed to perform interim review procedures necessary in the circumstances of the engagement, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client.").

[12] See id. ¶ 14.

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but not limited to, the consideration of the company's business, recent significant activities, and related financial reporting issues and risks.[13]

12. As part of the EQR for a review of interim financial information, the engagement quality reviewer should also evaluate whether the engagement documentation that he or she reviewed supports the conclusions reached by the engagement team with respect to the matters reviewed.[14]

13. Finally, documentation of an EQR for both audits and interim reviews should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the engagement quality reviewer, including, but not limited to, the documents reviewed by the engagement quality reviewer.[15]

D. Background

14. Capstone was incorporated in Nevada on July 10, 2012, under the name Creative App Solutions, Inc., as a development stage company engaged in the design and sale of mobile applications. On August 26, 2013, the name of the company was changed from Creative App Solutions, Inc. to Capstone Financial Group, Inc. and a new chief executive officer was appointed. Capstone underwent a change of control on September 6, 2013, when nearly 80 percent of the then issued and outstanding common stock was acquired by the newly-appointed chief executive officer.

15. Capstone entered into a revolving line of credit payable with Capstone Affluent Strategies, Inc. ("Affluent"), an entity owned and controlled by Capstone's new chief executive officer on August 8, 2013, according to documents contained in the Firm's FY 2013 Audit work papers. The work papers for the FY 2013 Audit also contain documents indicating that Capstone entered into a revolving line of credit receivable with Affluent on September 13, 2013. Both lines of credit initially had similar terms, including $500,000 in available credit, an interest rate of two percent per annum, and the principal and interest due two years from the date of execution. On October 7, 2013, Capstone and Affluent amended the line of credit receivable to increase, from $500,000 to $2,000,000, the amount of credit available to Affluent and to extend the maturity to two years from the date of the amendment.

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[13] See id. ¶ 15(a).

[14] See id. ¶ 16.

[15] See id. ¶ 19.

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16. Capstone retained the Firm as its independent public accounting firm on November 15, 2013. Stokic performed the EQR for the Firm's review of Capstone's financial statements for the quarter ended September 30, 2013 ("Q3 2013"), while another Firm partner served as the engagement partner. Capstone filed its Form 10-Q for Q3 2013 with the U.S. Securities and Exchange Commission (the "Commission") on November 19, 2013.

17. On December 13, 2013, Capstone filed a Form 8-K announcing that it had entered into an Acquisition Agreement and Plan of Merger ("Merger Agreement") by and among itself, a wholly owned subsidiary of Capstone, and Affluent. As a condition of the merger, Affluent was required to provide Capstone with audited financial statements for the fiscal years ended December 31, 2012 and 2013 within 74 days of the merger closing. The merger was set to close on January 15, 2014.

18. In early 2014, the Firm was engaged to perform an audit of Capstone's 2013 financial statements. Stokic again served as the engagement quality reviewer for the FY 2013 Audit, and the same partner who performed the Firm's review for Q3 2013 again served as the engagement partner. The engagement team for the FY 2013 Audit also included an audit senior who had joined the Firm in January 2014. On April 15, 2014, Capstone filed its 2013 Form 10-K with the Commission in which it disclosed, among other things, that it had completed the merger with Affluent on January 15, 2014. The Firm issued an audit report, dated April 15, 2014, that was included in Capstone's Form 10-K. The Firm's audit report opined that Capstone's financial statements for the year ended December 31, 2013 were presented fairly and in conformity with generally accepted accounting principles and included a going concern explanatory paragraph. The report also stated that the FY 2013 Audit had been conducted in accordance with PCAOB standards.

19. The Firm served as the auditor for the Q1 2014 Review, and the engagement team consisted of the Firm partner and audit senior who performed the FY 2013 Audit, with Stokic again serving as the engagement quality reviewer. On May 20, 2014, Capstone filed its Form 10-Q for the quarter ended March 31, 2014. As part of this filing, Capstone disclosed that the January 2014 merger with Affluent had been rescinded due to the failure of Affluent to provide audited financial statements in accordance with the Merger Agreement.

20. The Firm resigned as Capstone's auditors on July 31, 2014. Capstone failed to obtain new auditors by the time it filed its Form 10-Q for the quarter ended June 30, 2014, and the company's filing on August 19, 2014, noted that the financial statements had not been reviewed. Capstone subsequently engaged new independent auditors on September 5, 2014.

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21. On November 13, 2014, Capstone filed a Form 8-K announcing non-reliance on its financial statements for 2013 and the first two quarters of 2014. After receiving questions from the Commission, Capstone filed a Form 8-K/A on November 24, 2014, announcing further non-reliance on its financial statements for the second and third quarters of 2013. Ultimately, Capstone filed a Form 10-K/A on February 18, 2015, which restated its 2013 financial statements to reflect an additional $581,826 in operating expenses, a 188% increase from what was originally reported. Almost all of the increase in operating expenses was reflected in the restated financial statements as owed to Affluent under the revolving lines of credit.

22. Capstone's 2013 Form 10-K/A also disclosed that Affluent had been dissolved in April 2014, and that, in a series of transactions that transpired in October 2014 (the "October 2014 Transactions"), Capstone had undertaken liability for promissory notes with an original aggregate principal amount of $3.8 million issued by Affluent in favor of Capstone's chief executive officer. The 2013 Form 10-K/A also noted that, in connection with the October 2014 Transactions, the cross lines of credit between Capstone and Affluent were cancelled, but the filing did not include the financial statement impact of this cancellation. Capstone's 2014 Form 10-K, filed on April 30, 2015, disclosed that, in connection with the October 2014 Transactions, Capstone recorded a loss of $1,089,617 from the forgiveness of debt related to the lines of credit.

E. Stokic Violated PCAOB Auditing Standard No. 7 in Connection With the FY 2013 Audit

23. Stokic served as the engagement quality reviewer for the FY 2013 Audit. As detailed below, Stokic violated AS 7 by providing his concurring approval of issuance without performing an EQR for the FY 2013 Audit with due professional care.

Risk Assessment

24. Stokic failed to properly evaluate the significant judgments made, and the related conclusions reached, by the engagement team with respect to audit planning and risk assessment during the FY 2013 Audit.[16]

25. During the FY 2013 Audit, the risk assessment reviewed by Stokic did not assess or document risks of material misstatement at the financial statement level and the assertion level. Further, the financial statement items were aggregated in the risk assessment. As a result, the risk assessment did not identify significant accounts and

[16] See id. ¶¶ 10(a), (b).

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disclosures and their relevant assertions, and failed to evaluate the risk of material misstatement for such items, as required by PCAOB standards.[17] In addition, because the risk assessment did not properly assess the risks of material misstatement and failed to identify significant risks at the financial statement level and the assertion level, the overall strategy for the engagement failed to establish, and the audit plan failed to include, planned risk assessment procedures and planned responses to the risks of material misstatement.[18]

26. Although Stokic reviewed the planning memorandum containing the risk assessment, he provided his concurring approval of issuance without performing his review with due professional care.[19]

Related Party Transactions

27. During the third quarter of 2013, Capstone entered into both a revolving line of credit receivable and a revolving line of credit payable with Affluent, an entity owned and controlled by Capstone's chief executive officer and majority shareholder. As the engagement quality reviewer for the Firm's review of Capstone's Q3 2013 financial statements, Stokic was aware that these two entities were related and had entered into these transactions.

28. Capstone's bank activity statements included in the work papers for the FY 2013 Audit reflect that during the third and fourth quarter of 2013 Capstone repeatedly made cash withdrawals from its bank accounts shortly after receiving funds from either stock sales or revenue transactions. Each of these cash withdrawals were recorded by Capstone as advances to Affluent under the line of credit receivable. During the same time period, Capstone recorded numerous increases to the line of credit payable with Affluent, purportedly to reflect payment of expenses by Affluent that were made on Capstone's behalf.

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[17] See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement*, ¶ 59.

[18] See id.; Auditing Standard No. 9, *Audit Planning*, ¶¶ 4-5; Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement*, ¶ 8.

[19] See AS 7 ¶ 12; AU § 230, *Due Professional Care in the Performance of Work*.

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29. As of December 31, 2013, Capstone's revolving line of credit receivable from Affluent was $1,472,136, which accounted for 92.6 percent of Capstone's total reported assets of $1,589,042. Capstone's revolving line of credit payable to Affluent was $320,240 as of December 31, 2013, which accounted for 96.9 percent of Capstone's total reported liabilities of $330,359.

30. Stokic failed to properly evaluate the significant judgments made, and the related conclusions reached, by the engagement team with respect to related party transactions during the FY 2013 Audit.[20] Although Stokic reviewed the 2013 Form 10-K and engagement documentation regarding the lines of credit, Stokic failed to properly evaluate whether the engagement documentation that he reviewed supported the conclusions reached by the engagement team.[21] Specifically, the engagement documentation reviewed by Stokic did not document an understanding of the business purpose for having both a line of credit receivable and a line of credit payable with similar terms between the same counterparties. Further, the engagement documentation Stokic reviewed did not address several red flags around the related party transactions, including audit evidence suggesting that the money purportedly borrowed by Affluent may have been an illegal personal loan to Capstone's chief executive officer, and audit evidence that called into question whether documentation underlying the line of credit payable to Affluent had been backdated. Finally, the engagement documentation Stokic reviewed did not contain sufficient appropriate audit evidence as to the valuation of the lines of credit, including the collectibility of the line of credit receivable with Affluent.

31. As a result of the failures described above, Stokic provided his concurring approval of issuance without performing his review with due professional care.[22]

Review of the Engagement Completion Document

32. Under AS 7, an engagement quality reviewer is required to review the engagement completion document as part of the EQR.[23] The engagement completion document for the FY 2013 Audit was not in the work papers at the time that Stokic performed his EQR, and Stokic's signature is not on the engagement completion

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[20] See AS 7 ¶ 9.

[21] See id. ¶ 11.

[22] See AS 7 ¶ 12; AU § 230.

[23] See AS 7 ¶ 10(e).

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document in the audit documentation retained by S&B. Stokic violated AS 7 by failing to review the engagement completion document for the FY 2013 Audit.

F. Stokic Violated PCAOB Auditing Standard No. 7 in Connection With the Q1 2014 Review

33. Stokic served as the engagement quality reviewer for the Q1 2014 Review.

34. Capstone announced on December 13, 2013, that it was entering into the Merger Agreement with Affluent, whereby Affluent would become a wholly-owned subsidiary of the company, and subsequently disclosed in its FY 2013 Form 10-K, filed in April 2014, that the merger had closed in January 2014. Capstone's Form 10-Q for the quarter ended March 31, 2014, however, indicated that its merger with Affluent had been rescinded because Affluent was unable to provide audited financial statements as required by the Merger Agreement. The Form 10-Q also provided that the line of credit receivable with Affluent had increased by over $430,000 to $1,902,670 during the quarter, which represented 92.9 percent of Capstone's total reported assets.

35. Stokic failed to properly evaluate the significant judgments made, and the related conclusions reached, by the engagement team with respect to the line of credit receivable during the Q1 2014 Review.[24] Although Stokic reviewed Capstone's Form 10-Q for the quarter ended March 31, 2014 and the engagement team's Q1 2014 Review work papers related to the line of credit receivable, Stokic failed to properly evaluate whether the engagement documentation that he reviewed supported the conclusions reached by the engagement team.[25] Despite the red flags raised by the rescinded merger and Affluent's inability to provide audited financial statements, there was no evidence in the engagement documentation reviewed by Stokic of any procedures performed regarding the collectibility of the line of credit receivable from Affluent. As a result, Stokic provided his concurring approval without performing his review with due professional care.[26]

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[24] See id. ¶ 14.

[25] See id. ¶ 16.

[26] See id. ¶ 17; AU § 230.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Stokic's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Bojan Stokic, CPA is hereby censured; and

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Bojan Stokic, CPA is suspended for one (1) year from the date of this Order from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[27]

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 13, 2016

[27] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Stokic. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of David Lee Hillary, Jr. and David Lee Hillary, Jr., CPA* *Respondents.*	PCAOB Release No. 105-2016-049 December 13, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring David Lee Hillary, Jr. ("Firm"), a registered public accounting firm, and revoking the Firm's registration; and censuring David Lee Hillary, Jr., CPA ("Hillary"), and barring him from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings that: (a) Hillary and the Firm (collectively "Respondents") violated PCAOB rules and standards in connection with the Firm's audit of an issuer audit client's financial statements; (b) the Firm repeatedly violated Auditing Standard No. 7*, Engagement Quality Review* ("AS 7") in connection with 24 audits of issuer clients; and (c) Hillary directly and substantially contributed to the Firm's violations of AS 7.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the facts contained in paragraphs 15 through 20 and the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order

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Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[1]

III.

On the basis of Respondents' Offers, the Board finds[2] that:

A. Respondents

1. David Lee Hillary, Jr.[3] is a Domestic Limited Liability Company organized under the laws of the state of Indiana as Hillary CPA Group LLC, and headquartered in Noblesville, Indiana. The Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules since April 5, 2012. The Firm does not have an active license to practice as a CPA firm in Indiana. At all relevant times, the Firm was the external auditor for each of the issuers identified below.

2. David Lee Hillary, Jr., CPA, 57, of Noblesville, Indiana is the Managing Partner of David Lee Hillary, Jr., and a certified public accountant ("CPA") licensed by the Indiana Board of Accountancy (Lic. No. CP10500176). Hillary had final responsibility for, and authorized the issuance of reports on, the Firm's 24 audits of the financial statements of each of the issuers identified below. At all relevant times, Hillary was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[1] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] The Firm also uses the following names: David L. Hillary; David L. Hillary, Jr. CPA, CITP; David Lee Hillary, Jr. CPA, CITP; and Hillary CPA Group LLC.

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B. Summary

3. This matter concerns violations by Respondents of PCAOB rules and standards in connection with the Firm's audit of the December 31, 2014 financial statements of McorpCX, Inc. ("McorpCX").[4] As detailed below, Hillary and the Firm failed, among other things, to perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion;[5] to appropriately assess and respond to the risks of material misstatement;[6] and to carry out required communications with McorpCX's audit committee.[7]

4. The Firm also violated AS 7 in connection with 24 issuer audit engagements from 2012 through 2015 by failing to obtain engagement quality reviews before issuing its audit opinions even though such reviews were required to be performed. For three of these audits, the Firm failed to obtain engagement quality reviews despite being on notice of the requirement from inspectors from the PCAOB Division of Registration and Inspections ("Inspections").

C. Respondents Violated PCAOB Rules and Standards in Connection with the FYE December 31, 2014 McorpCX Audit

5. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[8] Among other things, PCAOB standards require that an auditor exercise due professional care, including professional skepticism, and obtain sufficient appropriate audit evidence to

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[4] All references to PCAOB auditing standards in this Order are to the versions of those standards in effect for the audits described herein.

[5] See Auditing Standard No. 15, *Audit Evidence* ("AS 15").

[6] See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"); Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13").

[7] See Auditing Standard No. 16, *Communications with Audit Committees* ("AS 16").

[8] See PCAOB Rules 3100, *Compliance with Auditing and Related Professional Standards*; 3200T, *Interim Auditing Standards*.

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afford a reasonable basis for an opinion regarding the financial statements.[9] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[10]

6. PCAOB standards require that an audit be properly planned,[11] that auditors identify and assess the risks of material misstatement at the financial statement level and the assertion level,[12] and that auditors design and perform audit procedures in a manner that addresses the risks of material misstatement for each relevant assertion of each significant account and disclosure.[13] The auditor should develop and document an audit plan that describes, among other things, the planned risk assessment procedures required to be performed so that the engagement complies with PCAOB standards.[14]

7. PCAOB standards require an auditor to communicate with a company's audit committee regarding certain matters related to the conduct of an audit and to obtain certain information from the audit committee relevant to the audit.[15]

8. As detailed below, Respondents failed to comply with the aforementioned rules and standards, among others, in connection with the McorpCX audit.

2014 Audit of McorpCX

9. McorpCX (formerly Touchpoint Metrics, Inc.) is a California corporation headquartered in San Francisco, California. McorpCX's public filings disclose that it is a customer experience management solutions company dedicated to helping

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[9] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; AS 15.

[10] See AU § 508.07, *Reports on Audited Financial Statements*.

[11] See AS 9 ¶ 4.

[12] See AS 12 ¶ 59.

[13] See AS 13 ¶ 8.

[14] See AS 9 ¶ 10.

[15] See AS 16 ¶ 1.

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organizations improve customer experiences, increase customer loyalty, reduce costs and increase revenue. Its common stock is registered under Section 12(g) of the Securities Exchange Act of 1934 and is quoted on the OTC Bulletin Board. At all relevant times, McorpCX was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

10. In performing the 2014 McorpCX audit, other than setting materiality, Respondents failed to perform any procedures to plan the audit, to identify the risks of material misstatement at the assertion level, and to address those risks.[16] They also failed to perform substantive procedures, including tests of details, that were specifically responsive to the assessed fraud risk involving improper revenue recognition and to evaluate which types of revenue, revenue transactions, or assertions may have given rise to a fraud risk.[17] Nor did they perform procedures to identify the risks of material misstatement at the assertion level or perform procedures designed to address those risks, including test of details.[18]

11. Respondents also failed to exercise due professional care and professional skepticism and obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report on McorpCX's financial statements.[19] McorpCX reported total revenue of $2,056,678 and deferred revenue of $91,319 (30% of liabilities) in 2014. Other than obtaining representations from management and tracing certain bank deposits to the general ledger, Respondents failed to perform any procedures to test the occurrence and allocation of revenue and the existence and valuation of deferred revenue reported by the company throughout the year.

12. Further, except for obtaining representations from management, Respondents also failed to perform any procedures to evaluate whether revenue recognition for the transactions was in conformity with U.S. GAAP.[20]

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16 See AS 9; AS 12; AS 13.

17 See AS 12 ¶ 68; AS 13.

18 See AS 12 ¶ 59; AS 13 ¶ 11.

19 See AU § 230.02; AS 15 ¶ 4.

20 See AS 14 ¶¶ 30-31.

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13. Additionally, McorpCX reported long term assets of $305,287 totaling 27% of total assets in 2014. Other than obtaining a representation from management with respect to intangible assets, Respondents failed to perform any audit procedures over McorpCX's long term assets. Respondents accordingly failed to obtain sufficient appropriate audit evidence regarding McorpCX's 2014 property and equipment, capitalized software costs, website development costs, intangible assets, and other long term assets.

14. Respondents also failed to establish an understanding of the terms of the audit engagement with the McorpCX audit committee.[21] In addition, Respondents failed to communicate to the audit committee an overview of the audit strategy, the timing of the audit, any significant risks identified during the risk assessment procedures, and certain matters related to the conduct of the audit.[22]

D. The Firm Violated PCAOB Rules and Standards Relating to Engagement Quality Reviews

15. For audits of issuer financial statements for years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[23] AS 7 also provides that, in an audit, a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance of the report.[24]

16. The Firm failed to obtain an engagement quality review for 24 audits even though an engagement quality review was required to be performed.[25] In each instance, the audit was of an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). And in each instance, the Firm improperly permitted the issuance of its unqualified audit report without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm repeatedly violated AS 7.

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[21] See AS 16 ¶¶ 5-7.

[22] Id. at ¶¶ 8-24.

[23] See AS 7 ¶ 1.

[24] Id. at ¶ 13.

[25] See Appendix attached herewith.

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17. Further, in connection with a July 2015 inspection of the Firm, Inspections brought to the Firm's attention apparent failures by the Firm to comply with AS 7. The Firm agreed with Inspections' findings on July 10, 2015. Despite being aware of this, in October 2015, the Firm issued three more audit reports without performing engagement quality reviews under AS 7.

E. Hillary Contributed to the Firm's Violations of PCAOB Rules and Standards

18. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that firm of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the U.S. Securities and Exchange Commission ("Commission") issued under the Act, or professional standards.

19. Hillary, the sole owner and only member of the Firm, was principally responsible for the 24 audits conducted by the Firm, including the McorpCX audit set forth above. Accordingly, Hillary had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards.

20. Hillary knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7 on all 24 audits described in Part D above. As a result, he violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), David Lee Hillary, Jr and David Lee Hillary, Jr. CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), David Lee Hillary, Jr. CPA is barred from being an associated person of a

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registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[26] and

C. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of David Lee Hillary, Jr. is revoked.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 13, 2016

[26] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Hillary. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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Appendix
David Lee Hillary, Jr.
Audits Not Performed in Accordance with PCAOB Standards

Issuer[1]	Fiscal Year Ended	Engagement Partner	EQR
Adaiah Distribution, Inc.	October 31, 2013	David Lee Hillary, Jr. CPA	None
Adamas Ventures Inc.	January 31, 2014	David Lee Hillary, Jr. CPA	None
Eight Dragons Co.	December 31, 2014	David Lee Hillary, Jr. CPA	None
Emo Capital Corp.	July 31, 2014	David Lee Hillary, Jr. CPA	None
Emo Capital Corp.*	July 31, 2015	David Lee Hillary, Jr. CPA	None
Force Minerals Corp.	November 30, 2014	David Lee Hillary, Jr. CPA	None
Gold Dynamics Corp.	July 31, 2014	David Lee Hillary, Jr. CPA	None
Gold Dynamics Corp.*	July 31, 2015	David Lee Hillary, Jr. CPA	None
Gvura Corp.	November 30, 2014	David Lee Hillary, Jr. CPA	None
Kun De Int'l Holdings, Inc.	December 31, 2014	David Lee Hillary, Jr. CPA	None
McorpCX, Inc.	December 31, 2012	David Lee Hillary, Jr. CPA	None
McorpCX, Inc.	December 31, 2013	David Lee Hillary, Jr. CPA	None
McorpCX, Inc.	December 31, 2014	David Lee Hillary, Jr. CPA	None
Pacman Media, Inc.	October 31, 2014	David Lee Hillary, Jr. CPA	None
Paracap Corp.	July 31, 2012	David Lee Hillary, Jr. CPA	None
Paracap Corp.	July 31, 2013	David Lee Hillary, Jr. CPA	None
Paracap Corp.	July 31, 2014	David Lee Hillary, Jr. CPA	None
Punto Group Corp.	September 30, 2014	David Lee Hillary, Jr. CPA	None
Razor Resources, Inc.	April 30, 2014	David Lee Hillary, Jr. CPA	None
Razor Resources, Inc.*	April 30, 2015	David Lee Hillary, Jr. CPA	None
SavDen Group, Corp.	May 31, 2015	David Lee Hillary, Jr. CPA	None

[1] The audits marked with an "*" are those in which the Firm failed to obtain an engagement quality review after Inspections put the Firm on notice of its prior failures.

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Issuer[1]	Fiscal Year Ended	Engagement Partner	EQR
Skoda Ventures, Inc.	May 31, 2014	David Lee Hillary, Jr. CPA	None
Spelzon Corp.	July 31, 2014	David Lee Hillary, Jr. CPA	None
Vibe Ventures, Inc.	October 31, 2013	David Lee Hillary, Jr. CPA	None

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Tamas B. Revai, CPA and Tamas B. Revai, CPA,* *Respondents.*	PCAOB Release No. 105-2016-050 December 13, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Tamas B. Revai, CPA ("Firm"), a registered public accounting firm and revoking the Firm's registration;[1] and censuring Tamas B. Revai, CPA ("Revai"), and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that (1) the Firm and Revai (collectively, "Respondents") violated PCAOB rules and standards concerning auditor independence; (2) Respondents violated PCAOB rules and standards in connection with the audit of a broker-dealer; (3) Respondents violated PCAOB rules and standards in connection with the Firm's review engagement regarding the examination of the broker-dealer's exemption report; (4) Respondents violated PCAOB rules and standards in connection with the Board's 2015 inspection of the Firm; and (5) the Firm violated PCAOB rules in connection with its failure, in 2016, to file an annual report, pursuant to Section 102(d) of the Act and PCAOB Rule 2200, *Annual Report*, and to pay an annual fee to the Board, pursuant to PCAOB Rule 2202, *Annual Fee*.

[1] The Firm may reapply for registration after three (3) years from the date of this Order.

[2] Revai may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

PCAOB
Public Company Accounting Oversight Board

ORDER

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the facts contained in paragraphs 7 through 15 and 31 through 38 below and the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Tamas B. Revai, CPA is, and at all relevant times was, a sole proprietorship organized under the laws of New York and is headquartered in New York, New York. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Based on public records, the Firm does not appear to be currently

[3] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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licensed in the state of New York or any other state. At all relevant times, the Firm was the external auditor for the broker-dealer identified below.

2. Tamas B. Revai, CPA, age 80, of New York, New York is a certified public accountant licensed by the New York State Education Department (License No. 027854). At all relevant times, Revai was the sole owner of the Firm and was the Firm's sole accountant. Revai is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and auditing standards in connection with the Firm's audit of the financial statements of Federated Securities, Inc. ("Federated"), a broker-dealer, for the fiscal year ("FY") ended September 30, 2014. As detailed below, Respondents violated PCAOB Rule 3520, *Auditor Independence*, and AU § 220, *Independence,* by failing to remain independent of Federated throughout the audit and professional engagement period.

4. Respondents also violated PCAOB rules and standards in connection with the FY 2014 audit by failing, among other things, to obtain sufficient appropriate audit evidence to support the Firm's audit opinion on Federated's 2014 financial statements. Additionally, Respondents violated PCAOB Attestation Standard No. 2, *Review Engagements Regarding Exemption Reports of Brokers and Dealers* ("AT 2") in performing the review of statements made by Federated in its exemption report prepared pursuant to the Securities Exchange Act of 1934 ("Exchange Act") Rule 17a-5, 17 C.F.R. § 240.17a-5 ("Rule 17a-5").

5. This matter also concerns Respondents' violations of Rule 4006, *Duty to Cooperate with Inspectors*, and Auditing Standard No. 3, *Audit Documentation*, ("AS 3"). In advance of the Board's 2015 inspection of the Firm, Respondents improperly created or altered audit documentation and added that documentation to the work papers in violation of Rule 4006.

6. Finally, this matter concerns the Firm's violation of Section 102(d) of the Act and PCAOB Rule 2200, *Annual Report*, as a result of the Firm's failure, in 2016, to file an annual report with the Board, and the Firm's violation of PCAOB Rule 2202, *Annual Fee,* as a result of the Firm's failure, in 2016, to pay an annual fee to the Board.

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C. Respondents Violated PCAOB Rules and Standards

7. For audits of fiscal years ending on or after June 1, 2014, including the Federated audit, Rule 17a-5(g) requires that audits of broker-dealers be performed in accordance with PCAOB standards.

8. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[5] The independence criteria are set forth in the rules and standards of the PCAOB and the U.S. Securities and Exchange Commission ("Commission").

> [A] registered public accounting firm or associated person's independence obligation with respect to an audit client encompasses not only an obligation to satisfy the independence criteria applicable to the engagement set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[6]

9. Pursuant to Rule 17a-5(f)(1), Commission Rule 2-01(c)(4)(i) of Regulation S-X applies to broker-dealer audits and provides that an accountant performing a broker-dealer audit is not independent if, at any point during the audit and professional engagement period, the accountant maintains or prepares the audit client's accounting records or prepares the audit client's financial statements that are filed with the Commission.

10. As described below, Respondents failed to comply with the applicable PCAOB rules and standards.

Independence Violations

11. At all relevant times, Federated was a broker-dealer incorporated in the state of New Jersey with its principal place of business in Huntington, New York. Federated's public filings disclose that it engages in selling stocks, mutual funds, annuities, and tax shelters. Federated is an introducing broker-dealer that clears all

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[5] See PCAOB Rule 3520; AU § 220.

[6] See PCAOB Rule 3520, Note 1.

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transactions with and for customers on a fully-disclosed basis with a third-party firm, a clearing broker-dealer, and claims an exemption from the Customer Protection Rule under paragraph (k)(2)(ii) of Exchange Act Rule 15c3-3 ("Rule 15c3-3").[7] At all relevant times, Federated was a "broker" and "dealer," as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii).

12. On November 26, 2014, Federated filed Form X-17A-5 Part III for FY 2014 with the Commission. Included in that filing was the Firm's FY 2014 audit report dated November 20, 2014 ("Audit Report").

13. During 2014, Respondents maintained and prepared certain accounting records and financial statements of Federated. Specifically, Respondents prepared certain adjusting journal entries for FY 2014, including receivables for mutual fund revenue, commissions' expense and other expense accruals, and a tax adjustment.

14. Respondents also assisted in the preparation of Federated's financial statements as of September 30, 2014 by organizing and classifying Federated's trial balance information and updating the disclosures in the notes to the financial statements.

15. As a result of maintaining and preparing accounting records and preparing Federated's financial statements, Respondents were not independent of Federated in connection with the audit and violated PCAOB Rule 3520 and AU § 220.

Audit Violations

16. In connection with the preparation or issuance of an audit report, PCAOB rules and standards require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[8] An auditor may express an unqualified opinion on financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance

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[7] See Rule 15c3-3, 17 C.F.R. § 240.15c3-3, *Customer Protection – Reserves and Custody of Securities* (the "Customer Protection Rule").

[8] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards* and PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB standards are to the versions of those standards in effect at the time of the Federated audit.

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with PCAOB standards.[9] Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism, and obtain sufficient appropriate audit evidence to afford a reasonable basis for an opinion regarding the financial statements.[10]

17. PCAOB standards also require that an audit be properly planned, including performing risk assessment procedures sufficient to provide a reasonable basis for identifying and assessing the risk of material misstatement, whether due to error or fraud.[11] The auditor should identify and assess the risks of material misstatement at the financial statement level and the assertion level, and design and perform audit procedures in a manner that addresses the risks of material misstatement for each relevant assertion of each significant account and disclosure.[12]

18. An auditor should also evaluate whether the information gathered from the risk assessment procedures indicates that one or more fraud risk factors are present and should be taken into account in identifying and assessing fraud risks.[13] If the auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the financial statements as a whole are free of material misstatement, the auditor should express a qualified opinion or a disclaimer of opinion.[14]

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[9] See AU § 508.07, *Reports on Audited Financial Statements.*

[10] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; and Auditing Standard No. 15, *Audit Evidence* ("AS 15").

[11] See Auditing Standard No. 9, *Audit Planning* ("AS 9"), ¶ 4; See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"), ¶¶ 4-58.

[12] See AS 12 ¶ 59; Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"), ¶ 8.

[13] See AS 12 ¶ 65.

[14] See Auditing Standard No. 14, *Evaluating Audit Results*, ¶ 35.

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19. As described below, Respondents failed to comply with PCAOB rules and standards in connection with the Federated audit.

Audit of 2014 Federated's Financial Statements

20. Revai was the engagement partner for the Firm's audit of Federated's financial statements for FY 2014. Revai authorized the Firm's issuance of Federated's Audit Report included in Federated's Form X-17A-5 Part III for FY 2014 filed with the Commission on November 26, 2014. The Audit Report expressed an unqualified opinion on Federated's financial statements, and stated, among other things, that the Firm's audit was conducted in accordance with PCAOB rules and standards.

21. The majority of Federated's revenue is derived from commissions. For the audit of Federated's FY 2014 financial statements, commission revenue totaled $315,069. Commission revenue included sales of securities and mutual funds, net of expenses, totaling $193,803 and mutual fund income of $121,266.

22. Respondents failed to comply with applicable PCAOB standards in connection with Federated's FY 2014 audit. Respondents failed to perform audit planning and risk assessment procedures to establish the overall audit strategy and develop and document an audit plan.[15] Respondents also failed to perform any procedures to identify, assess, and respond to the risks of material misstatement due to fraud, including the presumption that improper revenue recognition is a fraud risk.[16]

23. In performing the FY 2014 audit, Respondents failed to obtain sufficient appropriate audit evidence concerning revenue.[17] Respondents relied on a third-party clearing firm's month-end settlement statements for sales of securities and mutual funds without performing any procedures to test the accuracy and completeness of the information.[18] Additionally, Respondents failed to evaluate whether the information was sufficiently precise and detailed for purposes of the audit.[19] Respondents further failed

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[15] See AS 9 ¶¶ 8, 10.

[16] See AS 12; AS 13.

[17] See AS 15 ¶ 4; AS 13 ¶ 13.

[18] See AS 15 ¶ 10.

[19] Id.

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to perform any procedures to test whether commissions earned from the purchase or sale of securities and mutual funds were properly valued.[20] Respondents also failed to perform any audit procedures to test whether revenue from mutual fund income occurred during the period and was properly valued.[21]

24. Additionally, Respondents failed to obtain sufficient appropriate audit evidence regarding the presentation and disclosure of revenue for Federated's FY 2014 financial statements.[22] Specifically, Respondents failed to perform any procedures to test whether revenue was properly classified, described, and disclosed.[23] In fact, Federated's accompanying notes to the financial statements did not contain any disclosures concerning its revenue recognition policy.[24]

25. Lastly, Respondents failed to prepare an engagement completion document that identified all significant findings or issues for the FY 2014 audit.[25]

Violation of Attestation Standard No. 2

26. Rule 17a-5 requires broker-dealers that claim an exemption from Rule 15c3-3, or the Customer Protection Rule, to prepare an exemption report, in which the broker-dealer (1) identifies the exemption provision of paragraph (k) of Rule 15c3-3 under which the broker-dealer claimed an exemption; (2) states that the broker-dealer met the identified exemption provision throughout the most recent fiscal year without exception or met the identified exemption provisions throughout the most recent fiscal year except as described in the exemption report; and (3) if applicable, a statement that identifies, each exception during the most recent fiscal year in meeting the identified exemption provision and that briefly describes the nature of each exception and the

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[20] See AS 15 ¶¶ 4, 6, 7, 11.

[21] Id.

[22] Id.

[23] Id.

[24] See Financial Accounting Standards Board Accounting Standard Codification 235, *Notes to Financial Statements*.

[25] See AS 3 ¶¶ 12-13.

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approximate date(s) on which the exception existed.[26] Rule 17a-5 also requires the broker-dealer to engage an independent public accountant registered with the PCAOB to review, and independently report on, the statements in the broker-dealer's exemption report.[27]

27. AT 2 establishes requirements for an auditor's review of the statements made by a broker-dealer in an exemption report.[28] When performing the review, the auditor must plan and perform the review engagement to obtain appropriate evidence that is sufficient to obtain moderate assurance about whether one or more conditions exist that would cause one or more of the broker-dealer's assertions not to be fairly stated, in all material respects.[29] The review engagement should be coordinated with the audit of the financial statements and take into account relevant evidence from the audit of the financial statements and the audit procedures performed on the supplemental information of the broker-dealer.[30] Prior to issuing a review report, the auditor is required to obtain written representations from management of the broker-dealer.[31]

28. As part of the FY 2014 audit, Respondents issued a review report dated November 20, 2014. As the engagement partner, Revai was responsible for planning and performing review procedures for the review engagement.[32]

29. Respondents failed to plan and perform the review engagement to obtain appropriate evidence sufficient to obtain moderate assurance about whether one or more conditions existed during the most recent fiscal year that would cause one or more of Federated's assertions not to be fairly stated, in all material respects.[33] Respondents

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26 See AT 2 ¶ 2.

27 See Rule 17A-5(d)(1)(i)(C) and (g)(2)(ii).

28 See AT 2 ¶ 1.

29 Id. ¶ 4.

30 Id. ¶ 7.

31 Id. ¶¶ 13-14.

32 Id. ¶ 6.

33 Id. ¶ 4.

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failed to perform any procedures, including inquiries, to identify exceptions to the exemption provisions as required by AT 2.[34]

30. Additionally, Respondents failed to obtain written representations from Federated's management required by AT 2.[35] The failure to obtain written representations from management constituted a limitation on the scope of the review engagement.[36]

Respondents Violated PCAOB Rule 4006 and AS 3

31. PCAOB rules require that registered public accounting firms and their associated persons "shall cooperate with the Board in the performance of any Board inspection."[37] This cooperation obligation "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes."[38] When documentation is added after the documentation completion date,[39] PCAOB auditing standards require auditors to "indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[40] As described below, Respondents violated PCAOB Rule 4006 and AS 3.

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[34] Id. ¶¶ 4, 10.

[35] Id. ¶ 13.

[36] Id. ¶¶ 14, 20.

[37] See PCAOB Rule 4006.

[38] See *Nathan M. Suddeth, CPA*, PCAOB Rel. No. 105-2013-007, ¶ 4 (September 10, 2013).

[39] See AS 3 ¶ 15 ("[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (documentation completion date)." The "report release date" is "the date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements." Id. ¶ 14.

[40] Id. ¶ 16.

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32. AS 3 requires, among other things, that prior to the report release date, the auditor must have completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report.[41] Respondents' report release date for the audit was November 20, 2014.

33. Additionally, AS 3 requires that a complete and final set of audit documentation be assembled for retention as of a date not more than 45 days after the report release date ("documentation completion date").[42] The documentation completion date for the audit was January 4, 2015.

34. On or before April 14, 2015, the Board notified Respondents that the Firm would be inspected. Inspection fieldwork was scheduled to start the week beginning June 22, 2015.

35. Respondents improperly created or altered documents and added them to the audit work papers after the documentation completion date and without making any disclosures required by AS 3. These documents did not exist, in any form, at the time of the audit. These misleading documents were made available to the Board's inspectors in connection with the Firm's inspection.

36. Specifically, the misleading documents consisted of several audit work papers including a final analytical review, a working trial balance, and numerous audit programs. Both the final analytical review and working trial balance work papers had print dates in April 2015, more than three months after the documentation completion date and just a few days after being notified of the Board's upcoming inspection. Similarly, the audit programs covering the entire audit were added after the documentation completion date in or about April 2015.

37. At no time did Respondents advise the Board's inspectors that the documents were created or altered shortly before, and in anticipation of, the Board's inspection. This conduct violated PCAOB Rule 4006.

38. As noted previously, when information is added to audit documentation after the report release date, AS 3 requires the auditor to indicate the date the information was added, the name of the person who prepared the additional

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41 Id. ¶ 15.

42 Id.

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documentation, and the reason for adding it.[43] With respect to the added work papers, Respondents failed to indicate the dates that the alterations and additions were made to the documents, the names of the person making the alterations and additions, and the reason for making the alterations and additions after the documentation completion date. This conduct failed to comply with AS 3.

The Firm Violated PCAOB Rules 2200 and 2202

39. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200 provides that "[e]ach registered public accounting firm must file with the Board an annual report[.]" PCAOB Rule 2201, *Time for Filing of Annual Report*, states that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and PCAOB Rule 2200, the Firm failed to file an annual report for 2016.

40. Pursuant to Section 102(f) of the Act, PCAOB Rule 2202 provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31" of any year that the firm is required to file an annual report. In violation of PCAOB Rule 2202, the Firm failed to pay its annual fee for 2016.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Tamas B. Revai, CPA, and Tamas B. Revai, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Tamas B. Revai, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[44]

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[43] Id. ¶ 16.

[44] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Revai. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain

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C. After three (3) years from the date of this Order, Tamas B. Revai, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Tamas B. Revai, CPA is revoked; and

E. After three (3) years from the date of this Order, Tamas B. Revai, CPA may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 13, 2016

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associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Deloitte Accountants B.V.*, Respondent.	PCAOB Release No. 105-2016-051 December 13, 2016

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Deloitte Accountants B.V. (the "Firm" or "Respondent") and imposing a civil money penalty of $300,000. The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and standards related to the Firm's system of quality control and independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary

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Proceedings, Making Findings, and Imposing Sanctions (the "Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Deloitte Accountants B.V. is a limited liability corporation organized under the laws of the Kingdom of the Netherlands and headquartered in Rotterdam, the Netherlands. The Firm is licensed by the Netherlands Authority for the Financial Markets ("AFM") to practice public accountancy (License No. 13000015) and is a member firm in the Deloitte Touche Tohmatsu Limited network. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm was at all relevant times the external auditor of the consolidated financial statements of RBS Holdings N.V. ("RBS Holdings")[2] and Reed Elsevier NV ("Reed Elsevier")[3] addressed below.

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[2] RBS Holdings N.V. is a limited liability company incorporated under the laws of the Netherlands. The company is affiliated with the Royal Bank of Scotland Group offering banking and financial services globally. The company is a foreign private issuer of a series of debt securities registered under Section 12(b) of the Exchange Act and is listed on the New York Stock Exchange and NYSE Arca. At all relevant times, RBS Holdings was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

[3] Reed Elsevier NV was incorporated in the Netherlands and together with Reed Elsevier Plc formed the Reed Elsevier Group, which name was changed in 2015 into RELX Group. The company is a provider of professional information solutions to the scientific, medical, legal, business and government sectors. The company is a foreign private issuer of American Depositary Shares registered under Section 12(b) of the Exchange Act and is listed on the New York Stock Exchange. At all relevant times, Reed Elsevier was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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B. Other Relevant Entities and Person

2. Deloitte Holding B.V. ("DHBV") is a limited liability company and the parent company of the Firm. It is headquartered in Rotterdam, the Netherlands.

3. Piet Hein Meeter ("Meeter") joined Deloitte Belastingadviseurs B.V. ("DBBV") in 2002 as a partner. DBBV is a wholly owned subsidiary of DHBV that provides tax services to clients. Meeter was the managing partner of DBBV until January 1, 2012, when he became the Chief Executive Officer ("CEO") of DHBV and all of its subsidiaries and affiliates, including the Firm.

C. Summary

4. This matter concerns the Firm's failure to comply with PCAOB rules and standards requiring that a registered public accounting firm: (1) have a system of quality control for its accounting and auditing practice that, among other things, provides the firm with reasonable assurance that personnel maintain independence (in fact and in appearance) in all required circumstances and that these policies and procedures were suitably designed and were being effectively applied;[4] and (2) be independent of the firm's audit clients throughout the audit and professional engagement period.[5] As described below, the Firm's system of quality control regarding independence failed to comply with PCAOB standards and the Firm violated the independence rules with respect to RBS Holdings and Reed Elsevier during the audit and professional engagement periods for the audits of their 2011 and 2012 financial statements because of financial interests that the Firm's CEO's spouse held in these two issuers through a Dutch family foundation trust.

D. The Firm Failed to Comply With Quality Control Standards and Auditor Independence Requirements

5. PCAOB Rules require that a registered public accounting firm comply with the Board's quality control standards.[6] PCAOB quality control standards require that a

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[4] Interim Quality Control Standard ("QC") § 20.01, .09, .10, .20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*; QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[5] PCAOB Rule 3520, *Auditor Independence*; AU § 220, *Independence*.

[6] PCAOB Rule 3400T, *Interim Quality Control Standards.*

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registered public accounting firm have a system of quality control for its accounting and auditing practice, including policies and procedures that provide the firm with reasonable assurance that personnel maintain independence (in fact and in appearance) in all required circumstances.[7] In addition, PCAOB quality control standards provide that policies and procedures should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control are suitably designed and being effectively applied.[8] Firms are required to establish monitoring procedures to enable the firm to obtain reasonable assurance that its system of quality control is effective.[9] Such monitoring procedures may include, among other things, inspection procedures, post-issuance reviews of selected engagements, and analysis and assessment of the results of independence confirmations.[10]

6. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[11] PCAOB rules and standards also require a registered public accounting firm and its associated persons to be independent of the firm's audit clients throughout the audit and professional engagement period.[12]

7. A registered public accounting firm's or associated person's independence obligation with respect to an issuer audit client encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of

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[7] QC § 20.01, .09.

[8] QC §§ 20.20 and 30.02.

[9] QC § 30.03.

[10] Id.

[11] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*.

[12] PCAOB Rule 3520; AU § 220.

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the U.S. Securities and Exchange Commission (the "Commission") under the federal securities laws.[13]

8. During the period from 2009 through the first quarter of 2012 (the "relevant period"), the Firm lacked adequate policies and procedures designed to provide reasonable assurance that individuals who became "covered persons" by being appointed to leadership positions in the "chain of command"[14] were free of financial interests that may violate the Commission's independence requirements. The Firm's policies and procedures failed to evaluate whether those individuals who became "covered persons" held financial interests in the Firm's audit clients that impaired independence.[15]

9. For example, during the relevant period, five individuals were appointed to leadership roles and none of them were reviewed for independence purposes in connection with their appointment. The Firm failed to evaluate whether any of these individuals held financial interests in the Firm's audit clients which would impair independence once they became "covered persons".

10. During the relevant time period, the Firm's system of quality control regarding independence failed to provide the Firm with reasonable assurance that personnel maintained independence (in fact and in appearance) in all required circumstances, and that the policies and procedures regarding independence were suitably designed and effectively applied, in violation of the PCAOB's quality control standards.

11. Rule 2-01 of Commission Regulation S-X states that an accountant is not independent of an audit client if, at any point during the audit and professional engagement period, the accounting firm, any covered person in the firm, or any of his or her immediate family members has any direct investment in an audit client,[16] which the rule defines to include, among other things, investments through a trust on which an

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[13] PCAOB Rule 3520, Note 1.

[14] 17 C.F.R. § 210.2-01(f)(8) and (11).

[15] 17 C.F.R. § 210.2-01(c)(1).

[16] 17 C.F.R. § 210.2-01(c)(1)(i).

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immediate family member of a covered person serves as voting trustee and has authority to make investment decisions for the trust.[17]

12. As RBS Holding's external auditor, the Firm issued audit reports on the company's 2011 and 2012 financial statements included in the Forms 20-F filed with the Commission, respectively, on March 23, 2012 and March 28, 2013.

13. As Reed Elsevier's external auditor, the Firm also issued audit reports on the company's 2011 and 2012 financial statements, which were included in the Forms 20-F filed with the Commission, respectively, on March 12, 2012 and March 12, 2013.

14. From January 1, 2012 to March 26, 2012, Meeter held a leadership role as the CEO of the Firm's parent, DHBV, and was therefore in the "chain of command" for purposes of Regulation S-X.[18] Accordingly, Meeter was a "covered person" during that period with respect to the Firm's issuer audit clients, including RBS Holdings and Reed Elsevier.[19]

15. The Firm failed to undertake a review of Meeter's financial interests prior to Meeter becoming the CEO to evaluate the impact his new status as a covered person might have on his and the Firm's independence.

16. A Dutch family foundation trust ("Family Trust") established by Meeter's father-in-law for the benefit of Meeter's spouse ("Mrs. Meeter") and other family members included investments in RBS Holdings and Reed Elsevier. Mrs. Meeter was a member of the board of the Family Trust with the authority to make investment decisions for the trust.[20]

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[17] 17 C.F.R. § 210.2-01(c)(1)(i)(C).

[18] 17 C.F.R. § 210.2-01(f)(8).

[19] 17 C.F.R. § 210.2-01(f)(11).

[20] 17 C.F.R. § 2.01(d) provides that, if certain conditions are satisfied, an accounting firm's independence will not be impaired solely because a covered person in the firm is not independent of an audit client. The Firm concluded that Meeter did not know that Mrs. Meeter was a member of the board with authority to make investment decisions for the trust. That lack of knowledge would satisfy one of the conditions described in 17 C.F.R. § 2.01(d). The Firm, however, did not satisfy a separate condition, set out in 17 C.F.R. § 2.01(d)(3), in that the Firm did not have a quality control

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17. The Firm violated the independence rules in connection with the audits of the 2011 and 2012 financial statements of RBS Holdings and Reed Elsevier, including PCAOB Rule 3520 and AU § 220 because Mrs. Meeter was a member of the board of the Family Trust with the authority to make investment decisions regarding these issuer client holdings.[21]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Respondent's Offer. In considering appropriate sanctions, the Board considered remedial actions undertaken by the Firm prior to the issuance of this Order. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Deloitte Accountants B.V. is hereby censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $300,000 is imposed upon Deloitte Accountants B.V. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Deloitte Accountants B.V. shall pay this civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Deloitte Accountants B.V. as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention:

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system that provided reasonable assurance that the Firm and its employees did not lack independence.

[21] 17 C.F.R. § 210.2-01(c)(1)(i)(C).

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Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown

Secretary

December 13, 2016

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the matter of David C. Lee, CPA,* *Respondent.*	PCAOB Release No. 105-2016-052 December 20, 2016

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring David C. Lee, CPA ("Lee" or "Respondent"); (2) barring Lee from being associated with a registered public accounting firm;[1] and (3) imposing upon him a civil money penalty in the amount of $10,000. The Board is imposing these sanctions on the basis of its findings that Lee violated PCAOB rules and standards in connection with five audits for one issuer client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against the Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

[1] Lee may petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. David C. Lee, 59, of Issaquah, Washington, is a certified public accountant licensed by the State of Washington (License No. 12242). Lee is a partner in the Seattle office of the registered public accounting firm of Peterson Sullivan LLP ("Peterson Sullivan" or the "Firm") and served as engagement partner on the audits discussed below. At all relevant times, Lee was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Lee's violations of PCAOB rules and standards in connection with the issuance of audit reports on the financial statements of One Horizon Group, Inc. ("OHG" or "Company") for the years ended June 30, 2011 ("2011 Audit") and June 30, 2012 ("June 2012 Audit"); the six months ended December 31, 2012 ("December 2012 Audit"); and the years ended December 31, 2013 ("2013 Audit") and December 31, 2014 ("2014 Audit"). As detailed below, Lee failed to exercise due care and professional skepticism, and failed to obtain sufficient appropriate audit evidence in connection with each of these audits.

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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C. Respondent Violated PCAOB Rules and Standards

Applicable PCAOB Rules and Standards

3. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[4] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[5]

4. Those standards require, among other things, that an auditor plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion,[6] including sufficient appropriate evidential matter to provide reasonable assurance that the issuer's accounting estimates are reasonable, and presented in conformity with applicable accounting principles.[7] Although management representations "are part of the evidential matter the independent auditor obtains, . . . they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[8] Moreover, if a management representation "is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made."[9]

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[4] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audit.

[5] See AU § 508.07, *Reports on Audited Financial Statements.*

[6] See Auditing Standard No. 15, *Audit Evidence* ("AS 15") ¶ 4 (in effect for the June 2012 Audit and subsequent audits); see also AU § 326.01, *Evidential Matter* (in effect for the 2011 Audit).

[7] See AU §§ 342.07, .09, .10, *Auditing Accounting Estimates*.

[8] AU § 333.02, *Management Representations*.

[9] Id. at ¶ .04.

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5. For significant risks, PCAOB standards require an auditor to "perform substantive procedures, including tests of details, that are specifically responsive to the assessed risks."[10] PCAOB standards further require that an auditor exercise due professional care and professional skepticism in performing the audit.[11]

6. In the case of significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment, PCAOB standards require the auditor to gain an understanding of the business rationale for such transactions and whether that rationale (or the lack thereof) suggests that the transactions may have been entered into to engage in fraudulent financial reporting or conceal misappropriation of assets.[12]

7. PCAOB standards require auditors to evaluate whether a company's selection and application of accounting principles are appropriate for its business and consistent with the applicable financial reporting framework and accounting principles used in the relevant industry, and to state in the audit report whether the audited financial statements are presented in accordance with generally accepted accounting principles ("GAAP").[13] PCAOB standards also require auditors to evaluate whether the company's financial statements present fairly its financial position, results of operations, and cash flows in conformity with GAAP.[14]

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[10] Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13") ¶ 11 (in effect for the June 2012 Audit and subsequent audits).

[11] See AU § 150, *Generally Accepted Auditing Standards;* AU § 230, *Due Professional Care in the Performance of Work*.

[12] See AU §§ 316.66, .67, *Consideration of Fraud in a Financial Statement Audit.*

[13] See Auditing Standard No. 12 ("AS 12"), *Identifying and Assessing Risks of Material Misstatement* ¶ 12 (in effect for the June 2012 and subsequent audits); AU § 150.02; AU § 411.04, *The Meaning of Present Fairly in Conformity with Generally Accepted Accounting Principles*.

[14] See Auditing Standard No. 14 ("AS 14"), *Evaluating Audit Results* ¶ 30 (in effect for the June 2012 Audit and subsequent audits); AU § 411.04.

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8. As described below, Lee failed to comply with PCAOB rules and standards in connection with the Firm's 2011 through 2014 audits of OHG.

OHG's 2011 Audit, June 2012 Audit, and December 2012 Audit

9. OHG's predecessor entity, One Horizon Group, PLC ("OHG PLC") was incorporated in England and Wales. OHG PLC observed a June 30 fiscal year, and its 2011 and 2012 financial statements, prepared under the European Union's International Financial Reporting Standards, were subjected to statutory audits performed pursuant to UK law.

10. On November 30, 2012, OHG PLC was nominally acquired in a reverse merger by a U.S. public company with a December 31 fiscal year. Following the merger, the acquiring company changed its name to OHG. At all relevant times, OHG was an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

11. After the reverse merger, OHG was required to file annual reports, audited in accordance with PCAOB standards, with the U.S. Securities and Exchange Commission ("Commission") for the current period and the two previous years. OHG engaged Peterson Sullivan to audit the current six month period which ended December 31, 2012, as well as the two prior fiscal years, which ended June 30, 2012 and June 30, 2011, respectively. The Firm audited these three periods concurrently (the "2011-12 Audits").

12. Lee, as engagement partner for the 2011-12 Audits, authorized the Firm's issuance of an audit report, dated May 9, 2013, expressing unqualified audit opinions on OHG's financial statements for the years ended June 30, 2011 and June 30, 2012, and the six months ended December 31, 2012. The report was included in OHG's 2012 Form 10-K filed with the Commission on May 13, 2013.

Revenue Recognition: Software Licensing

13. OHG's public filings disclosed that its business involved licensing software and providing related maintenance services to telecommunications companies.[15] OHG's typical software license required payments to be made over a five-year period; however, payment terms varied between customers. OHG required certain customers, known as "Tier One" customers, to make fixed payments on a straight-line basis over

[15] See OHG 2012 Form 10-K at F-8.

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the five-year term. Other customers, which OHG referred to as "Tier Two" customers, were not required to make any license payments until they sold sub-licenses to third party end-users. For the years ended June 30, 2011 and June 30, 2012, and the six months ended December 31, 2012, OHG recognized revenue of $1.425 million, $0, and $3.0 million, respectively, for Tier One customers; and $400,000, $4.6 million, and $3.0 million, respectively, for Tier Two customers.

14. OHG's public filings disclosed its revenue recognition policy related to the Tier One and Tier Two customers. For Tier One customers, OHG recognized revenue at the time of delivery, based on its view of those customers' "commitment to pay, as demonstrated by [their] payment history and [their] ability to pay."[16] For Tier Two customers, OHG recognized revenue pro rata over the collection period, typically over five years.[17] OHG's revenue recognition policy resulted in its recognition of the entire contractual amount immediately upon delivery for its Tier One customers, and on a straight-line basis over the contract's terms for its Tier Two customers (regardless of whether or when those customers sold sub-licenses to end-users, making their payments due).

15. During the 2011-2012 Audits, Lee failed to sufficiently evaluate whether OHG was appropriately recognizing revenue from the Tier One and Tier Two customers under U.S. GAAP.[18] During the audits, Lee apprised management that OHG had a material weakness in its accounting due to management's lack of "sufficient in-house expertise in U.S. GAAP reporting."[19] Lee also planned to prepare a memorandum evaluating the appropriateness of OHG's revenue recognition policy under U.S. GAAP. Despite being aware of OHG's material weakness, Lee failed to

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[16] See id. at F-11.

[17] See id.

[18] Accounting Standard Codification 985, *Software* ("ASC 985") ¶¶ 605-25-34 and 35 state that if "payment of a significant portion of the software licensing fee is not due until . . . more than 12 months after delivery," there is a presumption that revenue should be recognized "as payments from customers become due." This presumption can only be overcome if the company "has a standard business practice of using long-term or installment contracts and a history of successfully collecting under the original payment terms without making concessions." Id., ¶ 605-25-34. In that instance, revenue can be recognized "upon delivery of the software, provided all other conditions for revenue recognition…have been satisfied." Id.

[19] OHG 2012 Form 10-K at 23.

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perform this planned procedure, and failed to prepare any analysis evaluating whether OHG's revenue recognition policy complied with U.S. GAAP.[20]

16. In addition, Lee specifically identified a significant risk of material misstatement regarding the overstatement of Tier Two revenue. In response to this risk, Lee planned to ask OHG for its analysis regarding the relationship between revenue recognition and collection to ensure that it considered potential overstatement. Lee, however, failed to obtain this analysis from OHG management and he failed to perform one.[21] In addition, other than obtaining management's representation regarding the use of a straight-line revenue recognition model for the Tier Two contracts, Lee and the engagement team failed to evaluate whether OHG's use of a straight-line revenue model was appropriate under U.S. GAAP.[22]

17. Furthermore, Lee was aware that OHG's software was a new product that was being sold to new customers. Lee also knew that OHG had no prior experience in licensing this software and did not have a track record to support the straight-line revenue model. At the time OHG filed its 2012 Form 10-K in May 2013, Lee was also aware that OHG had received no payments on accounts receivable balances outstanding at December 31, 2012 for at least six of its Tier Two customers. OHG management also informed Lee that it did not expect payments from certain of these customers due to delays in the sale of sub-licenses. This contradicted the straight-line revenue model's assumption that OHG's Tier Two customers would sell a constant number of sub-licenses and indicated that OHG may have overstated revenue. Despite the fact that this evidence was inconsistent with recognizing revenue on a straight line basis in conformity with U.S. GAAP, Lee failed to perform any procedures to resolve this inconsistency before he authorized the issuance of his audit report.[23]

SatCom Global

18. During the December 2012 Audit, Lee failed to perform sufficient procedures regarding $5 million in revenue, which represented 43% of OHG's reported

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[20] See AS 12 ¶ 12.

[21] See AS No.15, ¶¶ 4-6; see also AU §§ 326.13, .25.

[22] AS No. 14 ¶ 30, AU § 333.02; see also AS No. 15 ¶¶ 4-6; AU §§ 326.13, .25.

[23] AS No. 15 ¶ 29.

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revenue for that period, that OHG recognized from an unusual, one-time sale of billing software.

19. OHG sold its legacy satellite equipment business, SatCom Global ("SatCom") on October 25, 2012.[24] On that same day, in a non-cash transaction, OHG transferred all rights in the billing software SatCom used to SatCom's purchaser for $5 million.[25] The entire $5 million purchase price for the billing software was paid by means of an "offset" [26] against amounts OHG owed to SatCom.[27]

20. Because OHG accounted for the sale of the SatCom billing software as a separate transaction from its sale of the SatCom business, instead of including the software sale in the calculation of its "gain or loss on sale" of the SatCom business, OHG consequently reported the entire $5 million as revenue.

21. Even though the sale of the SatCom billing software was an unusual, one-time, non-cash transaction that occurred on the same day as and between the same parties to the sale of the SatCom business, and represented over 40% of OHG's reported revenue, Lee failed to gain a sufficient understanding of the business rationale for this transaction or to consider whether OHG management was placing more emphasis on the accounting treatment of that $5 million sale than on its underlying economics, as required under PCAOB standards.[28] In addition, Lee failed to perform any procedures to evaluate whether the accounting for the transaction complied with U.S. GAAP.[29] Lee also failed to perform any procedures to determine whether the billing software was properly valued.[30]

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[24] See OHG 2012 Form 10-K at 8.

[25] See id. at F-10.

[26] Id.

[27] The amount due from OHG to SatCom purportedly arose from an inter-company payable that, prior to the sale of SatCom, had been owed by an OHG subsidiary to SatCom.

[28] See AU §§ 316.66, .67.

[29] AS No. 14 ¶ 30.

[30] AS No.15 ¶¶ 4-6.

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OHG's 2013 Audit

22. Lee, as engagement partner, authorized the Firm's issuance of an audit report, dated April 15, 2014, expressing an unqualified audit opinion on OHG's financial statements for the year ended December 31, 2013, the restated six months ended December 31, 2012 and the restated year ended June 30, 2012. The report was included in OHG's 2013 Form 10-K filed with the Commission on April 15, 2014.

23. Prior to the Firm's issuance of an audit report for the 2013 Audit, OHG management provided Lee and his engagement team with a schedule during each of the 2013 quarterly reviews that showed the total lifetime cumulative revenue OHG had recognized for each Tier Two customer and the actual payments it had received on those contracts ("Revenue Schedules").

24. The Revenue Schedules showed a large and increasing gap between the amount of revenue OHG recognized on its Tier Two customer contracts and the amount it had actually collected. For example, the first quarter Revenue Schedule showed that OHG had recognized $9.9 million in cumulative revenue for its Tier Two customers, even though it had only collected about $1.3 million from those customers, a difference of more than $8 million between revenue recognized and revenue collected. This gap increased to more than $10 million and $16 million by the end of the second and third quarters, respectively. Lee was aware of the increasing amount of uncollected revenue that OHG had recognized due to its use of the straight-line revenue recognition model for its Tier Two contracts. Indeed, the engagement completion document for the third quarter review states that Lee communicated to OHG management and its board of directors that revenue recognition was ahead of cash collections, and notes that "[t]he company will update their revenue recognition policy prior to the annual audit."

25. On April 8, 2014, OHG filed a Form 8-K with the SEC announcing that the company would restate its previously-issued financial statements[31] "to correctly record the timing of revenue recognition for certain license fees."[32] OHG stated that the

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[31] OHG Form 8-K (April 8, 2014). The restatements, filed on April 15, 2014 in OHG's 2013 Form 10-K, reduced OHG's previously reported revenue by approximately $1.825 million, $2.61 million, and $4.75 million for the years ended June 30, 2011 and June 30, 2012, and the six months ended December 31, 2012, respectively, representing revenue overstatements of approximately 203 percent, 100 percent, and 68 percent for those periods.

[32] Id.

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original use of a straight-line revenue recognition model for its Tier Two customers "was not expected to vary materially from the customer usage."[33] After evaluating customer activity, however, OHG determined that the "straight-line method was not appropriate" and would instead recognize revenue on those contracts when payments became due.[34] OHG also stated that it had "re-evaluated" its revenue recognition policy for Tier One customers, and concluded that it would recognize revenue for these customers "to the extent that fixed payments become due," instead of at the time of delivery.[35]

26. As of December 31, 2013, however, OHG continued to have approximately $7.5 million in gross accounts receivable, for which it established a bad debt allowance of $212,000, or approximately 3% of its total accounts receivable.

27. Lee failed to perform sufficient procedures regarding the accounts receivable and bad debt allowance during the 2013 audit. During the audit, Lee was aware that OHG had recognized large amounts of uncollected revenue from Tier Two customers, for which it had restated its prior period financial statements. Lee was also aware at the time of the audit that receivables from Tier Two customers comprised approximately 79% of the total accounts receivable balance and that, as of April 2014, only one payment from a Tier Two customer of $125,000 had been received. Other than obtaining management representations that the Company "will be more aggressive in collections" once its customers had completed implementing the software, Lee failed to gain an understanding of how OHG management determined its bad debt allowance or to evaluate the reasonableness of the allowance.[36] Further, Lee failed to perform a retrospective review of OHG's bad debt allowance, or the Company's historical experience in collecting its accounts receivable.[37]

OHG's 2014 Audit

28. Lee, as engagement partner, authorized the Firm's issuance of an audit report, dated March 31, 2015, expressing an unqualified audit opinion on OHG's

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33 Id.

34 Id.

35 Id.

36 See AU §§ 342.07, .10.

37 See AU §§ 316.64, 342.09.

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financial statements for the year ended December 31, 2014. The report was included in OHG's 2014 Form 10-K filed with the Commission on April 1, 2015.

29. OHG disclosed in its 2014 Form 10-K that effective October 1, 2014, it had amended certain customer contracts whereby all "future payments will be due from the customer when that customer has generated revenue from its customers who subscribe to use the Horizon products and services." OHG further stated that for customers with outstanding balances under the prior agreements, payments received after September 30, 2014 would not be recognized as revenue under these "Revenue Sharing" agreements, but instead would be applied to the customer's existing accounts receivable balances first.

30. As of December 31, 2014, OHG reported gross accounts receivable of approximately $9.6 million, offset by an allowance of $492,000, or about 5% of the accounts receivable balance. The majority of the receivable balance consisted of balances that were aged greater than one year as of December 31, 2014, and were due from customers now under the new Revenue Sharing arrangements.

31. Lee failed to perform sufficient procedures regarding the accounts receivable balance and bad debt allowance. At the time of the audit, Lee was aware that payments had not been made on the Revenue Sharing accounts in late March 2015, almost six months after the Revenue Sharing agreements became effective. Despite being aware of this fact, Lee relied on management's representation that its customers would generate sufficient future revenue under the new Revenue Sharing agreements to pay all outstanding balances. Other than obtaining that representation, which alone was insufficient audit evidence, Lee failed to perform any procedures to evaluate the reasonableness of OHG's bad debt allowance.[38]

32. Approximately one year later, OHG reported in its 2015 Form 10-K, filed with the Commission on March 31, 2016, that as of December 31, 2015, a significant portion of the Revenue Sharing customer's receivables remained uncollected. OHG increased its bad debt allowance by approximately $5.6 million (i.e., more than half of the 2014 year-end accounts receivable balance) with a corresponding charge to bad debt expense.[39] This charge constituted approximately 50% of the net loss reported by OHG for the year ended December 31, 2015.

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[38] See AU §§ 316.64, 342.07, .09.

[39] Approximately five months later, OHG reported in a Form 10-Q filed with the Commission on August 9, 2016 that these balances had been fully written off.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Lee's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), David C. Lee is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), David C. Lee is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[40]

C. After two (2) years from the date of this Order, David C. Lee may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 payable by David C. Lee is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. David C. Lee shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (3) submitted under a cover letter which identifies David C. Lee as the Respondent in these proceedings, and states that payment is made pursuant to this Order, a

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[40] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Lee. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

December 20, 2016

PCAOB
Public Company Accounting Oversight Board

1666 K Street, N.W.
Washington, DC 20006
Telephone: (202) 207-9100
Facsimile: (202) 862-0757

ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Arshak Davtyan, Inc. and Arshak Davtyan, CPA,* *Respondents.*	PCAOB Release No. 105-2016-053 December 20, 2016

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Arshak Davtyan, Inc. ("ADI" or the "Firm") and revoking the Firm's registration;[1] and censuring Arshak Davtyan, CPA, ("Davtyan") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Davtyan (collectively, "Respondents") violated PCAOB rules and standards in connection with two audits of one issuer client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party,

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Davtyan may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions (the "Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. **Arshak Davtyan Inc.** is a professional corporation organized under the laws of the state of Utah and located in Salt Lake City, Utah. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB Rules.[5] The Firm is licensed to practice public accountancy by the Utah Division of Occupational and Professional Licensing (License No. 9173806-2603). At all relevant times, ADI was the external auditor of the issuer identified below.

2. **Arshak Davtyan,** 38, is a certified public accountant licensed by the state of Utah (License No. 5666700-2601). At all relevant times, Davtyan was the managing director and sole employee of the Firm, and served as the engagement partner on the audits discussed below. Davtyan is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[3] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[5] Initially, the Firm registered with the Board as Arshak Davtyan, a sole proprietorship. On October 14, 2014, the Firm filed a Form 4 indicating a change in its organization to a corporation under the laws of the state of Utah.

PCAOB
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B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the issuance of audit reports on the consolidated financial statements of China Pharma Holdings, Inc. ("CPHI" or the "Company") for the years ended December 31, 2013 and 2014. As detailed below, Respondents failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence in connection with the audits of CPHI's financial statements for the years ended December 31, 2013 and the December 31, 2014.

C. Respondents Violated PCAOB Rules and Standards

4. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable Board auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[7] Those standards require, among other things, that an auditor plan and perform the audit to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[8] PCAOB standards further require that an auditor exercise due professional care and professional skepticism in performing the audit.[9]

5. In addition, PCAOB standards require the auditor to design and implement audit responses that address the risks of material misstatement[10] and to evaluate whether the financial statements are presented fairly, in all material respects, in

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[6] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB standards are to the versions of those standards in effect at the time of the audits.

[7] See AU § 508.07, *Reports on Audited Financial Statements*.

[8] See Auditing Standard No. 15, *Audit Evidence* ("AS 15") at ¶ 4.

[9] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"), ¶ 7.

[10] See AS 13 ¶¶ 3, 5 and 8.

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conformity with U.S. Generally Accepted Accounting Principles ("US GAAP") when evaluating audit results.[11]

6. The auditor is also responsible for evaluating the reasonableness of management's accounting estimates.[12] In evaluating reasonableness, the auditor should obtain an understanding of how management developed the estimate.[13] Based on that understanding the auditor should use one or a combination of the following approaches: (a) review and test the process used by management to develop the estimate; (b) develop an independent expectation of the estimate to corroborate the reasonableness of management's estimate and (c) review subsequent events or transactions occurring prior to the date of the auditor's report.[14]

7. As described below, Respondents failed to comply with PCAOB rules and standards in connection with the audits of CPHI's 2013 and 2014 financial statements (collectively the "Audits").

Audits of CPHI's 2013 and 2014 Financial Statements

8. CPHI is a Nevada corporation with its headquarters and primary operations in Haikou, Hainan Province, People's Republic of China. CPHI's public filings disclose that it is engaged in the development, manufacture and marketing of pharmaceutical products for a variety of high-incidence and high-mortality diseases and medical conditions in China. Its common stock is registered under Section 12(b) of the Exchange Act, and is listed on the NYSE Market. At all relevant times, CPHI was an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. Davtyan, as the engagement partner, authorized the Firm's issuance of audit reports, dated March 20, 2014 and March 30, 2015, respectively, each expressing an unqualified opinion on CPHI's financial statements for the years ended December 31, 2013 and December 31, 2014. The audit reports were included in CPHI's Forms 10-

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[11] See Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), ¶ 30; AU §§ 411.04, .06, *The Meaning of Present Fairly in Conformity with Generally Accepted Accounting Principles.*

[12] See AU § 342.04, *Auditing Accounting Estimates*.

[13] See AU § 342.10.

[14] See AU § 342.10 a. – c.

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K, filed with the U.S. Securities and Exchange Commission on March 20, 2014 and March 30, 2015, respectively.

10. In its 2013 and 2014 Forms 10-K, CPHI disclosed that it earned revenue from the sale of pharmaceutical and biochemical products it manufactured to hospitals, distributors and private retailers in China. CPHI reported revenue of $32.8 million and $24.9 million in its 2013 and 2014 financial statements, respectively.

11. Respondents knew that CPHI's accounts receivable aged over a year had increased rapidly in 2013 and 2014. As of December 31, 2012, CPHI had $30.1 million of aged receivables or 43% of the total (gross) accounts receivable balance. By year-end 2013, aged receivables increased to $35.8 million or 61% of the total (gross) receivable balance. By year-end 2014, CPHI had $48.6 million of aged receivables representing 83% of its total (gross) accounts receivable, with $17.3 million aged one-to-two years and $31.3 million aged over two years.

12. As disclosed in its 2013 Form 10-K, in the fourth quarter of 2013, CPHI initiated a collection discount program to encourage its customers to pay long overdue balances by offering 15% to 37% discounts to those with receivables aged over one year. CPHI collected $5.85 million under this program after giving $2.1 million in discounts which was recorded as a bad debt expense. In addition, CPHI disclosed in its 2013 financial statements that its accounts receivable included $23 million of sales that occurred more than a year ago which management believed were still collectible.

13. CPHI also disclosed in its 2014 Form 10-K that, in the third quarter of 2014, the Company offered customers a 30% discount on payments for aged accounts receivable even though the Company initially created the collection discount program as a unique event.

14. In its 2013 and 2014 Forms 10-K, CPHI disclosed that the company recognized revenue when it has persuasive evidence of an arrangement with the customer, delivery of the product has occurred, the sales price is fixed or determinable, and collectability is reasonably assured.[15]

15. During the Audits, Respondents identified significant risks related to revenue and accounts receivable, including a fraud risk related to revenue recognition. Nevertheless, other than obtaining management's representations regarding the Company's recognition of revenue, Respondents failed to perform procedures that were

[15] See Financial Accounting Standards Board Accounting Standards Codification Topic 605-10-S99, *Revenue Recognition*.

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specifically responsive to the assessed fraud risk,[16] and failed to evaluate whether the Company's revenue recognition was in conformity with US GAAP.[17] Specifically, Respondents failed to evaluate whether collectability was reasonably assured in light of the customers with significantly past due receivables and CPHI's repeated use of the collection discount program.

16. CPHI's allowance for doubtful accounts also increased markedly from 2012 through 2014. As of December 31, 2012, the Company reported $4.4 million in allowance for doubtful accounts or 6% of gross accounts receivable. By the end of the years 2013 and 2014, the allowance for doubtful accounts had grown to $13.3 million, and $33.3 million, representing 23% and 57% of gross accounts receivable, respectively.

17. CPHI disclosed in its 2013 and 2014 financial statements that its accounts receivable net of the allowance for doubtful accounts represented approximately 16% and 19% of total assets, respectively, at the end of each of those two years. In both 2013 and 2014, CPHI further disclosed that it reserved 3.5% of accounts receivable less than one year old, 10% for amounts past due between one and two years, and fully reserved for amounts past due over two years.

18. In both Audits, Respondents assessed the risk of material misstatement as high for the valuation assertion related to accounts receivable, net of allowance for doubtful accounts. During the 2013 Audit, to test the allowance for doubtful accounts, the Firm: (1) made inquiries of management about the Company's accounting policy regarding allowance for doubtful accounts; (2) for the accounts receivable aging balance, compared data used in the Company's allowance calculation to the Company's accounts receivable aging report and compared percentages for each aging category to prior year's amounts; (3) tested the mathematical accuracy of the Company's allowance calculation; and (4) tested amounts collected after year end which represented approximately 1% of accounts receivable. During the 2014 Audit, Respondents performed the same procedures as the previous year and inquired of management regarding the collectability of certain accounts aged over one year with no sales reported during the year under audit.

19. During the Audits, Respondents were also aware of the large increase in aged receivables, the Company's use of the collection discount program, and the significant increase in the Company's bad debt expense from $10.8 million in 2013 to

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[16] See AS 13 ¶¶ 12-15.

[17] See AS 14 ¶ 30; AU §§ 411.04, .06.

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$20.6 million in 2014. However, Respondents failed to perform any procedures to evaluate the reasonableness of the allowance for doubtful accounts estimate and whether the allowance for doubtful accounts was properly valued. Specifically, Respondents, in testing the Company's allowance for doubtful accounts calculation, failed to perform any procedures to evaluate the reasonableness of reserve percentages used in the allowance calculation.[18] Respondents also failed to test the accuracy and completeness of the accounts receivable aging categories in the accounts receivable aging schedule provided by management.[19]

20. In addition, during the Audits, Respondents failed to perform a retrospective review of management's allowance for doubtful accounts estimate reflected in the financial statements of the prior years to determine whether management's judgments and assumptions relating to the allowance for doubtful accounts estimate indicated a possible bias on the part of management.[20]

CPHI Restated its 2014 Financial Statements

21. On December 11, 2015, CPHI disclosed in a Form 8-K that it was advised by the Respondents that during a PCAOB inspection of the Firm, the PCAOB issued comments that identified certain deficiencies in the audit of the financial statements filed in Form 10-K for the year ended December 31, 2014, and for the quarterly reports filed for the first three quarters of 2015. As a result of those comments, the Company concluded that its previously filed 2014 financial statements and 2015 quarterly filings should no longer be relied upon because the Company "had not properly evaluated whether collectability of revenue was reasonably assured for sales to customers with significantly aged receivable balances and, therefore, whether the revenue had been appropriately recognized; and the Company had not properly evaluated the reasonableness of the allowance for doubtful accounts."

22. On December 28, 2015, CPHI filed an amendment to its 2014 financial statements, restating its revenue, accounts receivable and bad debt expense. As restated, accounts receivable (net) decreased by 44%, revenue decreased by 11% and bad debt expenses increased by 52%, resulting in an increase in net loss of 52% or $13.5 million.

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[18] See AU §§ 342.04, .09 - .14

[19] See AS No. 15 ¶ 10.

[20] See AU § 316.64.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Arshak Davtyan Inc. and Arshak Davtyan, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Arshak Davtyan Inc. is revoked;

C. After two (2) years from the date of the Order, Arshak Davtyan Inc. may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Arshak Davtyan, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[21] and

[21] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Arshak Davtyan, CPA. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

E. After two (2) years from the date of this Order, Arshak Davtyan, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 20, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Scrudato & Co. PA, and John Scrudato, CPA,* *Respondents.*	PCAOB Release No. 105-2016-054 December 20, 2016

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Scrudato & Co., PA (the "Firm"), revoking the Firm's registration, and imposing a civil money penalty in the amount of $15,000 upon the Firm;[1] and censuring John Scrudato, CPA ("Scrudato") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Scrudato (collectively, "Respondents") violated PCAOB rules and standards in connection with the audits of five issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Scrudato may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Scrudato & Co., PA is, and at all relevant times was, a sole proprietorship organized under the laws of New Jersey, with an office in Califon, New Jersey. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, the Firm was the external auditor for the issuers identified below.

2. John Scrudato, CPA, 54, is a certified public accountant licensed by the state of New Jersey (License No. 20CC01509700). At all relevant times, Scrudato was the managing partner and sole owner of the Firm, and served as the engagement partner on the audits discussed below. Scrudato is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and standards in connection with Respondents' issuance of unqualified audit reports on the March 31, 2015 financial statements of Grid Petroleum Corp. ("Grid"); the December 31, 2013 and 2014 financial statements of Baltia Air Lines, Inc. ("Baltia"); the May 31, 2013 and 2014 financial statements of American International Ventures, Inc. ("AIV"); the May 31, 2013 financial statements of U.S. Precious Metals, Inc. ("USPM"); and the December

[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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31, 2013 and 2014 financial statements of Green Parts International, Inc. ("Green Parts") (collectively, the "Issuer Audits").

4. As detailed below, Respondents repeatedly failed to obtain sufficient appropriate audit evidence and exercise due professional care and professional skepticism in connection with each of the Issuer Audits. Several of the Issuer Audits that resulted in Respondents' violations were new clients subject to reaudit by the Firm after the issuer's previous auditor was sanctioned by the Board.[5]

C. Respondents Violated PCAOB Rules and Standards

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[7] Among other things, those standards require that an auditor exercise due professional care and professional skepticism in the performance of the audit and preparation of the report.[8] PCAOB standards also require that an auditor plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.[9] If the auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the

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[5] See *In the Matter of Jeffrey & Company and Robert G. Jeffrey, CPA*, PCAOB Release No. 105-2014-005 (May 6, 2014); *In the Matter of Patrick Rodgers, CPA, PA and Patrick E. Rodgers, CPA*, PCAOB Rel. No. 105-2014-002 (March 6, 2014); *In the Matter of Michael F. Cronin, CPA and Michael F. Cronin, CPA*, PCAOB Rel. No. 105-2013-003 (May 14, 2013).

[6] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[7] See AU § 508.07, *Reports on Audited Financial Statements*.

[8] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; see also Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement*, ("AS 13") ¶ 7.

[9] See Auditing Standard No. 15, *Audit Evidence* ("AS 15") ¶ 4.

ORDER

financial statements as a whole are free of material misstatement, the auditor should express a qualified opinion or a disclaimer of opinion.[10]

6. Respondents failed to comply with PCAOB rules and standards in connection with each of the Firm's audits described below.

Audit of Grid Petroleum's Financial Statements

7. Grid Petroleum Corp. is a Wyoming corporation located in Buffalo, Wyoming. Grid's public filings disclose that, at all relevant times, it was focused on the development, exploration, and production of oil and gas in North America. Grid filed its Form 10-K/A on July 14, 2015.[11] At all relevant times, it was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

8. Scrudato, as engagement partner, authorized the Firm's issuance of an audit report, dated July 9, 2015, expressing an unqualified audit opinion on Grid's financial statements for the year ended March 31, 2015.

9. In connection with the audit of Grid's financial statements, Respondents failed to exercise due professional care and professional skepticism and failed to perform the audit in accordance with PCAOB standards. Specifically, Respondents failed to obtain sufficient appropriate audit evidence concerning a significant balance in Grid's financial statements. Scrudato and the Firm failed to perform sufficient procedures related to the valuation of Grid's largest asset, oil and gas properties, which represented approximately $7 million, or 99%, of total reported assets.

10. When an auditor uses the work of a specialist in connection with an audit, the auditor should evaluate the qualifications of the specialist as well as the relationship of the specialist to the client.[12] In addition, auditors should obtain an understanding of, among other things: (1) the methods or assumptions used by the specialist and (2) how those methods and assumptions compare to those used in the preceding period.[13] Grid's management engaged a specialist to assess the fair value of its oil and gas

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[10] See Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14") ¶ 35.

[11] Grid's financial statements for the fiscal year ended March 31, 2015 were amended to correct that an extension filed on June 30, 2015 was incorrectly filed as a Form 10-K when in fact it should have been filed as a Form NT 10-K.

[12] See AU § 336.08 and.10, *Using the Work of a Specialist*.

[13] See id. at .09.

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properties. Respondents failed to evaluate the relationship of the specialist to the client, as well as the qualifications of the specialist used for the valuation of Grid's oil and gas properties. In addition, Respondents failed to perform sufficient procedures to evaluate the methods and assumptions used by the specialist to assess the fair value of the oil and gas properties.[14]

11. The audit of the March 31, 2015 financial statements was the first year audited by the Firm. Under PCAOB standards, an audit firm should include language in its audit report indicating that the prior period financial statements were audited by another auditor when the predecessor auditor's report is not presented.[15] Contrary to PCAOB standards, Scrudato and the Firm failed to include language referring to the predecessor auditor's report in its audit report issued on Grid's financial statements for the year ended March 31, 2015, even though the predecessor auditor's report was not included in the filing.

Audits of Baltia Air Lines' Financial Statements

12. Baltia Air Lines, Inc. is a New York corporation located in Jamaica, New York. Baltia's public filings disclose that, at all relevant times, it was intending to commence scheduled non-stop service from JFK International Airport to Pulkovo II International Airport in St. Petersburg, Russia, upon completion of the Federal Aviation Administration certification process. Baltia filed its Form 10-K/A on September 10, 2015.[16] At all relevant times, it was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

13. Scrudato, as engagement partner, authorized the Firm's issuance of an audit report, dated September 8, 2015, expressing an unqualified audit opinion, which included a going concern explanatory paragraph, on Baltia's financial statements for the years ended December 31, 2013 and 2014.[17]

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[14] See AU § 328.05, footnote 2, *Auditing Fair Value Measurements and Disclosures*.

[15] See AU § 508.74.

[16] Baltia's financial statements for the fiscal year ended December 31, 2014 were amended to, among other things, correct minor errors to the financial statement footnotes.

[17] Prior Baltia financial statements were audited by Patrick Rodgers, CPA, PA (2007 and 2009) and Michael Cronin, CPA (2008, 2009 (reaudit), 2010, and 2011).

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14. In connection with the audits of Baltia's financial statements, Respondents failed to exercise due professional care and professional skepticism and failed to plan and perform the audit in accordance with PCAOB standards. PCAOB standards require auditors to identify and assess risks of material misstatement at the financial statement level and the assertion level.[18] Factors that should be evaluated in determining whether a risk of material misstatement is a significant risk include, among other things, the effect of qualitative and quantitative risk factors on the likelihood and potential magnitude of misstatements.[19] Respondents failed to appropriately plan the audits by not identifying a significant risk of material misstatement related to whether Baltia's fixed assets were properly valued.

15. As of December 31, 2013 and 2014, Baltia's largest asset was a single Boeing 747 airplane. The airplane represented $1.5 million and $2.1 million of total assets, or approximately 80% of total assets, in 2013 and 2014, respectively. Except for obtaining management representations, Scrudato and the Firm failed to perform sufficient procedures in either year related to whether the Boeing 747 existed and whether Baltia had legal title to it.[20] Further, aside from obtaining management representations, Scrudato and the Firm failed to perform sufficient procedures to evaluate whether Baltia's airplane was impaired as of December 31, 2014 in accordance with generally accepted accounting principles.[21] In fact, Scrudato noted that an updated impairment analysis would be completed in the future.

See *In the Matter of Patrick Rodgers, CPA, PA and Patrick E. Rodgers, CPA*, PCAOB Rel. No. 105-2014-002 (March 6, 2014); *In the Matter of Michael F. Cronin, CPA and Michael F. Cronin, CPA*, PCAOB Rel. No. 105-2013-003 (May 14, 2013).

[18] See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12") ¶ 59.

[19] See AS 12 ¶ 71.

[20] See AS 15 ¶¶ 4-6; AS 14 ¶ 32-36.

[21] See AS 14 ¶ 30, ASC Topic 360-10-35-21, *Property, Plant, and Equipment, Impairment or Disposal of Long-Lived Assets, When to Test a Long Lived Asset for Recoverability*; see also ASC Topic 360-10-35-17, *Property, Plant, and Equipment, Impairment or Disposal of Long-Lived Assets, Measurement of an Impairment Loss*.

PCAOB
Public Company Accounting Oversight Board

ORDER

Audits of American International Ventures' Financial Statements

16. American International Ventures, Inc. is a Delaware corporation located in Lithia, Florida. AIV's public filings disclose that it is a gold and silver exploration and extraction company. AIV filed its Form 10-K on October 28, 2014 for the year ended May 31, 2014. At all relevant times, it was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

17. Scrudato, as engagement partner, authorized the Firm's issuance of an audit report, dated September 26, 2014, expressing an unqualified audit opinion on AIV's financial statements for the years ended May 31, 2013 and 2014.

18. The audit of the issuer's financial statements for the fiscal year ended May 31, 2014 was a first year audit by Scrudato and the Firm. The Firm's audit opinion, however, covered the financial statements for the year ended May 31, 2014 as well as the financial statements for the year ended May 31, 2013. The financial statements for the year ended May 31, 2013 were required to be reaudited because the Board revoked the registration of the predecessor auditor.[22]

19. PCAOB standards require that a successor auditor who accepts a reaudit engagement plan and perform the reaudit in accordance with applicable professional standards.[23] While a successor auditor may consider the information obtained from inquiries of the predecessor auditor and review of the predecessor auditor's working papers in planning the reaudit, the information obtained from those inquiries and review of the prior working papers is not sufficient to afford a basis for expressing an opinion.[24] The nature, timing, and extent of the audit work performed and the conclusions reached in the reaudit are solely the responsibility of the successor auditor performing the reaudit.[25]

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[22] AIV's fiscal 2013 financial statements were originally audited by Jeffrey and Co. See *In the Matter of Jeffrey & Company and Robert G. Jeffrey, CPA*, PCAOB Release No. 105-2014-005 (May 6, 2014). The audit of AIV's fiscal 2013 financial statements was not part of the disciplinary order against Jeffrey & Company.

[23] See AU § 315.14-.20, *Communications Between Predecessor and Successor Auditors*.

[24] See id. at .15.

[25] See id.

ORDER

20. The Firm and Scrudato failed to obtain sufficient appropriate audit evidence to support its audit opinion on the issuer's financial statements for the fiscal year ended May 31, 2013. In fact, the only procedures performed were: (1) obtaining copies of certain of the predecessor auditor's work papers; and (2) obtaining a copy of a balance sheet at the end of the prior year, which indicated procedures performed by the predecessor auditor and supporting documents obtained by the predecessor auditor related to certain account balances. By simply obtaining and reviewing certain copies of the predecessor auditor's work papers without planning and performing their own procedures, Scrudato and the Firm violated PCAOB standards.

21. In connection with the 2014 audit of AIV's financial statements, Respondents failed to exercise due professional care and professional skepticism and failed to plan and perform the audit in accordance with PCAOB standards. Scrudato failed to identify a significant risk of material misstatement with respect to the issuer's mining claims, which represented approximately $1.3 million, or 70%, of total assets.[26] Respondents also failed to perform sufficient procedures to assess whether the mining claims existed, whether AIV owned the claims, and whether the related footnote disclosure was accurate. AIV acquired the mining claims prior to fiscal year 2014 and the balance remained unchanged from the end of fiscal year 2013 to the end of fiscal year 2014. During the audit of the 2014 financial statements, Scrudato and the Firm failed to: (1) perform procedures to validate the purchase, ownership, and consideration paid for the mining claims; and (2) test the completeness of the mining claims. Instead, Respondents merely obtained an issuer-prepared schedule of mining claims detailing the mining claim asset amounts and the form of the consideration paid for the claims. In fact, the only notation on the schedule indicated that the mining claims balance was unchanged from the prior year. The schedule, however, was inconsistent with AIV's footnote disclosure which included an additional mining claim not included on the issuer-prepared schedule in the Firm's work papers. Yet Respondents failed to address or note the discrepancy.[27]

Audit of U.S. Precious Metals' Financial Statements

22. U.S. Precious Metals, Inc. is a Delaware corporation located in Marlboro, New Jersey. USPM's public filings disclose that, at all relevant times, it was an exploration stage company engaged in the acquisition, exploration, and development of mineral properties. USPM filed its Form 10-K on September 10, 2014 for the year ended

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[26] See AS 12 ¶ 59.

[27] See AS 15 ¶ 10.

ORDER

May 31, 2014. At all relevant times, it was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

23. Scrudato, as engagement partner, authorized the Firm's issuance of an audit report, dated August 29, 2014, expressing an unqualified audit opinion on USPM's financial statements for the years ended May 31, 2013 and 2014.

24. The May 31, 2014 financial statements audit was the first fiscal year audit of USPM by Scrudato and the Firm. The Firm's audit opinion, however, covered the financial statements for the year-ended May 31, 2014 as well as the financial statements for the year-ended May 31, 2013. The financial statements for the year ended May 31, 2013 were required to be reaudited because the Board revoked the registration of the predecessor auditor.[28]

25. As noted above, PCAOB standards require that a successor auditor who accepts a reaudit engagement plan and perform the audit in accordance with applicable professional standards.[29] In planning the 2013 reaudit, Scrudato failed to identify a significant risk of material misstatement associated with the issuer's investment in mining rights – which represented approximately $157,000, or 68%, of total assets.[30] Scrudato and the Firm also failed to obtain sufficient appropriate audit evidence to support the Firm's audit opinion on USPM's financial statements for the fiscal year ended May 31, 2013. In fact, the only procedures performed were: (1) obtaining copies of certain of the predecessor auditor's work papers; (2) obtaining a copy of a balance sheet at the end of the prior year, which indicated procedures performed by the predecessor auditor and supporting documents obtained by the predecessor auditor related to certain account balances; and (3) documenting that certain account balances agreed to the balances for the year under audit.

Audits of Green Parts' Financial Statements

26. Green Parts International, Inc. is a Nevada corporation located in Atlanta, Georgia. Green Parts' public filings disclose that, at all relevant times, it was a salvage

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[28] USPM's fiscal 2013 financial statements were originally audited by Jeffrey and Co. See *In the Matter of Jeffrey & Company and Robert G. Jeffrey, CPA*, PCAOB Release No. 105-2014-005 (May 6, 2014). The audit of USPM's fiscal 2013 financial statements was not part of the disciplinary order against Jeffrey & Company.

[29] See AU § 315.14-.20.

[30] See AS 12 ¶ 59.

ORDER

and reclamation company. Green Parts filed its Form 10-K on March 31, 2014, and April 15, 2015, for the years ended December 31, 2013 and 2014, respectively. At all relevant times, it was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

27. Scrudato, as engagement partner, authorized the Firm's issuance of audit reports, dated March 20, 2014 and April 5, 2015, expressing an unqualified audit opinion on Green Parts' financial statements for the years ended December 31, 2013 and 2014, respectively.

28. In connection with the audits of Green Parts' financial statements, Respondents failed to exercise due professional care and professional skepticism and failed to plan and perform the audit in accordance with PCAOB standards. Specifically, Respondents failed to perform sufficient procedures to test whether revenue was properly recorded. Green Parts reported revenue of approximately $12.7 million and $15.2 million for the years ended December 31, 2014 and 2013, respectively. According to the financial statement footnotes, Green Parts derived most of its revenue from the sale of recycled products, including salvage vehicles and scrap material. During both audits, Scrudato reviewed the general ledger for large and unusual items over a certain threshold and, as a result, selected certain transactions for testing. Scrudato also performed cut-off testing at year end. While PCAOB standards state that an auditor may decide to select specific items within a population for testing because they have a specified characteristic, they also state that this approach does not constitute audit sampling and the results of those audit procedures cannot be projected to the entire population.[31] Respondents failed to perform sufficient procedures to test the remaining population of revenue.

29. PCAOB standards provide that fraud risks are significant risks, which require an auditor to perform substantive procedures, including test of details, to specifically respond to the assessed risk.[32] PCAOB standards further require auditors to presume that there is a fraud risk involving improper revenue recognition and evaluate which types of revenue, revenue transactions, or assertions may give rise to such risks.[33] In both 2013 and 2014, Scrudato failed to identify revenue recognition as a fraud risk

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[31] See AS 15 ¶¶ 25-27.

[32] See AS 12 ¶ 71 and AS 13 ¶ 11.

[33] See AS 12 ¶ 68.

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requiring substantive procedures, including tests of details that are specifically responsive to the assessed risks in the financial statements.[34]

30. Lastly, contrary to PCAOB standards, Scrudato and the Firm failed to perform sufficient procedures over Green Parts' reported inventory, which represented approximately 45% of total assets in 2013 and 2014.[35] More specifically, in auditing scrap inventory – which constituted 54% and 34% of reported inventory in 2013 and 2014, respectively – Respondents failed to perform sufficient procedures to test whether Green Parts' scrap inventory was properly valued. In fact, Scrudato failed to perform procedures over the estimate used by management to calculate the value of Green Parts' scrap inventory in either audit year.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Scrudato & Co., PA and John Scrudato are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), John Scrudato is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[36]

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[34] See AS 13 ¶ 11.

[35] See AS 15 ¶ 10; AS 13 ¶ 8.

[36] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Scrudato. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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C. After two (2) years from the date of this Order, John Scrudato may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Scrudato & Co., PA. is revoked;

E. After two (2) years from the date of the Order, Scrudato & Co, PA may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty of $15,000 is imposed upon Scrudato & Co. PA. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Scrudato & Co., PA shall pay this civil money within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States postal money order, certified check, bank cashier's check or bank money order (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (c) submitted under a cover letter which identifies Scrudato & Co., PA as the Respondent in these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 20, 2016

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of HJ & Associates, LLC, S. Jeffrey Jones, CPA, Robert M. Jensen, CPA, and Charles D. Roe, CPA,* *Respondents.*	PCAOB Release No. 105-2017-001 January 24, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring HJ & Associates ("HJ" or the "Firm"), revoking the Firm's registration, and imposing a civil money penalty in the amount of $10,000 upon the Firm;[1] censuring S. Jeffrey Jones, CPA ("Jones"), barring Jones from being an associated person of a registered public accounting firm, and imposing a civil money penalty in the amount of $10,000 upon Jones;[2] censuring Robert M. Jensen, CPA ("Jensen") and suspending him from being an associated person of a registered public accounting firm for a period of one (1) year from the date of this Order; and censuring Charles D. Roe, CPA ("Roe") and suspending him from being an associated person of a registered public accounting firm for a period of one (1) year from the date of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm, Jones, Jensen, and Roe (collectively, "Respondents") violated PCAOB rules and standards, as follows: (a) the Firm, Jones, and Roe failed to comply with PCAOB auditing standards in connection with the audits of two issuers; (b) Jensen failed to comply with PCAOB auditing standards in connection with the audit of one issuer; and (c) the Firm failed to comply with PCAOB quality control standards.

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Jones may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

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I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act") and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. HJ & Associates, LLC is, and at all relevant times was, a professional corporation organized under the laws of the state of Utah, and headquartered in Salt Lake City, Utah. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accountancy by the state

[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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of Utah (license no. 114967-2603). At all relevant times, the Firm was the external auditor for Blue Earth, Inc. ("Blue Earth") and Jameson Stanford Resource Corporation ("Jameson").

2. S. Jeffrey Jones, age 50, of South Jordan, Utah, is a certified public accountant licensed by the state of Utah (license no. 326621-2601). At all relevant times, Jones was a partner of the Firm and had primary responsibility for HJ's audit practice. Jones served as the engagement partner for the Blue Earth and Jameson audits discussed below. At all relevant times, Jones was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. Robert M. Jensen, age 59, of Salt Lake City, Utah, is a certified public accountant licensed by the state of Utah (license no. 149726-2601). At all relevant times, Jensen was the managing partner of the Firm, and he served as the engagement quality reviewer for HJ's audit of the 2012 financial statements of Blue Earth. At all relevant times, Jensen was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

4. Charles D. Roe, age 65, of Salt Lake City, Utah, was at all relevant times a certified public accountant licensed by the state of Utah (license no. 145257-2601). Roe's license with the state of Utah expired on September 30, 2016. At all relevant times, Roe was a partner of the Firm, and he served as the engagement quality reviewer for HJ's audits of the 2013 financial statements of Jameson, the 2013 financial statements of Blue Earth, and the 2013 internal control over financial reporting ("ICFR") of Blue Earth. At all relevant times, Roe was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

5. This matter concerns Respondents' violations of PCAOB rules and auditing standards in connection with the audits of the 2013 financial statements of Jameson, the 2012 and 2013 financial statements of Blue Earth, and the 2013 ICFR of Blue Earth (collectively, the "Audits"). Respondents repeatedly failed to obtain sufficient appropriate audit evidence and to exercise due care and professional skepticism in connection with the Audits. More specifically: (a) the Firm and Jones failed to comply with PCAOB auditing standards in connection with each of the Audits; (b) Jensen failed to comply with PCAOB auditing standards in connection with the audit of Blue Earth's 2012 financial statements; and (c) Roe failed to comply with PCAOB auditing standards in connection with the audit of Jameson's 2013 financial statements, and the audits of Blue Earth's 2013 financial statements and ICFR.

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6. This matter also concerns the Firm's violations of PCAOB rules and quality control standards by failing to establish and implement quality control policies and procedures sufficient to provide HJ with reasonable assurance that Firm personnel would comply with applicable professional standards and the Firm's standards of quality.

C. Respondents Violated PCAOB Rules and Auditing Standards in Connection with the Audits.

7. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6] Among other things, those standards require that an auditor exercise due professional care and professional skepticism in performing the audit.[7]

8. PCAOB standards require auditors to take certain steps in connection with the identification and assessment of risks of material misstatement. The auditor should perform risk assessment procedures that are sufficient to provide a reasonable basis for identifying and assessing the risks of material misstatement, whether due to error or fraud, and designing further audit procedures.[8] The assessment of risk should continue throughout the audit and, when the auditor obtains audit evidence that contradicts audit evidence on which the original risk assessment was made, "the auditor should revise the risk assessment and modify planned audit procedures or perform additional procedures in response to the revised risk assessments."[9]

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; and PCAOB Rule 3200T, *Interim Auditing Standards*.

[6] See AU § 508.07, *Reports on Audited Financial Statements.*

[7] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*.

[8] See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS12") ¶ 4.

[9] Id. ¶ 74; see also Auditing Standard No. 9, *Audit Planning* ("AS9") ¶ 15 (auditors should modify overall strategy and audit plan as necessary if circumstances

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9. In the case of significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment, PCAOB standards require the auditor to gain an understanding of the business rationale for such transactions and whether that rationale (or the lack thereof) suggests that the transactions may have been entered into to engage in fraud.[10] And the auditor should evaluate whether the company's selection and application of accounting principles are appropriate for its business and consistent with the applicable financial reporting framework and accounting principles used in the relevant industry.[11]

10. PCAOB auditing standards require auditors to design and implement appropriate audit responses to the risks of material misstatement.[12] The auditor should determine whether it is necessary to make pervasive changes to the nature, timing, or extent of audit procedures to address adequately the assessed risks of material misstatement.[13] "The auditor's responses to the assessed risks of material misstatement, particularly fraud risks, should involve the application of professional skepticism in gathering and evaluating audit evidence."[14] Where a risk of fraud is identified, the auditor is required to perform substantive procedures, including tests of details, that are specifically responsive to the assessed fraud risks.[15]

11. The auditor must plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[16] The "auditor should take into account all relevant audit evidence, regardless of whether it

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change significantly during audit, including discovery of previously unidentified risk of material misstatement or revised assessment of risk of material misstatement).

[10] See AU § 316.66, *Consideration of Fraud in a Financial Statement Audit*.

[11] See AS12 ¶¶ 12-13.

[12] See Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS13") ¶ 3.

[13] See id. ¶ 6.

[14] Id. ¶ 7.

[15] Id. ¶ 13.

[16] See Auditing Standard No. 15, *Audit Evidence* ("AS15") ¶ 4.

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appears to corroborate or to contradict the assertions in the financial statements."[17] The auditor should evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[18] "If the auditor has not obtained sufficient appropriate audit evidence about a relevant assertion . . . the auditor should perform procedures to obtain further audit evidence to address the matter."[19] The auditor must evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[20]

12. The auditor must evaluate the reasonableness "of accounting estimates made by management in the context of the financial statements taken as a whole."[21] Further, while management representations are part of the evidential matter the auditor obtains, they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit.[22] If management representations are contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made and, based on the circumstances, consider whether his reliance on management's representations relating to other aspects of the financial statements is appropriate and justified.[23]

13. As described below, HJ and Jones failed to comply with the above PCAOB rules and auditing standards in connection with the Audits.

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17 Auditing Standard No. 14, *Evaluating Audit Results* ("AS14") ¶ 3.

18 See id. ¶ 4.

19 Id. ¶ 35.

20 See id. ¶¶ 30-31.

21 AU § 342.04, *Auditing Accounting Estimates;* see also id. § 342.07.

22 See AU § 333.02, *Management Representations*.

23 Id. § 333.04.

ORDER

Jameson Stanford Resource Corporation

14. At all relevant times, Jameson Stanford Resource Corporation[24] was a Nevada corporation headquartered in Las Vegas, Nevada. The public filings of Jameson disclosed that it was a mining development company. At all relevant times, its common stock was registered under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and was quoted on the OTCQB marketplace. At all relevant times, Jameson was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

15. Jones was the engagement partner for the Firm's audit of the December 31, 2013 financial statements of Jameson, and he supervised the work of the engagement team. On April 15, 2014, Jones granted permission for the Firm's issuance of an audit report expressing an unqualified opinion on Jameson's 2013 financial statements. The audit report was included in the Form 10-K that Jameson filed with the Commission on April 15, 2014. HJ and Jones failed to exercise due professional care and professional skepticism, and failed to obtain sufficient appropriate audit evidence in connection with the audit of Jameson's 2013 financial statements.[25]

Common Stock

16. HJ and Jones failed to comply with PCAOB auditing standards in connection with their audit of Jameson's reported common stock. During the audit, HJ and Jones learned that the CEO and majority shareholder of Jameson (the "CEO") sold Jameson common stock to a third party for approximately $750,000,[26] failed to record the issuance of the common stock in Jameson's books and records, and deposited the proceeds from the stock sale into the bank account of an entity that the CEO controlled. HJ and Jones also learned that the CEO: (a) purportedly used these funds to pay company expenses; (b) caused Jameson to issue a note payable to himself to cover those expenses; and (c) later caused Jameson to extinguish that note payable in exchange for approximately 1.5 million shares of company stock.

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[24] On November 24, 2014, Jameson filed a Form DEF-14C, *Definitive Information Statement*, with the U.S. Securities and Exchange Commission ("Commission") stating that the company had changed its name to Star Mountain Resources, Inc.

[25] See AU § 150.02; see also AU § 230 and AS15 ¶ 4.

[26] For 2013, Jameson reported total assets of approximately $195,000.

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17. After becoming aware of these facts, HJ and Jones failed to revise their risk assessment or to consider modifying planned procedures or performing additional procedures to address these matters.[27] HJ and Jones also failed to gain a sufficient understanding of the business rationale for these significant unusual transactions to assess whether the transactions may have been entered into to engage in fraudulent financial reporting or to conceal the misappropriation of assets.[28]

18. HJ and Jones also failed to obtain sufficient appropriate audit evidence to evaluate Jameson's reported share balance. HJ and Jones identified a significant difference between the number of common shares outstanding, as reported by management, and the number of shares outstanding as set forth in a stock register that the Firm received from Jameson's stock transfer agent. HJ and Jones asked Jameson management about the discrepancy. Management replied that the company had improperly issued shares to the CEO, but represented that the company had rescinded the issuance of those shares as of the balance sheet date. HJ and Jones failed to obtain sufficient appropriate evidence to corroborate management's representations.[29] Indeed, HJ and Jones failed to reconcile conflicting audit evidence, including a board of directors' authorization to rescind the shares issued to the CEO that was not effective until four months *after* the year under audit. This evidence suggested that the shares issued to the CEO had not, in fact, been rescinded as of the balance sheet date.[30]

Reported Expenses

19. During audit planning, HJ and Jones identified a risk of material misstatement with respect to management override of controls. The Firm, moreover, understood that the company's general and administrative expenses increased by over 350 percent between 2012 and 2013. HJ and Jones, however, failed to design and implement appropriate audit responses to these identified risks.[31] Moreover, HJ and Jones failed to perform procedures to gather additional audit evidence to address red flags that they encountered during the course of audit.[32] These red flags indicated that

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27 See AS12 ¶ 74.

28 See AU § 316.66.

29 See AU § 333.02.

30 See AS15 ¶ 29.

31 See AS13 ¶ 3.

32 See AS14 ¶¶ 34-35.

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the CEO may have been improperly submitting and approving his own personal expenses as expenses of the company.

20. In the course of the 2013 audit, Jones reviewed work papers that documented first quarter of 2014 cash disbursements, including disbursements that appeared to be highly unusual. For example, the CEO submitted expense reports to Jameson for cash withdrawals from an ATM located in Las Vegas.

21. HJ and Jones failed to gain an understanding of the business rationale for these significant unusual business transactions, and whether that rationale (or lack thereof) suggested that the transactions may have been entered into in connection with fraudulent financial reporting or the misappropriation of assets.[33] Further, HJ and Jones failed to evaluate whether to revise their risk assessment in light of these facts.[34] Despite being aware of these red flags, HJ and Jones failed to perform any procedures to obtain further audit evidence to address these matters.

Restatement

22. On October 10, 2014, Jameson filed an amended Form 10-K with the Commission containing the company's restated 2013 financial statements. Jameson disclosed that it was restating its financial statements to correct "an error related to the failure to record the issuance of common stock to the [CEO] for the period covered by the Original Report." It further disclosed that the company's "Financial Statements also contained errors relating to the incorrect classification of our [CEO's] personal expenses as expenses of our Company." The restatement increased advances to related party shareholders from $0 to $1.23 million. This asset, as restated, constituted 87 percent of Jameson's total assets.

23. The amended Form 10-K also disclosed that the CEO had resigned and the company had filed a civil complaint against the former CEO for committing, among other things, "wrongful and fraudulent acts and omissions resulting in at least [approximately $2.6 million] in losses for the company, [approximately $1.3 million] in fraudulent claimed business expenses, [approximately $1.3 million in] investment monies diverted from the company and monies deposited directly into [the CEO's] personal accounts and the improper issuance to [the CEO] of 25,000,000 shares of the Company's common stock."

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[33] See AU § 316.66.

[34] See AS12 ¶ 74.

ORDER

Blue Earth 2012 Financial Statement Audit

24. At all relevant times, Blue Earth, Inc. was a Nevada corporation headquartered in Henderson, Nevada. Blue Earth's public filings disclosed that it was a comprehensive provider of energy efficiency and renewable energy solutions for commercial and industrial facilities. At all relevant times, its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTCQB marketplace.[35] At all relevant times, Blue Earth was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

25. Jones was the engagement partner for the Firm's audit of the December 31, 2012 financial statements of Blue Earth, and he supervised the work of the engagement team. On April 1, 2013, Jones granted permission for the Firm's issuance of an audit report expressing an unqualified opinion on Blue Earth's 2012 financial statements. The audit report was included in the Form 10-K that Blue Earth filed with the Commission on April 1, 2013. HJ and Jones failed to exercise due professional care and professional skepticism, and failed to obtain sufficient appropriate audit evidence in connection with the audit of Blue Earth's 2012 financial statements.[36]

Revenue

26. Blue Earth reported revenue of approximately $9.9 million in 2012, which constituted an increase of approximately 87 percent over the prior year. HJ and Jones failed to obtain sufficient appropriate audit evidence to support the occurrence, completeness, and valuation of Blue Earth's reported revenue for 2012. HJ and Jones identified revenue as a significant audit area and as a risk of fraud involving improper revenue recognition.[37] HJ and Jones also understood that Blue Earth management had identified a material weakness related to the company's revenue controls in 2012, and planned to test revenue solely through substantive procedures in response to those risks.

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[35] On August 1, 2016, Blue Earth filed with the Commission a Form 15, *Certification and Notice of Termination of Registration*.

[36] See AU § 150.02; see also AU § 230 and AS15 ¶ 4.

[37] An auditor "should presume that there is a fraud risk involving improper revenue recognition and evaluate which types of revenue, revenue transactions, or assertions may give rise to such risks." AS12 ¶ 68. "For significant risks, the auditor should perform substantive procedures, including tests of details, that are specifically responsive to the assessed risks." AS13 ¶ 11.

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27. To substantively test revenue, the engagement team tested major customer transactions for certain months. This approach did not constitute sampling under PCAOB auditing standards, and the results of the Firm's audit procedures could not be projected to the entire revenue population.[38] As a result, HJ's revenue testing did not provide any audit evidence for approximately 84 percent of Blue Earth's 2012 revenue.[39]

28. The engagement team also performed analytical procedures that the engagement team intended to serve as substantive procedures over Blue Earth's reported revenue. However, these procedures were not substantive analytical procedures because the engagement team failed: (1) to develop expectations at a sufficient level of precision to provide assurance that material differences would be identified for investigation, and (2) to establish a threshold for significant differences and evaluate whether there were significant, unexpected differences requiring further investigation.[40]

29. HJ and Jones also failed to gather sufficient appropriate audit evidence with respect to revenue that Blue Earth accounted for using the percentage of completion ("POC") method. HJ and Jones understood that more than half of Blue Earth's 2012 revenue was recognized using the POC method. To support reported POC revenue, management provided the Firm with budgets and estimates to complete ("ETCs") for projects that were accounted for using the POC method. HJ and Jones failed to obtain sufficient appropriate audit evidence to support the Firm's POC revenue estimates.[41]

Intangible Assets

30. Reported intangible assets constituted approximately $8.3 million, or 56 percent, of Blue Earth's total reported assets as of December 31, 2012. Under generally accepted accounting principles ("GAAP"), a company is required to assess intangible assets for impairment and to follow certain procedures in performing these

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[38] See AS15 ¶¶ 25-27.

[39] The engagement team also confirmed transactions in Blue Earth's year-end accounts receivable balance; however, this testing covered 12 percent of revenue, and it only provided evidence regarding balances that were outstanding at year-end.

[40] See AU §§ 329.17 and .20, *Substantive Analytical Procedures*.

[41] See AU § 342.10.

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assessments.[42] GAAP also requires that an assessment be made of the remaining useful life of an intangible asset to ensure that it has been amortized properly.[43]

31. Blue Earth evaluated intangible assets for impairment by comparing the carrying value of these assets at year-end to the present value of the estimated revenue projections for these assets. Blue Earth's impairment analysis, however, did not include cash outflows related to the revenue projections. HJ and Jones reviewed Blue Earth's impairment analysis and concurred with the company's conclusion that the carrying value of the intangible assets was recoverable because that value did not exceed the present value of the company's revenue projections for the assets.

32. HJ and Jones understood that, as of December 31, 2012, Blue Earth had approximately $34.1 million in accumulated deficit, and had a net loss of approximately $9.6 million, and a negative cash outflow from operations of approximately $5.5 million in 2012. HJ and Jones, nonetheless, failed to perform sufficient procedures to test Blue Earth's impairment analysis.[44] First, HJ and Jones failed to evaluate whether the projected revenues that Blue Earth used to test recoverability were reasonable. Indeed, HJ and Jones failed to perform any procedures beyond management inquiry to evaluate the assumptions underlying management's revenue projections. Second, HJ and Jones failed to evaluate whether management's analysis should have also included cash outflows associated with future expenditures necessary to maintain the value of the intangible assets. Finally, HJ and Jones failed to perform any procedures beyond management inquiry to evaluate the reasonableness of management's estimate of the intangible assets' remaining useful life.

Blue Earth 2013 Financial Statement Audit

33. HJ also audited Blue Earth's 2013 financial statements. Jones was the engagement partner for this audit and he supervised the work of the engagement team. On March 3, 2014, Jones granted permission for the Firm's issuance of an audit report expressing an unqualified opinion on Blue Earth's 2013 financial statements. The audit report was included in the Form 10-K that Blue Earth filed with the Commission on

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[42] See Financial Accounting Standards Board Accounting Standards Codification ("ASC") Section 350-20-35, *Intangibles – Goodwill and Other – Goodwill – Subsequent Measurement*; ASC Section 350-30-35, *Intangibles – Goodwill and Other – General Intangibles Other Than Goodwill – Subsequent Measurement.*

[43] See ASC Section 350-30-35.

[44] See AU § 342.07.

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March 3, 2014.[45] HJ and Jones failed to exercise due professional care and professional skepticism, and failed to obtain sufficient appropriate audit evidence in connection with the audit of Blue Earth's 2013 financial statements.[46]

34. The departures from PCAOB standards in the 2012 Blue Earth audit – related to revenue and impairment testing – were brought to HJ's and Jones's attention during a PCAOB inspection in summer 2013. However, as discussed below, in performing the 2013 audit of Blue Earth's financial statements, less than a year after receiving the inspection feedback, HJ and Jones violated PCAOB standards in precisely the same respects as they had in the earlier audit.

Revenue

35. Blue Earth reported revenue of $10.3 million in 2013. HJ and Jones again failed to obtain sufficient appropriate audit evidence relating to the occurrence, completeness, and valuation of revenue.

36. The engagement team used the same approach to test revenue in 2013 that it had used in 2012. This approach did not provide any audit evidence for approximately 50 percent of Blue Earth's 2013 revenue.[47] The engagement team also performed analytical procedures that were intended to serve as substantive procedures over revenue in 2013; however, these procedures – which were similar to the procedures used in 2012 – did not constitute substantive analytical procedures.[48]

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[45] Blue Earth filed with the Commission four amendments to the company's Form 10-K to correct various errors or omissions in the company's original filing. The amended Form 10-Ks were filed with the Commission on the following dates: April 11, 2014; May 1, 2014; May 9, 2014; and May 13, 2014. In its amended filings, Blue Earth did not disclose that it was restating its financial statement footnotes or management's assessment of ICFR. In addition, HJ did not update its opinion on the company's financial statements or ICFR.

[46] See AU § 150.02; see also AU § 230 and AS15 ¶ 4.

[47] The engagement team also confirmed certain accounts receivable transactions, but those procedures covered only a small percentage of revenue, and those procedures only provided evidence for transactions that were outstanding at year-end. See AS15 ¶¶ 25-27.

[48] See AU §§ 329.17 and .20.

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37. HJ and Jones also failed, again, to gather sufficient appropriate audit evidence to evaluate Blue Earth's POC revenue. Approximately 60 percent of total revenue was recognized using the POC method in 2013. The engagement team's procedures for testing POC revenue in 2013 were similar to its procedures in 2012. HJ and Jones again failed to obtain sufficient appropriate audit evidence to support the Firm's POC revenue estimates.[49]

Intangible Assets

38. Reported intangible assets constituted approximately $19.8 million, or 23 percent, of total reported assets as of December 31, 2013. HJ and Jones failed to perform sufficient audit procedures to test Blue Earth's evaluation of intangible assets for impairment. As in the 2012 audit, in 2013 HJ and Jones again failed to gather sufficient appropriate audit evidence to evaluate Blue Earth's impairment analysis for certain intangible assets, which included cash inflows, but not associated cash outflows.[50]

39. Further, HJ and Jones failed to perform any procedures beyond management inquiry[51] to evaluate: (1) the assumptions underlying the revenue projections used in management's impairment analysis; and (2) the reasonableness of management's estimate of the intangible assets' remaining useful life,[52] despite Blue Earth's growing accumulated deficit, net loss, and negative cash flow.[53]

Evaluation of Notes Accompanying Financial Statements

40. HJ and Jones failed to evaluate Blue Earth's 2013 financial statements with due care and professional skepticism. The notes accompanying Blue Earth's 2013 financial statements disclosed that the company recognized revenue under the completed contract method of accounting. In fact, the majority of Blue Earth's 2013 revenue was recognized under the POC method. HJ and Jones failed, in their review of

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[49] See AU §§ 342.07 and .10.

[50] See AU § 342.07.

[51] See AU § 333.02.

[52] See ASC Section 350-30-35.

[53] HJ and Jones understood that, as of December 31, 2013, Blue Earth had approximately $62.7 million in accumulated deficit, a net loss of approximately $25.4 million, and a negative cash outflow from operations of approximately $11.9 million.

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Blue Earth's financial statements, to evaluate whether the notes accompanying the financial statements contained the information essential for a fair presentation of the financial statements in conformity with GAAP.[54]

41. The notes accompanying Blue Earth's financial statements also did not include a required disclosure related to the gross carrying amount and accumulated amortization of the company's intangible assets.[55] HJ and Jones failed to identify this omission in connection with their review of Blue Earth's financial statements.[56]

Acquisition Accounting

42. HJ and Jones also failed to gather sufficient appropriate audit evidence to evaluate Blue Earth's purchase accounting for three acquisitions. The acquired entities constituted approximately 69 percent of Blue Earth's total reported assets as of December 31, 2013. GAAP requires acquired intangible assets to be measured at their acquisition-date fair value.[57] For each of the acquisitions, Blue Earth management assigned values to the acquired assets and liabilities, and assigned the entire excess purchase price, $58.2 million, to intangible assets. HJ and Jones failed to perform any procedures, aside from recalculating the excess purchase price, to evaluate whether the values that management assigned to the individual intangible assets represented the fair value of those assets as of the acquisition dates.[58]

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[54] See AS14 ¶ 31.

[55] See ASC Topic 350-30-50-2(a)(1), *Intangibles – Goodwill and Other – General Intangibles Other than Goodwill*.

[56] See AS14 ¶ 31. In response to a Commission comment letter, on April 11, 2014 Blue Earth filed a Form 10-K/A with the Commission. This filing included a restatement of the company's 2013 financial statements to include the missing mandatory disclosure. On May 1, 2014, Blue Earth filed another Form 10-K/A with the Commission, in which Blue Earth again restated its 2013 financial statements, to include a more complete version of the mandatory disclosure. Blue Earth did not identify the filing as a restatement. And HJ did not update its opinion on the company's financial statements or ICFR.

[57] See ASC Section 805-20-30-1, *Business Combinations – Identifiable Assets and Liabilities, and Any Non-Controlling Interest – Initial Measurement – General – Measurement Principle*.

[58] See AU § 328.15, *Auditing Fair Value Measurements and Disclosures.*

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43. The acquisition agreement for one of the acquired entities contained a provision for contingent consideration (the "earn-out provision"). GAAP requires companies to recognize the acquisition-date fair value of contingent consideration.[59] In its purchase price allocation, Blue Earth management did not assign any value to the earn-out provision. HJ and Jones understood that the acquired entity was expected to generate revenue. HJ and Jones, however, failed to perform any procedures beyond management inquiry[60] to evaluate whether it was appropriate not to recognize a liability for the earn-out provision.

Blue Earth 2013 ICFR Audit

44. HJ also audited Blue Earth's 2013 ICFR. Jones served as the engagement partner for the ICFR audit and he supervised the work of the engagement team. On March 3, 2014, Jones granted permission for the Firm's issuance of an audit report expressing an unqualified opinion on Blue Earth's ICFR. The audit report was included in the Form 10-K that Blue Earth filed with the Commission on March 3, 2014. HJ and Jones failed to perform procedures adequate to afford a reasonable basis for HJ's ICFR opinion, and they did not obtain appropriate audit evidence that was sufficient to obtain reasonable assurance about whether material weaknesses existed as of the date specified in management's assessment of Blue Earth's 2013 ICFR.[61]

45. When conducting an ICFR audit, auditors must plan and perform the audit to obtain appropriate evidence that is sufficient to obtain reasonable assurance about whether material weaknesses exist as of the date specified in management's assessment.[62] When forming an opinion on the effectiveness of ICFR, auditors should evaluate evidence from all sources, including misstatements detected during the financial statement audit, and any identified control deficiencies.[63] Indicators of material

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[59] See ASC Topic 805-30-25-5, *Business Combinations – Goodwill or Gain from Bargain Purchase, Including Consideration Transferred – Recognition – General – Contingent Consideration*.

[60] See AU § 333.02.

[61] See Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That Is Integrated with an Audit of Financial Statements* ("AS5") ¶ 3; see also AU § 150.02 and AU § 230.

[62] See AS5 ¶ 3.

[63] See id. ¶ 71.

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weaknesses in ICFR include, among other things, restatements of previously issued financial statements to reflect the correction of a material misstatement.[64] If, after issuing an ICFR report, an auditor becomes aware of conditions that existed at the date of the report that might have affected the opinion had he or she been aware of them, the auditor should evaluate what, if any, effect those conditions would have had on the audit report.[65]

46. HJ and Jones understood, at the time of the 2013 ICFR audit, that Blue Earth had determined that the company did not have effective ICFR in 2012. Management identified six 2012 control deficiencies, which constituted material weaknesses, related to controls over revenue and over the period-end financial reporting process. These facts should have, but did not, cause HJ and Jones to increase their due care and professional skepticism in connection with the 2013 ICFR audit.

47. HJ and Jones failed to evaluate evidence obtained from the 2013 Blue Earth financial statement audit when forming the Firm's 2013 ICFR audit opinion. Specifically, HJ and Jones knew from their substantive testing that management's impairment analysis for intangible assets included only cash inflows and did not include associated cash outflows. HJ and Jones failed to consider whether this omission from management's analysis suggested the existence of a control deficiency that required evaluation in forming the 2013 ICFR opinion.[66] That failure was particularly egregious because, in connection with their substantive testing, HJ and the Firm expressly documented for certain intangible assets that management had improperly failed to consider cash outflows.[67]

48. In addition, HJ and Jones understood from their substantive testing procedures that management assigned no value to the earn-out provision included in one of the purchase agreements. As stated above, in the course of the financial statement audit, HJ and Jones failed to exercise due care and professional skepticism

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[64] See id. ¶ 69.

[65] See id. ¶ 98; see also AU § 561, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report* (setting forth procedures to follow when, subsequent to date of audit report, auditor becomes aware of facts that may have existed at date of audit report which might have affected report had auditor been aware of such facts).

[66] See AS5 ¶ 71.

[67] See id.

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in evaluating whether this treatment was appropriate and instead relied on management inquiries.[68] HJ and Jones also failed to evaluate, for the ICFR audit, whether management's conclusion not to assign any value to the earn-out provision suggested the existence of another control deficiency that needed to be evaluated in forming the Firm's 2013 ICFR opinion.[69]

49. HJ and Jones also failed to identify and evaluate the potential ICFR implications of: (a) the omission of a GAAP-required financial statement footnote disclosure concerning intangible assets; and (b) a potentially inaccurate disclosure concerning Blue Earth's revenue recognition policy.[70]

50. HJ and Jones understood that, after the Firm issued its 2013 ICFR audit report, Blue Earth filed four amendments to its 2013 Form 10-K. Each of these amended filings contained restated 2013 financial statements to correct, among other things, errors and omissions identified in Commission comment letters. HJ and Jones failed to evaluate whether the multiple restatements reflected conditions that existed at the audit report date and, if so, whether those conditions would have affected the Firm's unqualified IFCR opinion.[71]

D. Respondents Failed to Comply with PCAOB Auditing Standards in Connection with the Engagement Quality Reviews for the Audits.

51. PCAOB auditing standards require that an engagement quality review ("EQR") be performed on audits and interim reviews of financial statements, among other engagements, conducted pursuant to PCAOB standards.[72] The engagement quality reviewer may provide concurring approval of the issuance of an audit report only if, after performing a review with due professional care, he or she is not aware of a significant engagement deficiency.[73]

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68 See AU § 230; see also AU § 333.02.

69 See AS5 ¶ 71.

70 See id.

71 See id. ¶ 98.

72 See Auditing Standard No. 7, *Engagement Quality Review* ("AS7") ¶ 1.

73 See id. ¶ 12.

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52. A significant engagement deficiency exists when, among other things: (1) the engagement team failed to obtain sufficient appropriate evidence in accordance with PCAOB standards; or (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement.[74]

53. HJ appointed Jensen to serve as the engagement quality reviewer for the audit of Blue Earth's 2012 financial statements. And HJ appointed Roe to serve as the engagement quality reviewer for the audit of Jameson's 2013 financial statements, and the audits of Blue Earth's 2013 financial statements and ICFR.

Jensen

54. Jensen failed to exercise due professional care when performing his EQR for the audit of Blue Earth's 2012 financial statements.[75] Jensen understood that the engagement team had identified improper revenue recognition as a fraud risk but failed to evaluate sufficiently the engagement team's audit response to this identified risk, as required by PCAOB standards.[76] Specifically, Jensen reviewed the revenue work papers and understood that the engagement team's methodology for testing revenue involved selecting only certain transactions involving major customers for detailed testing. Jensen, however, failed to evaluate sufficiently whether that approach resulted in sufficient coverage over total revenue. Jensen also failed to evaluate sufficiently whether the engagement team obtained sufficient appropriate audit evidence to support the Firm's POC revenue estimates.

55. In addition, Jensen understood that Blue Earth's valuation of intangible assets presented a risk of material misstatement. Jensen failed, however, to evaluate the engagement team's audit response to this identified risk, despite being aware of audit evidence showing that management's impairment analysis was flawed.[77] Jensen also failed to evaluate the engagement team's failure to perform any steps beyond management inquiry to test management's impairment analysis.[78]

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74 See id. and Note.

75 See id. ¶ 12.

76 See id. ¶ 10(b).

77 See id. ¶ 12.

78 See id.

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Roe

56. Roe failed to exercise due professional care when performing his EQRs of the 2013 financial statements and the 2013 ICFR of Blue Earth. For example, despite his responsibility to review Blue Earth's financial statements, Roe failed to identify omissions and potential, material inaccuracies in the notes accompanying the 2013 financial statements when he performed his EQRs.[79] Further, despite being aware of potential significant deficiencies identified by PCAOB inspectors related to HJ's audit of Blue Earth's 2012 financial statements, Roe failed to evaluate whether the engagement team: (1) responded appropriately to identified significant risks related to revenue and intangible assets in planning and performing the 2013 audit; (2) obtained sufficient appropriate audit evidence to conclude that the 2013 financial statement notes were presented in accordance with GAAP; and (3) responded appropriately to significant risks related to whether Blue Earth's 2013 ICFR was operating effectively.[80]

57. Roe also failed to exercise due professional care when performing his EQR of the 2013 financial statements of Jameson. Roe was aware of evidence indicating that Jameson's CEO may have improperly deposited Jameson funds into a bank account that the CEO controlled. Despite the requirement that Roe evaluate the engagement team's response to fraud risks and confirm with the engagement partner that there are no significant unresolved matters,[81] Roe failed to discuss with the engagement team, or otherwise to evaluate appropriately, the engagement team's assessment of and responses to this known fraud risk.

E. The Firm Violated PCAOB Rules and Quality Control Standards.

58. PCAOB Rule 3400T requires registered public accounting firms and their associated persons to comply with PCAOB quality control standards.[82] PCAOB quality control standards require each registered firm to establish policies and procedures to provide the firm with reasonable assurance that work performed by engagement

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79 See id.

80 See id. ¶¶ 10(b) and 12.

81 See id. ¶¶ 10(b) and (e).

82 See PCAOB Rule 3400T, *Interim Quality Control Standards*.

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personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[83]

59. HJ violated PCAOB Rule 3400T and PCAOB quality control standards. During 2012 and 2013, the Firm failed to implement and maintain a system of quality control that would provide it with reasonable assurance that Firm personnel would comply with applicable professional standards. Indeed, as described above, multiple HJ audit partners committed multiple audit violations during the audits of multiple issuers conducted over the course of multiple years. Jones, Jensen, and Roe each failed to comply with PCAOB auditing standards in connection with the Audits. The Blue Earth audit failures in 2012, moreover, continued in 2013 despite the fact that the Firm received notice from PCAOB inspectors that the 2012 Blue Earth audit work did not appear to have been performed in compliance with professional standards.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), HJ & Associates, LLC, S. Jeffrey Jones, Robert M. Jensen, and Charles D. Roe are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of HJ & Associates, LLC is revoked;

C. After two (2) years from the date of the Order, HJ & Associates, LLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), S. Jeffrey Jones is barred from being an associated person of a registered

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[83] See Quality Control Section 20.17, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

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public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[84]

E. After three (3) years from the date of this Order, S. Jeffrey Jones may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

F. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Robert M. Jensen and Charles D. Roe are each suspended, for one (1) year from the date of this Order, from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act;[85] and

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon HJ & Associates, LLC, and a civil money penalty in the amount of $10,000 is imposed upon S. Jeffrey Jones. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. HJ & Associates, LLC and S. Jeffrey Jones shall each pay their respective civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under cover letters which identify HJ & Associates, LLC and S. Jeffrey Jones as Respondents in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant

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[84] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Jones. Section 105(c)(7)(B) of the Act provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[85] As a consequence of the suspensions, the provisions of Section 105(c)(7)(B) of the Act, discussed *supra,* at n.84, will apply with respect to Jensen and Roe.

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to this Order. A copy of each cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

January 24, 2017

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of KAP Purwantono, Sungkoro & Surja, Roy Iman Wirahardja, and James Randall Leali,* *Respondents.*	PCAOB Release No. 105-2017-002 February 9, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring KAP Purwantono, Sungkoro & Surja ("EY-Indonesia," or the "Firm"), Roy Iman Wirahardja, and James Randall Leali (collectively, "Respondents"); (2) imposing a civil money penalty in the amount of $1,000,000 on EY-Indonesia, $20,000 on Wirahardja, and $10,000 on Leali; (3) barring Wirahardja from being associated with a registered public accounting firm;[1] and (4) limiting Leali's activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for a one year period from the date of this Order, by prohibiting Leali from serving in certain capacities in any audit as described in Section IV.E. herein.

The Board is imposing these sanctions on the basis of its findings that: (a) the Respondents violated PCAOB rules and standards in issuing, or authorizing the issuance of, unqualified audit reports concerning the December 31, 2011 financial statements and internal control over financial reporting ("ICFR") of PT Indosat Tbk ("Indosat" or the "Company") (the "2011 audit"); (b) Wirahardja and EY-Indonesia through certain of its employees violated PCAOB rules and standards by improperly altering work papers for the 2011 audit in connection with a Board inspection; and (c) EY-Indonesia and Wirahardja violated PCAOB rules by failing to cooperate with a Board investigation.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and

[1] Wirahardja may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

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independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents, and also pursuant to PCAOB Rule 5200(a)(3) with respect to EY-Indonesia and Wirahardja.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents each consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[2]

III.

On the basis of Respondents' Offers, the Board finds[3] as follows:

A. Respondents

1. **KAP Purwantono, Sungkoro & Surja** (formerly known as "KAP Purwantono, Suherman & Surja") ("EY-Indonesia" or the "Firm") is the Indonesian affiliate of the Ernst & Young global network ("EY-Global").[4] EY-Indonesia has offices in Jakarta and Surabaya, Indonesia. EY-Indonesia served as Indosat's independent auditor at all relevant times and issued the audit reports for the 2010, 2011, and 2012

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[2] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of (i) intentional or knowing conduct, including reckless conduct, or (ii) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] This matter involves personnel from various EY-Global affiliates. The term "EY" is used herein when referring to personnel from EY-Global affiliates other than EY-Indonesia.

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Indosat financial statements and ICFR. EY-Indonesia is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Roy Iman Wirahardja**, 54, of Jakarta, Indonesia, is a public accountant licensed under the laws of Indonesia (license no. D-29.271). Wirahardja, at all relevant times, was an EY-Indonesia partner in the Firm's Jakarta office. At all relevant times, Wirahardja served as the Professional Practice Director ("PPD") for EY-Indonesia.[5] Wirahardja was the engagement partner on EY-Indonesia's audits of Indosat's December 31, 2010 through 2012 financial statements and ICFR. In that capacity, Wirahardja led the EY-Indonesia engagement teams, had final responsibility for those audits, and released the audit reports on Indosat's financial statements and ICFR for the years ended December 31, 2010 through 2012. Wirahardja is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **James Randall Leali**, 55, of Chicago, Illinois, is a certified public accountant licensed under the laws of Ohio (license no. 19784) and Illinois (license no. 065.42348). Leali is currently a partner with Ernst & Young LLP ("EY-US"). At all relevant times, Leali was a partner in EYEA LLP[6] and seconded to the PCAOB-registered EY-Global affiliate in Hong Kong where he served as the EY Area Professional Practice Director ("Area PPD")[7] for the Asia-Pacific region, which included Indonesia. In his capacity as Area PPD, Leali consulted on the audit of the 2011 Indosat financial statements and ICFR. In that capacity, Leali authorized Wirahardja to release the audit reports on Indosat's 2011 financial statements and ICFR. Leali is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[5] As the EY-Indonesia PPD, Wirahardja, among other things, (a) served as a technical subject matter expert for consultations on auditing and accounting matters; (b) assisted in the development of guidance, training, and monitoring programs and processes; and (c) assessed and assigned engagement partners and engagement quality reviewers to audits.

[6] EYEA is a Delaware limited liability partnership.

[7] As the Asia-Pacific Area PPD, among other things, Leali worked with the EY-Global Professional Practice Director to establish and monitor implementation of global audit quality control policies and procedures, including overseeing the country Professional Practice Directors in the Asia-Pacific region.

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B. Issuer

4. **PT Indosat Tbk** ("Indosat" or the "Company") is an Indonesian telecommunications network and service provider headquartered in Jakarta, Indonesia. It is incorporated in the Republic of Indonesia and substantially all of its assets, operations, and customers are located in Indonesia. At all relevant times, Indosat filed financial statements with the Securities and Exchange Commission ("SEC" or "Commission") on Form 20-F as a foreign private issuer, and its common stock was registered under Section 12(b) of the Securities Exchange Act of 1934. At all relevant times, Indosat was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). The Company delisted its common stock from the New York Stock Exchange on May 6, 2013.

C. Summary

5. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the audit of Indosat's December 31, 2011 financial statements and ICFR. In connection with the 2011 audit, Respondents failed to exercise due professional care and professional skepticism and obtain sufficient appropriate audit evidence in evaluating Indosat's accounting for its over 4,000 leases related to spaces, or "slots," on cellular towers. During the 2011 audit, the partner responsible for performing the cross-border regulatory review of the Indosat audit as required by PCAOB standards (hereinafter, the "Appendix K review")[8] expressed concern to Wirahardja and the engagement team regarding the sufficiency of Indosat's tower slot lease analysis. In response, Wirahardja and the engagement team repeatedly requested that management complete a properly supported lease accounting analysis. Respondents failed, however, to obtain and evaluate a completed analysis before releasing audit reports on Indosat's December 31, 2011 financial statements and ICFR. And although those audit reports contained unqualified audit opinions, Respondents released the reports based on the audit evidence obtained to date and subject to the requirement that management provide a completed – and properly supported – tower slot lease accounting analysis in the future. Respondents further understood that, depending on the outcome of that analysis, a restatement of the 2011 and prior year's financial statements might be required.

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[8] See SECPS 1000.45, *Appendix K—SECPS Member Firms With Foreign Associated Firms That Audit SEC Registrants.* Appendix K is meant to enhance the quality of SEC filings for companies whose financial statements are audited by international affiliates of U.S. firms. Appendix K provides that financial statement filings of audits performed by a foreign associated firm should be reviewed by a person knowledgeable in accounting, auditing, and independence standards generally accepted in the U.S.

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6. Respondents released the audit reports even though the Appendix K reviewer informed Wirahardja that he did not believe that Indosat's tower slot lease accounting was adequately supported and, thereby, indicated that he was not in a position to conclude that a significant unresolved matter did not exist.

7. The failure to gather sufficient appropriate audit evidence regarding tower slot lease accounting also precluded Respondents from properly evaluating the severity of an identified deficiency related to tower slot lease classification controls. Consequently, Respondents failed to obtain appropriate evidence sufficient to provide reasonable assurance that Indosat's ICFR was effective, as required by PCAOB standards.[9]

8. In the months after the release of the audit reports, Wirahardja and the engagement team pressed management for a properly supported analysis, but they obtained no additional evidence from management to support Indosat's tower slot lease accounting. Ultimately, the proper accounting for Indosat's historical tower slot lease arrangements was not determined until February 2013 – ten months after the 2011 audit reports were released.

9. This matter also concerns Wirahardja and EY-Indonesia's violations of PCAOB Auditing Standard No. 3, *Audit Documentation* ("AS 3") and PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, in connection with (a) improperly creating work papers after the audit documentation completion date and (b) making those documents available to PCAOB inspectors during the 2012 inspection of EY-Indonesia. After EY-Indonesia was notified in late June 2012 that the 2011 Indosat audit would be inspected in December 2012, numerous engagement team members improperly created and added to the audit documentation dozens of new audit work papers. The engagement team members did so without indicating when the work papers were added, who prepared the additional work papers, or the reason for adding them after the documentation completion date.

10. The creation of misleading documentation continued when the PCAOB inspection field work began in December 2012. When the inspectors asked about the existence of a particular memo related to tower slot leases, certain engagement team members, with Wirahardja's knowledge, created the requested memo, added the memo to the work papers, and made it appear as if the memo had been generated during the 2011 audit. Wirahardja then instructed an audit manager to copy-and-paste the memo into a document with a metadata creation date that preceded the issuance of the 2011 audit reports. When a hard copy of the memo was provided to the inspectors, neither

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[9] See Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That is Integrated with An Audit of Financial Statements* ("AS 5").

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Wirahardja nor any other engagement team member disclosed that the document had just been created.

11. Wirahardja also failed to cooperate with a PCAOB Investigation. When PCAOB staff asked him about the memo during his sworn investigative testimony, Wirahardja failed to disclose his knowledge that the memo had been improperly prepared during the PCAOB inspection or his involvement in the memo's improper preparation.[10]

12. Finally, the Firm violated PCAOB quality control standards by failing to have an adequate system in place to provide reasonable assurance that its personnel would comply with AS 3[11] and by failing to have an adequate monitoring system to provide reasonable assurance that its quality control system as to the preparation and archiving of audit documentation was operating effectively.[12] Additionally, when it came to light that a memo had likely been improperly added to the audit working papers in response to PCAOB inspectors' questions, a member of the engagement team informed a member of EY-Indonesia management that Wirahardja had knowledge of and was involved in the creation of the memorandum. This individual, however, failed to timely follow up on the allegations despite the Firm having commenced an internal investigation into the matter.

D. Background

13. As part of its operations, Indosat owned thousands of cellular towers throughout Indonesia that provided cell coverage for its customers. Generally, Indosat's towers consisted of the physical vertical tower with spaces (*i.e.*, slots) upon which cellular radio antennas could be attached. Based on an April 2012 study of 2,500 Indosat's towers, average capacity was 3.6 slots per tower.

14. On each tower it owned, Indosat placed a cellular antenna for its cellular network. In 2008, Indosat began leasing out open slots to other cellular companies for use in their networks. Slots were not leased on a single-slot basis, but were leased as bundles of slots on multiple towers to build out the lessees' cellular networks. The leases were typically for a period of 10 years with a renewal option by the lessee. Indosat characterized these transactions as "lease-out" arrangements.

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[10] See PCAOB Rule 5110, *Noncooperation with an Investigation*.

[11] See QC § 20.18, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[12] See QC § 30, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

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15. In 2010, Indosat analyzed these lease arrangements under International Accounting Standard 17, *Leases* ("IAS 17") and concluded that its lease-out arrangements were operating leases, analogous to service arrangements.[13] In early February 2012, in conjunction with evaluating a pending material cellular tower sale and leaseback transaction, Wirahardja informed management that Indosat needed to perform an analysis of its historical tower slot lease arrangements to assess whether the leases should have been accounted for as operating or finance leases at the time the leases were originated.[14] The distinction between a finance and operating lease for lease-out arrangements was significant because if a lease-out arrangement was determined to be a finance lease, the present value of minimum (future) lease payments ("PVMLP") would be netted against the book value of the leased asset with a potentially material gain (or loss) recorded in income and a portion of the tower asset removed from Indosat's balance sheet. Respondents recognized that, depending on the results of the analysis, a restatement of Indosat's 2009 and 2010 financial statements might be necessary.

16. In order to determine if a lease was a finance or operating lease under IAS 17, management – after consultation with Respondents – focused on two indicators of whether the risks and rewards of ownership had passed to the lessee: the economic life test and the present value test. Under the economic life test, if the lease term covered the major part of the economic life of the asset – 75% or more of the economic life under a guideline Indosat applied – the lease was a finance lease. Under the present value test, if the PVMLP at inception of the lease amounted to substantially all of the fair value of the leased asset – 90% or more of the fair value under a guideline Indosat applied – the lease was a finance lease. Respondents understood that, if either test indicated that a lease was a finance lease, Indosat would likely be required to change its historical and future accounting for the lease.

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[13] Under IAS 17, a lease arrangement had to be analyzed to determine if it was an operating lease or a finance lease. A lease is a finance lease if it transfers substantially all the risks and rewards incidental to ownership. Otherwise, it is an operating lease. A finance lease is accounted for in the same manner as a sale with the leased asset removed from the balance sheet, and any corresponding gain or loss is recorded on the income statement at the time of the transaction. Conversely, with an operating lease, the leased asset remains on the lessor's books and lease payments are recorded as revenue ratably over the life of the lease. Id.

[14] Prior to assessing the proposed sale and leaseback transaction, Indosat incorrectly treated the tower as the "unit of account" instead of the individual slot when assessing whether a lease-out arrangement was an operating or finance lease under IAS 17.

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17. In performing the present value test, Indosat management used a discounted cash flow method to estimate the fair value of a slot.[15] The discounted cash flow analysis was based on a number of management assumptions, including an assumption regarding the average utilization rate of slots in Indonesia. The utilization rate was an estimate of the proportion of a tower slot's useful life during which the slot would be leased (*i.e.*, generate rental payments). The utilization rate was significant because, all other things being equal, if a slot was expected to have a higher utilization rate, that slot would have a higher estimated fair value, which, in turn, meant that there was an increased likelihood that a lease-out arrangement for that slot would be categorized as an operating lease.

E. Respondents Failed to Exercise Due Professional Care and Failed to Obtain Sufficient Appropriate Audit Evidence in Connection with the 2011 Indosat Audit

18. Wirahardja led the 2011 Indosat audit as engagement partner. Because Indosat was a foreign private issuer audited by a foreign affiliate of EY-US, the 2011 audit was subject to an Appendix K review. An experienced audit partner and International Financial Reporting Standards ("IFRS") expert working in EY's Capital Markets Group served as Appendix K reviewer for the 2011 audit, as he had for 2010. As Appendix K reviewer, this partner was involved in all significant auditing, accounting, financial reporting, and independence matters, including assessing the auditing of and accounting for Indosat's historical tower slot leases and associated internal controls over tower lease accounting.

19. Indosat's accounting for its historical tower slot lease arrangements was identified by Wirahardja and the audit engagement team as a significant accounting and auditing matter for the 2011 audit. Wirahardja and the engagement team recognized that the application of IAS 17 to Indosat's historical tower slot lease arrangements had the potential to result in a restatement of Indosat's 2010 and prior financial statements. Additionally, they recognized that management's past failure to properly apply the applicable accounting guidance to its tower slot leases was a control deficiency, the severity of which needed to be evaluated under AS 5. As a result, Wirahardja and the Appendix K reviewer consulted with Leali, the Area PPD, at various times throughout the audit.

20. The Appendix K reviewer and Respondents understood that management needed to provide an analysis of Indosat's current tower slot lease arrangements to support its accounting in 2011 and prior years, and that that analysis needed to be

[15] Indosat was required to estimate the fair value of the tower slots it leased out because there was no market for the sale and purchase of individual slots.

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evaluated by the engagement team. Moreover, they understood that a proper analysis required a properly supported utilization rate assumption.

21. Initially, management indicated that a 100% utilization rate assumption was appropriate based on its assertion that all of its existing lease-outs would be renewed at the end of the lease term. The Appendix K reviewer, however, objected to management's asserted utilization rate because he believed that it was not appropriate to consider whether a slot was currently leased when estimating a slot's utilization rate.

22. During the course of the audit, Indosat retained an international telecommunication industry specialist (hereinafter, the "Telecom Specialist" or "Specialist") to conduct a study of the Indonesian cellular tower market to support Indosat's accounting for the pending sale-leaseback transaction. Management also intended for the study to support the accounting for its historical tower slot lease arrangements. On April 13, 2012, the Telecom Specialist completed its draft market study report for Indosat (hereinafter, the "Tower Market Report"). The Tower Market Report provided the Specialist's expert opinion on tenancy forecasts for the Indonesian tower market, which, taking into account the Telecom Specialist's forecast that average available slot capacity was 3.6, evidenced slot utilization rates below 50%.

23. Even after receiving the Specialist's Tower Market Report, Indosat management continued to assert that a 100% utilization rate was appropriate for determining the fair value of a slot. Only after the Appendix K reviewer, Wirahardja, and the engagement team continued to object to the 100% rate, did management lower its utilization rate assumption to 80%. But Wirahardja and the engagement team failed to obtain sufficient appropriate evidence to support the reasonableness of this assumption. In fact, as noted above, the Tower Market Report contained information that appeared to contradict management's 80% assertion. Wirahardja and the engagement team, however, failed to evaluate the contradictory information. This failure was troubling because the engagement team had performed a sensitivity analysis, which indicated that a utilization rate below 65% would very likely require Indosat to restate its financial statements.

24. After receiving the Tower Market Report and the information that management was moving to an 80% utilization rate assumption, the Appendix K reviewer continued to press Wirahardja and the engagement team for support for the utilization rate assumption. Wirahardja, in turn, repeatedly requested additional support from management but did not obtain anything more.

25. In evaluating the severity of the identified control deficiency related to Indosat's processes for classifying tower slot leases, Wirahardja and the engagement team concluded that the control deficiency was not a material weakness, but a

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significant deficiency. They did so despite failing to obtain sufficient appropriate evidence for management's asserted utilization rate and despite knowing that a utilization rate below 65 percent could require a restatement.

26. On April 28, 2012, on a conference call with Wirahardja and a member of the Appendix K reviewer's capital markets review team, the Appendix K reviewer informed Wirahardja that he believed that Indosat had failed to provide sufficient analysis to support the assumptions used in its tower slot lease accounting and thereby failed to support the accounting conclusions reflected in the 2009, 2010, and 2011 financial statements. The Appendix K reviewer thereby indicated that he could not conclude – as Wirahardja had – that significant unresolved matters did not exist with respect to the financial statements and management's assessment that its internal control over financial reporting was effective.[16] At the end of the call, the Appendix K reviewer instructed Wirahardja to arrange a conference call with EY-Asia Pacific leadership, starting with Leali, to discuss the situation and to conclude as to the appropriate course of action.

27. After the call with the Appendix K reviewer, Wirahardja and an engagement team manager briefly discussed the situation with the EY-Indonesia Quality & Risk Management Partner. In addition, Wirahardja reached out to Leali via email, text, and telephone. Wirahardja also directed a senior manager on the engagement to gather support for management's utilization rate assumption. The senior manager searched through the night but found nothing to support an 80% utilization rate assumption.

28. On the morning of Sunday, April 29, 2012 (Jakarta and Hong Kong time), Leali retrieved Wirahardja's voicemail, text, and email messages. He immediately called Wirahardja and was told of the Appendix K reviewer's concern regarding the reasonableness of management's utilization rate assumption. After discussing the issue, Leali authorized Wirahardja to release the audit reports subject to Wirahardja obtaining a completed analysis supporting Indosat's lease accounting in the near future and explaining to Indosat management that the support ultimately obtained could require a restatement of Indosat's financial statements.

29. After the call with Leali, Wirahardja informed the Appendix K reviewer that Leali had authorized the release of the audit report and informed Indosat management

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[16] The Engagement Quality Reviewer ("EQR") provided concurring approval of issuance of the 2011 audit reports on April 25, 2012. Wirahardja did not inform the EQR that, based on the Appendix K reviewer's position communicated to him on April 28, 2012, significant unresolved matters existed.

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that EY-Indonesia had granted permission for the Company's use of the audit reports in connection with the issuance of the Company's financial statements. On Monday, April 30, 2012, the SEC accepted Indosat's Form 20-F filing that included EY-Indonesia's unqualified reports on the December 31, 2011 financial statements and ICFR.

30. After releasing the audit reports and continuing over the next ten months, Wirahardja and the engagement team repeatedly attempted to obtain additional evidence to support the reasonableness of management's utilization rate assumption and, thereby, the reasonableness of the lease accounting that Wirahardja and Leali accepted on April 29, 2012. Those efforts proved unsuccessful.

31. By mid-June 2012, Wirahardja and the engagement team's efforts to obtain support collided with the need to archive the 2011 audit work papers. Under AS 3, a complete and final set of the work papers needed to be assembled by June 13, 2012.[17]

32. In preparing to archive the work papers, the engagement team asked the Appendix K reviewer to sign-off on the EY Review and Approval Summary ("RAS") forms documenting the completion of his Appendix K review. In response, the Appendix K reviewer declined to sign-off on the RAS documents because he disagreed with the decision to release the audit reports on April 29, 2012 due to his disagreement over the sufficiency of the audit evidence supporting management's tower slot lease accounting.

33. Upon learning that the Appendix K reviewer was refusing to sign the RAS forms, Leali suggested that a "qualification" memo be prepared to document the circumstances leading to the Appendix K reviewer's conclusion to not sign-off on the RAS documents. Subsequently, it was decided that the "qualification" memo – which came to be called the "RAS-F memo" – should include Leali and Wirahardja's rationale for releasing the audit reports notwithstanding the Appendix K reviewer's objections.

34. Between June 21, 2012 and July 9, 2012, the Appendix K reviewer, Leali, and Wirahardja drafted the RAS-F memo. Multiple drafts were prepared and edits were made by the Appendix K reviewer, Leali, and certain senior EY personnel.

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[17] AS 3 provides that a "complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date)*." AS 3 ¶ 15. Wirahardja released EY-Indonesia's audit reports on April 29, 2012; consequently, the documentation completion date for the 2011 audit was June 13, 2012.

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35. On July 9, 2012, after all those involved in the drafting and review process had approved its language, the final RAS-F memo was signed by the Appendix K reviewer, Leali, and Wirahardja. Wirahardja and Leali's signatures evidenced their "agreement with the facts as set forth [in the RAS-F memo] and with the decision to release the Reports."

36. As set forth at the beginning of the final RAS-F memo, the purpose of the memo was to document:

> the facts and circumstances relating to a) the conclusion with respect to the completion of procedures required by the [EY] Global Assurance Policy Manual 3.9 related to the offering review, cross-border IFRS review and regulatory review … that caused [the Appendix K reviewer] to qualify his signoff on the RAS-F relating to the issuance of EY-Indonesia's reports related to IndoSat's financial statements and internal control included in IndoSat's 2011 Form 20-F (hereinafter referred to as "the Reports"); and b) the conclusion of EY-Indonesia Engagement Partner/EY-Indonesia PPD Roy Wirahardja and EY-Asia Pacific Area Professional Practice Director Randy Leali to issue the Reports, dated April 25, 2012, notwithstanding the aforementioned qualification.

37. The RAS-F memo documented that "[s]ignificant analysis was still required to confirm the utilization factor rate and other portions of the lease analysis" as of the date of EY-Indonesia's audit opinions.

38. In documenting the circumstances leading to Leali and Wirahardja's decision to release the audit reports, the RAS-F memo states:

> On April 29, 2012 (Jakarta-time), Wirahardja and Leali discussed the release of the Reports covering the 2011, 2010, and 2009 periods to be included in the 2011 Form 20-F for IndoSat. In the course of that discussion, Wirahardja and Leali concluded that while additional work was required to complete the Company's assessment of the utilization factor and its accounting implications, it appeared that sufficient appropriate audit evidence had been obtained to reduce audit risk to an acceptably low level, and thereby enable them to a [sic] draw reasonable conclusion regarding materiality to base the opinions in the Reports. Wirahardja and Leali further considered that even if there was an error, it was most likely to be in the form of an unrecognized gain

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rather than a loss. Leali and Wirahardja concurred that it was prudent not to recognize gains that were unsupported at the time.

At the conclusion of that discussion, Leali authorized the release of the reports by EY-Indonesia, subject to the following:

- EY should continue to press IndoSat management for completion of the lease analysis in the near future. As of the date of this memo that analysis is ongoing.

- EY should explain to IndoSat that if the result of ongoing work substantiated a utilization factor materially different from 80% a restatement of the previously issued financial statements and internal control assessment could be required. This was communicated to the company in call and meetings on April 29, 2012 and May 2, 2012.

- EY should communicate to IndoSat that there was a significant deficiency in its internal control over financial reporting relating to these matters. This was communicated to the company during the Audit Committee meeting on April 25, 2012 and then reiterated during phone calls through April 28, 2012.

39. As noted in the RAS-F memo, the lease analysis necessary to support the 2011 financial statements, and any evaluation by the engagement team of that analysis, was still not finished as of July 9, 2012. And by the end of July, Wirahardja, Leali, and the Firm knew that it still was not done.

40. Ultimately, an appropriately supported lease analysis was not completed until February 2013. Although that lease analysis would have resulted in 88% of Indosat's historically leased-out tower slots being classified as finance leases, Indosat did not record the gains associated with the finance leases because it concluded that, under the new methodology adopted, the expenses associated with each leased slot could not be measured reliably and, therefore, under IAS 18, *Revenue*, the gains could not be readily determined and recognized at inception. Indosat therefore classified all of its historical lease-out arrangements as operating leases.

Respondents' Audit Violations

41. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply

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with the Board's auditing and related professional practice standards.[18] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed an opinion on the basis of an audit performed in accordance with PCAOB standards.[19]

Failure to Exercise Due Professional Care and an Attitude of Professional Skepticism

42. PCAOB standards require auditors to exercise due professional care in planning and performing an audit.[20] Due professional care requires an auditor to exercise professional skepticism.[21] Professional skepticism requires a questioning mind and a critical assessment of audit evidence.[22] An auditor must gather and objectively evaluate the audit evidence during the audit.[23] And to do so, the auditor must consider the competency and sufficiency of the evidence.[24] Finally, the auditor should not be satisfied with less than persuasive evidence because of a belief that management is honest.[25]

43. Wirahardja failed to exercise due professional care and professional skepticism in connection with his role as engagement partner on the 2011 audit. At the time he released the 2011 audit reports, Wirahardja was aware that (1) significant analysis was still required to support management's tower lease accounting; (2) a

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[18] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB standards are to the versions of those standards in effect at the time of the audits.

[19] See AU § 508.07, *Reports on Audited Financial Statements*.

[20] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; see also Auditing Standard No. 8, *Audit Risk* ("AS 8") ¶ 3.

[21] See AU § 230.07.

[22] Id.

[23] Id.

[24] Id. at .08.

[25] Id. at .09.

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restatement could result from the completed lease analysis; and (3) the Appendix K reviewer disagreed with the conclusion that a significant unresolved matter did not exist.

44. Leali also failed to exercise due professional care and professional skepticism in connection with his role in the 2011 audit. Leali authorized Wirahardja to release the 2011 EY-Indonesia audit reports without a sufficiently supported lease analysis over management's tower slot lease accounting.[26] As Leali was aware, depending on the outcome of a supported lease analysis, a restatement of the 2011 financial statements could have been required. As the Area PPD, Leali was supposed to ensure that the EY-Global policies and applicable professional standards were followed. Rather than do so, Leali failed to meet his professional obligations by authorizing Wirahardja to release the 2011 audit reports.

45. Finally, EY-Indonesia, through the actions of its PPD Wirahardja, failed to exercise due professional care and skepticism and further violated PCAOB standards through its 2011 audit reports which incorrectly stated that the audits were performed in compliance with PCAOB standards when, in fact, they were not.[27]

Failure to Obtain Sufficient Appropriate Audit Evidence

46. PCAOB standards require auditors to plan and perform the audit to obtain appropriate audit evidence sufficient to support the opinion expressed in the auditor's report.[28] As the risk of material misstatement or the risk associated with an internal control increases, the amount of evidence that should be obtained also increases. The higher the quality of the evidence obtained, the smaller the need for additional corroborating evidence.[29] And, to be appropriate, audit evidence must be both relevant and reliable.[30] Furthermore, the auditor should consider all relevant audit evidence, regardless of whether it corroborates or contradicts management's assertions in the financial statements.[31] Finally, if audit evidence obtained from one source is

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[26] See Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"); Auditing Standard No. 15, *Audit Evidence* ("AS 15").

[27] See AU § 508.07.

[28] AS 15 ¶ 3.

[29] Id. at ¶ 5.

[30] Id. at ¶ 6.

[31] AS 14 at ¶ 3.

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inconsistent with that obtained from another, or if the auditor has doubts about the reliability of information to be used as audit evidence, the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit.[32]

47. PCAOB standards require auditors to evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[33]

48. PCAOB standards also establish requirements for auditors who audit, and express an opinion regarding, an issuer's ICFR.[34] Among other things, "the auditor must plan and perform the audit to obtain appropriate evidence that is sufficient to obtain reasonable assurance about whether material weaknesses exist" in the issuer's internal control as of the date specified in management's internal control assessment.[35] PCAOB standards provide that "a company's internal control cannot be considered effective if one or more material weaknesses exist."[36] In order to obtain reasonable assurance about whether a material weakness exists, the auditor must also evaluate the severity of each control deficiency that is identified during the audit "to determine whether the deficiencies, individually or in combination, are material weaknesses."[37]

49. As a result of the conduct described above, Respondents failed to obtain sufficient appropriate audit evidence to support the opinions expressed in the audit reports on Indosat's 2011 financial statements and Indosat's ICFR as of December 31, 2011. Specifically, by failing to gather sufficient appropriate audit evidence regarding the reasonableness of the utilization rate assumption and the associated lease classification for tower slots, the Respondents were not in a position to properly conclude as to whether the financial statements were materially misstated. For the same reasons, they were not in a position to determine the severity of the deficiency related to the tower slot lease classification control, and thereby conclude as to whether it represented a material weakness.

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[32] AS 15 at ¶ 29.

[33] See AS 14 ¶ 2.

[34] See PCAOB Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That Is Integrated with an Audit of Financial Statements* ("AS5").

[35] AS 5 ¶ 3 (footnote omitted).

[36] Id.

[37] Id. at ¶ 62.

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50. Lastly, by failing to obtain and evaluate a completed tower slot lease analysis prior to releasing the audit opinion on Indosat's 2011 financial statements, the Respondents also failed to properly evaluate whether the utilization rate assumption provided a reasonable basis for the fair value measurement of the tower slot, and thereby, the determination of lease classification, as required by PCAOB standards.[38]

F. The Firm and Wirahardja Violated PCAOB Rules and Standards Relating to Audit Documentation, Work Paper Alteration, and Cooperation with PCAOB Inspections.

The Engagement Team Failed to Timely Archive the Audit Work Papers and Improperly Altered and Created Audit Documentation After the Archive Date.

51. Under PCAOB standards, prior to releasing the audit reports on April 29, 2012, EY-Indonesia was required to "have completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report."[39] And the work papers documenting the 2011 audit had to "contain sufficient information to enable an experienced auditor, having no previous connection with the engagement… [t]o understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and … [t]o determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review."[40]

52. The engagement team, under Wirahardja's supervision, was required to assemble a "[a] complete and final set of audit documentation … for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[41] And if audit documentation was added after the documentation completion date of June 13, 2012, the documentation had to "indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[42]

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38 AU § 328.28, *Auditing Fair Value Measurements and Disclosures*.

39 AS 3 ¶ 15.

40 Id. at ¶ 6.

41 Id. at ¶ 15.

42 Id. at ¶ 16.

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53. In addition to failing to complete all necessary audit procedures and failing to obtain sufficient appropriate audit evidence before releasing the audit reports, Wirahardja and the engagement team failed to assemble the 2011 audit work papers for retention by the documentation completion date. In fact, the 2011 work papers were not archived until July 16, 2012. Archiving was delayed because the audit team was still compiling, creating, and modifying work papers in late June and July 2012.

54. When the Firm learned that the 2011 Indosat audit would be subject to PCAOB inspection, it reiterated the need for Wirahardja and his team to comply with AS 3. On June 29, 2012, EY-Indonesia's CEO directed Wirahardja to ensure that the file was archived because the Firm had just learned it would be inspected in 2012. Because of the pending inspection, Leali also specifically instructed Wirahardja to follow EY-Global documentation protocol.

55. Notwithstanding Leali's instruction that the work papers were not to be changed, over the next five months, numerous members of the engagement team systematically – and improperly – created or modified, and added without proper disclosure, dozens of documents to multiple areas of the 2011 audit work papers. Improperly adding to or modifying the work papers was likely easier because the Firm's work paper system relied heavily on hardcopy work papers. Moreover, contrary to EY policy, access to the hard copy work papers was not adequately restricted or monitored after the documentation completion date, after the archiving date, or after notification of a PCAOB inspection in order to prevent the improper addition or alteration of documentation.

56. When the 2011 audit work papers were officially archived on July 16, 2012, numerous documents that were added after the documentation completion date did not include proper AS 3 disclosure. For example, the final version of an analysis attempting "to determine whether an 80% utilization rate [wa]s appropriate using qualitative and quantitative analysis," was added to the archived work papers on or after July 16, 2012, but was dated April 24, 2012. And spreadsheets summarizing the impact of tower slot lease arrangements were improperly finalized and added to the work papers without any disclosure that they were added after the documentation completion date.

57. After the work papers were officially archived, the engagement team continued to improperly alter the work papers. Documents improperly added to the 2011 work papers after archiving included documents related not only to the tower slot lease issue, but also to fixed assets, journal entry testing, receivables and payables, revenue, expenses, and income taxes. Engagement team members also requested and obtained a backdated legal letter not obtained during the audit.

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58. Much of the improper work paper alteration was done with the knowledge that the altered work papers would likely be reviewed by the PCAOB inspectors. In many instances, work papers related to particular audit areas were improperly added to the audit documentation shortly after the Firm was notified by PCAOB inspectors of the selection of those audit areas for inspection.

59. In early November 2012, Wirahardja and the engagement team learned from certain EY personnel that journal entry testing would likely be a focus of the pending PCAOB inspection. While Wirahardja reminded the engagement team, at the time, that the work papers were not to be changed, over the course of November and early December, at least eight different engagement team members participated in the improper creation and alteration of journal entry work papers. As a result, approximately 60 journal entry work papers were improperly created and/or modified in advance of the PCAOB inspection.

The Engagement Team Created an AU 336 Memo with Wirahardja's Knowledge and Participation.

60. The creation of misleading audit documentation did not end when the PCAOB inspection began. During the course of the inspection, the PCAOB inspectors asked whether the engagement team had prepared a memorandum documenting the engagement team's evaluation of the qualifications of the Telecom Specialist hired by Indosat under AU § 336, *Using the Work of a Specialist*. In response, engagement team members stated that an AU 336 memo existed and that it would be provided to the inspectors.

61. In reality, a memo did not exist. But, rather than tell the inspectors, engagement team personnel, with Wirahardja's knowledge and participation, created a memo evaluating the Telecom Specialist and presented it to the inspectors as if it had been created during the 2011 audit. While the memo was given to the inspectors in hard copy, Wirahardja instructed that the memo be cut-and-pasted into an electronic document with a creation date from the 2011 audit period. In addition, Wirahardja printed out information about the Telecom Specialist and directed that it be attached to the hard copy.

62. Wirahardja, by participating in the improper creation of the AU 336 memo, violated PCAOB standards.[43] And by allowing the memo to be given to the PCAOB inspectors without disclosing to them when the memo had been prepared, Wirahardja violated PCAOB Rule 4006.

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[43] AS 3 ¶ 16.

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63. As the independent auditor of Indosat's 2011 financial statements and internal controls, EY-Indonesia was required to comply with PCAOB standards in its audits. The Firm – through multiple personnel knowingly creating misleading audit documentation – failed to comply with AS 3. In addition, the Firm – through Wirahardja and numerous other members of the Indosat engagement team – violated its duty to cooperate with the PCAOB inspectors by making misleading work papers available to the inspection team.

G. EY-Indonesia Violated the Board's Quality Control Standards.

64. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[44] Accordingly, EY-Indonesia was required to have a system of quality control that provided the Firm with "reasonable assurance that its personnel comply with the applicable professional standards and the firm's standards of quality."[45] Among other things, the Firm's system of quality control needed to include the element of monitoring.[46] Monitoring was necessary to provide the Firm with reasonable assurance that its quality control policies and procedures were suitably designed and were being effectively applied.[47]

65. An effective quality control monitoring system includes policies and procedures that provide a firm with reasonable assurance that its auditors comply with the requirements of AS 3. EY-Indonesia's quality control system did not provide reasonable assurance that its engagement personnel would comply with audit documentation requirements. Nor did it provide reasonable assurance that audit work papers would be archived timely or that hardcopy work papers would not be improperly altered after archiving.

H. The Firm and Wirahardja Failed to Cooperate with the Board's Investigation.

66. Section 105(b)(3)(A) of the Act authorizes the Board to sanction an associated person of a registered public accounting firm for "refus[ing] to…cooperate

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[44] PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[45] QC § 20.03.

[46] Id. at .07

[47] Id. at .20; see also QC § 30.

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with the Board in connection with an investigation."[48] Board rules include procedures for implementing that authority.[49] Noncooperation with a Board investigation includes (a) "knowingly mak[ing] any false material declaration or mak[ing] or us[ing] any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration;" and (b) "abus[ing] the Board's processes for the purpose of obstructing an investigation."[50]

67. As discussed above, Wirahardja knew of, and participated in, the creation of the AU 336 memo in December 2012. During the investigation of this matter, PCAOB staff asked Wirahardja about the creation of the AU 336 memo. In response, and under oath, Wirahardja failed to disclose his knowledge that the memo had been improperly prepared during the PCAOB inspection or his involvement in the memo's improper preparation. Wirahardja thereby failed to cooperate with a Board investigation.

68. EY-Indonesia also failed to cooperate with the Board's investigation by failing to timely disclose its full knowledge of the improper document creation including Wirahardja's involvement. Soon after the PCAOB investigators made EY-Indonesia aware of information suggesting that audit work papers may have been improperly altered, the Firm commenced an internal investigation.[51] During the course of that investigation, the engagement team member who was directed by Wirahardja to copy-and-paste the AU 336 memo into a document with a creation date during the 2011 audit period and improperly alter the memo informed a member of the Firm's senior leadership that Wirahardja was involved in the improper alteration of the AU 336 memo. The member of senior leadership did not promptly follow up on that information or inform those performing the internal investigation. Instead, the member of senior leadership allowed the internal investigators to conclude – and to inform the PCAOB staff – that no evidence existed that any senior Firm personnel – including Wirahardja – knew of or participated in the improper conduct. Only after the PCAOB investigative staff informed the Firm that it had learned from the engagement team member of

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[48] 15 U.S.C. § 7215(b)(3)(A).

[49] See PCAOB Rules 5110, 5200(a)(3).

[50] PCAOB Rule 5110(a).

[51] Throughout the course of its internal investigation, the Firm voluntarily disclosed its findings to the PCAOB investigative staff, including its findings that improper creation and alteration of work papers occurred beyond the scope of the improper creation raised by the PCAOB investigative staff.

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Wirahardja's involvement and senior management's knowledge,[52] did EY-Indonesia conduct a further internal investigation and then make its own disclosure to the PCAOB investigative staff regarding the scope of Wirahardja's involvement and senior management's knowledge.[53] Through its actions, EY-Indonesia obstructed the Board's investigation.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. The Board, in determining the appropriate sanctions as to EY-Indonesia, has taken into account the remedial steps taken by the Firm beginning in November 2014 to improve its system of quality controls.[54] Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(iii) and 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5) and (b)(1), EY-Indonesia and Roy Iman Wirahardja are hereby censured;

B. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), James Randall Leali is hereby censured;

C. Pursuant to Section 105(b)(3)(A)(i) and 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2) and (b)(1), Roy Iman Wirahardja is barred from

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[52] The engagement team member – who was no longer with the Firm – provided substantial assistance to the PCAOB investigation by confirming the scope of the improper document alteration and identifying those at the Firm who were involved in or had knowledge of it.

[53] In addition, the Firm disclosed that the member of senior management who was told of the improper conduct would be removed from leadership as a result of the internal investigation.

[54] In response to the findings of its internal investigation, the Firm took measures to improve its quality controls related to AS 3 compliance and took disciplinary action against several individuals (including terminating five senior personnel).

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being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[55]

D. After five (5) years from the date of this Order, Roy Iman Wirahardja may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

E. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date of this Order, James Randall Leali's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Leali shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's Auditing Standard No. 10 or AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's Auditing Standard No. 7 or AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to, but differently denominated from, engagement partner (such as "lead partner" or "practitioner-in-charge") or engagement quality reviewer (such as "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's Interim Auditing Standard AU Section 543 or AS 1205, *Part of the Audit Performed by Other Independent Auditors*; (6) serve, or supervise the work of another serving as, a professional practice director; and

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[55] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Wirahardja. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), civil money penalties in the amount of $1,000,000 payable by EY-Indonesia; $20,000 payable by Roy Iman Wirahardja; and $10,000 payable by James Randall Leali are imposed. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. EY-Indonesia, Roy Iman Wirahardja, and James Randall Leali shall pay these civil money penalties within 30 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under cover letters which identify each as a Respondent in these proceedings, set forth the title and PCAOB Release number of these proceedings, and state that payment is made pursuant to this Order, a copy of which cover letters and money orders or checks shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

February 9, 2017

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Cutler & Co., LLC, and David J. C. Cutler, CPA,* Respondents.	PCAOB Release No. 105-2017-003 February 23, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Cutler & Co., LLC (the "Firm"); (2) revoking the registration of the Firm,[1] (3) imposing a civil money penalty in the amount of $20,000 upon the Firm; (4) censuring David J. C. Cutler, CPA ("Cutler"); and (5) barring Cutler from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the Firm and Cutler (collectively, "Respondents") on the basis of its findings that Respondents violated PCAOB rules and auditing standards in connection with the audit of the financial statements of one issuer client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Cutler may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. Cutler & Co., LLC, is a registered public accounting firm located in Arvada, Colorado. The Firm is licensed by the Colorado Board of Accountancy (License No. 13300). Cutler is the owner and sole principal of the Firm. The Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB Rules since 2013. At all relevant times, the Firm was the external auditor for the issuer identified below.

2. David J. C. Cutler, CPA, 60, is a resident of Arvada, Colorado. Cutler is a certified public accountant licensed by the Colorado Board of Accountancy (License No. 0018394). He was the engagement partner for the Firm's audit of the financial statements for the issuer identified below and authorized the issuance of the Firm's audit report on those financial statements. Cutler is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the issuance of an audit report on Sungame Corp.'s

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that such sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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("Sungame") financial statements for the year ended December 31, 2013 (the "Audit"). As detailed below, Respondents failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence to support the opinion expressed in the auditor's report. Specifically, Respondents failed to obtain sufficient appropriate evidence to address identified fraud risks related to Sungame's revenue and unearned revenue. Respondents also failed to adequately document critical aspects of the audit, and Cutler failed to adequately supervise the audit.

C. Respondents Violated PCAOB Rules and Standards

4. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable Board auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed that opinion on the basis of an audit performed in accordance with PCAOB standards.[6] Those standards require, among other things, that an auditor plan and perform the audit to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[7] PCAOB standards further require an auditor to exercise due professional care and professional skepticism in performing the audit.[8]

5. In addition, PCAOB standards require the auditor to design and implement audit responses that address the identified risks of material misstatement.[9] As the assessed risk of material misstatement increases, the amount of evidence that the

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[5] See PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards*; 3200T, *Interim Auditing Standards*. All references to PCAOB standards in this Order are to the versions of those standards in effect for the Audit.

[6] See AU § 508.07, *Reports on Audited Financial Statements*.

[7] See Auditing Standard No. 15, *Audit Evidence* ("AS 15"), ¶ 4.

[8] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work.*

[9] See Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"), ¶ 3.

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auditor should obtain also increases.[10] "The auditor should perform substantive procedures for each relevant assertion of each significant account and disclosure, regardless of the assessed level of control risk."[11] If the auditor performs confirmation procedures, "[t]he auditor should direct the confirmation request to a third party who the auditor believes is knowledgeable about the information to be confirmed."[12]

6. In the case of significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment, PCAOB standards require the auditor to gain an understanding of the business rationale for such transactions and whether that rationale (or the lack thereof) suggests that the transactions may have been entered into to engage in fraudulent financial reporting or conceal misappropriation of assets.[13] The auditor should also perform substantive procedures, including tests of details, that are specifically responsive to the assessed significant risks, including any fraud risks.[14]

7. The auditor's assessment of the risks of material misstatement, including fraud risks, should continue throughout the audit.[15] "When the auditor obtains audit evidence during the course of the audit that contradicts the audit evidence on which the auditor originally based his or her risk assessment, the auditor should revise the risk assessment and modify planned audit procedures or perform additional procedures in response to the revised risk assessments."[16]

8. "The auditor's responses to the assessed risks of material misstatement, particularly fraud risks, should involve the application of professional skepticism in

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[10] See AS 15 ¶ 5; AS 13 ¶¶ 9(a), 37.

[11] AS 13 ¶ 36.

[12] See AU § 330.26, *The Confirmation Process*.

[13] See AU § 316.66, *Consideration of Fraud in a Financial Statement Audit*; see also AS 13 ¶ 15(c).

[14] See AS 13 ¶¶ 11, 13.

[15] See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"), ¶ 74.

[16] Id.

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gathering and evaluating audit evidence."[17] "[I]f the auditor has doubts about the reliability of information to be used as audit evidence, the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit."[18] "[T]he auditor should not be satisfied with less-than-persuasive evidence because of a belief that management is honest."[19] Moreover, "[i]f a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made."[20] "If the auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the financial statements as a whole are free of material misstatement, . . . the auditor should express a qualified opinion or a disclaimer of opinion."[21]

9. The engagement partner is responsible for proper supervision of the work of engagement team members and for compliance with PCAOB standards.[22] In supervising the audit, the engagement partner should, among other things, evaluate whether: (1) the work was performed and documented; (2) the objectives of the audit procedures were achieved; and (3) the results of the work support the conclusions reached.[23] "To form an appropriate basis for expressing an opinion on the financial statements, the auditor must plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement due to error or fraud."[24]

10. As detailed below, Respondents failed to comply with the aforementioned rules and standards, among others, in connection with the Audit.

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[17] AS 13 ¶ 7.

[18] AS 15 ¶ 29.

[19] AU § 316.13.

[20] AU § 333.04, *Management Representations*.

[21] Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), ¶ 35.

[22] Auditing Standard No. 10, *Supervision of the Audit Engagement* ("AS 10"), ¶ 3.

[23] See AS 10 ¶ 5(c).

[24] Auditing Standard No. 8, *Audit Risk*, ¶ 3; AS 14 ¶ 32.

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1. Background

11. Sungame was, at all relevant times, a Delaware corporation with its principal office located in Las Vegas, Nevada. Sungame's public filings disclosed that it was a development stage company, seeking to develop a media content management and discovery platform, called "Flightdeck," and a business directory service, called "Vidirectory." During 2013, Sungame also began a new line of business, selling glasses-free 3D tablets. Sungame had no history of producing or selling such tablets. At all relevant times, Sungame's common stock was registered under Section 12(g) of the Securities Exchange Act of 1934, and was traded on the OTCBB exchange. At all relevant times, Sungame was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

12. In its Form 10-K for the year ended December 31, 2012, filed on March 29, 2013,[25] Sungame disclosed that it was "grossly undercapitalized in 2012 and unable to raise a significant amount of capital, other than receiving $653,593 in advances from our majority shareholder." Sungame reported that its only assets at year-end 2012 consisted of $2,604 in cash, $612 in fixed assets and $121,043 in capitalized software. At the same time, it reported $1.9 million in liabilities, virtually all of which were attributable to loans and accounts payable that were due to related-parties. Sungame further disclosed that it had "no significant revenues from operations," and that "if we do not begin to generate revenue or cannot raise additional needed funds, we will either have to suspend development operations until we do raise the funds, or cease operations entirely."

13. In January 2014, Sungame retained the Firm to serve as Sungame's independent auditor. The Firm audited Sungame's financial statements for the year ended December 31, 2013, and issued an audit report, dated April 15, 2014, containing an unqualified opinion on those financial statements. The audit report also included going concern explanatory language regarding those financial statements. The audit report was included in a Form 10-K filed by Sungame with the U.S. Securities and Exchange Commission (the "Commission") on April 15, 2014.

14. Cutler served as the engagement partner for the Audit, and authorized the release of the audit report. Cutler supervised the work of an assistant who served on

[25] The 2012 financial statements were audited by Ronald R. Chadwick, P.C., whose Board registration was revoked in 2015. See *In the Matter of Ronald R. Chadwick, P.C. and Ronald R. Chadwick, CPA*, PCAOB Rel. No. 105-2015-009 (Apr. 28, 2015).

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the engagement team.[26] That assistant performed the majority of the audit procedures during the Audit. The engagement quality review for the Audit was performed by an auditor from outside the Firm, who was hired by Cutler.[27]

15. During the Audit, Respondents did not speak to any Sungame executive officer or director prior to issuing the audit report on Sungame's 2013 financial statements. Respondents only obtained written representations and brief responses to questionnaires from Sungame's CEO. All of Respondents' verbal communications with Sungame during the audit were either with a consultant or with Sungame's controller, who they understood acted as a bookkeeper.

2. Respondents Failed to Gather Sufficient Appropriate Audit Evidence

16. During the audit, Respondents identified several significant risks. Among others, Respondents identified a fraud risk involving improper revenue recognition.[28] Respondents also identified fraud risks related to "a clear lack of segregation of duties and a high risk of management override of controls." Respondents further identified a specific fraud risk of misappropriation of assets by management, including a risk that the cash deposits could have been inappropriately diverted by management to related parties. However, Respondents failed to perform sufficient appropriate procedures to specifically address the identified risks.

17. Sungame disclosed in its 2013 financial statements approximately $122,000 in revenue from tablet computer sales in 2013. Fifty-four percent of the revenue ($66,000) was attributed to sales to Sungame's majority shareholder, Chandran Holding Media, Inc. ("CHMI"), which was controlled by Sungame's CEO. Approximately $43,000 (35%) of Sungame's revenue was recorded on the last day of the Company's fiscal year, December 31, 2013. Other than obtaining written management representations concerning related party revenue, Respondents failed to plan and perform any procedures regarding Sungame's revenue.

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[26] See *Donna Lynn Johnson, CPA*, PCAOB Rel. No. 105-2017-005 (Feb. 23, 2017).

[27] See *Edward Andrew Hamilton, CPA*, PCAOB Rel. No. 105-2017-004 (Feb. 23, 2017).

[28] See AS 12 ¶ 71 (fraud risks are significant risks); see also AS 12 ¶ 68 (the auditor should presume a fraud risk involving improper revenue recognition).

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18. As of year-end 2013, Sungame reported approximately $1.9 million in unearned revenue, which it attributed to deposits for future deliveries of tablet computers and advertising services. Sungame disclosed in its 2013 Form 10-K that the unearned revenue originated from deposits received from "resellers" and a new "master distributor." Respondents identified that Sungame's unearned revenue was a significant account, and that the transactions underlying Sungame's unearned revenue were "unusual."

19. Sungame represented to Respondents that virtually all of the deposits for Sungame's unearned revenue balance had been obtained through the master distributor. Respondents obtained a confirmation from the master distributor, confirming $1.78 million (95%) of Sungame's unearned revenue balance. However, during the audit, Respondents learned that the vast majority of the deposits had been received directly from individuals solicited through "multi-level marketing," and not from the distributor. Additionally, the master distribution agreement wasn't signed until 2014 and stated that it was effective as of December 31, 2013 (i.e., it was not effective until the last day of the year under audit). Moreover, the agreement did not cover prepayments for tablets by third parties; the agreement provided for the distributor's purchase of tablets for resale and distribution, with payment occurring after delivery. Despite this information, Respondents failed to consider whether the master distributor was sufficiently knowledgeable to provide confirmation of Sungame's year-end 2013 unearned revenue balance and failed to perform procedures necessary to resolve any doubts about the reliability of the information received.[29]

20. During the audit, Respondents also learned that Sungame had not received approximately $500,000 of the deposits recorded as unearned revenue. Instead, those deposits had been paid to CHMI rather than Sungame. In lieu of receiving the cash, Sungame received credits against an undocumented loan from CHMI. Respondents failed to gain an understanding of the business rationale for the undocumented loan to determine whether it may have been entered into to engage in fraudulent financial reporting or to conceal misappropriation of assets.[30]

21. In addition, Respondents failed to evaluate red flags concerning Sungame's unearned revenue. For example, Respondents reviewed receipts sent to Sungame's customers for their deposits, and realized that they lacked both customer contact information and terms, and might not be reliable. In addition, Respondents reviewed Sungame's bank statements, which reflected that numerous deposits had

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[29] See AU § 330.26; AU § 333.04; AS 15 ¶ 29.

[30] See AS 13 ¶ 15(c); AU § 316.66.

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been sent with notations indicating they were an "investment" or for the purchase of stock. Respondents, however, failed to perform any audit procedures necessary to resolve those inconsistencies and determine the effect, if any, on other aspects of the audit before the Firm issued its audit report.[31]

22. On August 15, 2014, Sungame filed a Form 8-K with the Commission, announcing that Sungame's audited December 31, 2013 financial statements should no longer be relied upon.[32] Sungame subsequently disclosed, in a Form 10-Q filing for the period ended June 30, 2014,[33] that, "all items previously recognized as revenue and deferred revenue [for the year ended 2013 and the first quarter of 2014] will be restated as rebate liability, advances payable, or debt."

3. Respondents Failed to Prepare Appropriate Audit Documentation

23. PCAOB standards require that auditor document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[34] "Audit documentation must clearly demonstrate that the work was in fact performed."[35] Among other things, the auditor must document significant findings or issues, actions taken to address them (including additional evidence obtained), and the basis for the conclusions reached in connection with each engagement.[36] Significant findings or issues that must be documented include risks of

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[31] See AS 15 ¶ 29.

[32] Subsequent to the Audit, in July 2014, a consultant hired by Respondents to perform a post-issuance review of the Audit identified publicly available information that raised concerns related to Sungame's recorded revenue and unearned revenue balances. Some of that information was publicly available at the time of the Audit. Respondents conveyed that information to Sungame in July 2014. Sungame thereafter conducted an internal investigation, which led to the August 15, 2014 Form 8-K filing.

[33] That Form 10-Q, filed with the Commission on September 18, 2014, stated that the financial information contained therein had not been reviewed by Sungame's independent accountant.

[34] See Auditing Standard No. 3 ("AS 3"), *Audit Documentation*, ¶ 6.

[35] Id. ¶ 6.

[36] See id. ¶ 12.

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material misstatement that are determined to be significant risks and the results of the auditing procedures performed in response to those risks.[37] "The auditor must identify all significant findings or issues in an engagement completion document."[38]

24. Respondents violated the foregoing standards during the Audit because they: (1) failed to document the engagement partner review, (2) failed to adequately document significant issues and findings; and (3) failed to adequately document other audit procedures so that an auditor with no previous connection with the engagement could understand the nature, timing, extent, and results of the procedures performed, evidence obtained and conclusions reached.

4. Cutler Failed to Appropriately Supervise the Audit

25. As the engagement partner, Cutler was responsible for the Sungame audit engagements and its performance.[39] Accordingly, Cutler was responsible for proper supervision of the work of the engagement team members and for compliance with PCAOB standards.[40] Cutler was required to review the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[41] As discussed above, the engagement team failed to obtain sufficient appropriate audit evidence in several areas during the Audit, and failed to adequately document the Audit.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Cutler & Co., LLC and David J.C. Cutler, CPA are hereby censured;

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37 See id. ¶ 12(f-1).

38 Id. ¶ 13.

39 See AS 10 ¶ 3.

40 See id.

41 See id. at ¶ 5.

ORDER

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), David J.C. Cutler, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[42]

C. After two (2) years from the date of this Order, David J.C. Cutler, CPA, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Cutler & Co., LLC, is revoked;

E. After two (2) years from the date of this Order, Cutler & Co., LLC, may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay the civil money penalty imposed within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter that identifies the Firm as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of said cover letter and money order or check shall be sent to Office of the Secretary,

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[42] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Cutler. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

February 23, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Edward Andrew Hamilton, CPA,* Respondent.	PCAOB Release No. 105-2017-004 February 23, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Edward Andrew Hamilton, CPA ("Hamilton" or "Respondent"), and suspending him from being an associated person of a registered public accounting firm for a period of one year from the date of this Order. The Board is imposing these sanctions on Respondent on the basis of its findings that, in connection with his role as the engagement quality reviewer for the audit of an issuer client, he violated PCAOB Auditing Standard No. 7, *Engagement Quality Review* ("AS 7").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent

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consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds[2] that:

A. Respondent

1. Edward Andrew Hamilton, CPA, 55, of Denver, Colorado is a certified public accountant licensed by the Colorado Board of Accountancy (License No. 0012112). He served as the engagement quality reviewer for the issuer audit identified below. Hamilton was, at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Respondent's violations of AS 7 while serving as the engagement quality reviewer for the audit that Cutler & Co., LLC ("C&C")[3] performed for Sungame Corp.'s ("Sungame") financial statements for the year ended December 31, 2013 (the "Audit").

3. During his engagement quality review ("EQR"), Respondent failed to properly evaluate the significant judgments made, and the related conclusions reached, by the engagement team. As a result, Respondent provided his concurring approval of

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] See *Cutler & Co., LLC, and David J. C. Cutler, CPA,* PCAOB Rel. No. 105-2017-003 (Feb. 23, 2017).

ORDER

issuance without performing the EQR with the due professional care.[4] In addition, Respondent failed to appropriately document his EQR, as required by AS 7.[5]

C. Requirements of PCAOB Auditing Standard No. 7

4. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with applicable auditing and related professional practice standards.[6]

5. AS 7 provides that an EQR and concurring approval of issuance are required for all audits conducted pursuant to PCAOB standards.[7]

6. The engagement quality reviewer may provide concurring approval of issuance for an audit report only if, after performing with due professional care the review required by AS 7, he or she is not aware of a significant engagement deficiency.[8]

7. In an audit engagement, an engagement quality reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[9] The engagement quality reviewer should, among other things, evaluate the engagement team's assessment of, and audit responses to, significant risks, including fraud risks, identified by the engagement team or other significant risks

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[4] See AS 7 ¶ 12. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the Audit.

[5] See id. ¶ 19.

[6] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[7] See AS 7 ¶ 1.

[8] See id. ¶ 12 ("A *significant engagement deficiency* in an audit exists when (1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client.").

[9] See id. ¶ 9.

ORDER

identified by the engagement quality reviewer through performance of the procedures required by AS 7.[10]

8. In an audit engagement, the engagement quality reviewer should review the engagement completion document and confirm with the engagement partner that there are no significant unresolved matters.[11] The engagement quality reviewer should also evaluate whether the engagement documentation that he or she reviewed indicates that the engagement team responded appropriately to significant risks and supports the conclusions reached by the engagement team with respect to the matters reviewed.[12] To the extent necessary to satisfy the requirements of an EQR under AS 7, the engagement quality reviewer should (1) hold discussions with the engagement partner and other members of the engagement team, and (2) review documentation.[13]

9. Finally, documentation of an EQR should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the engagement quality reviewer, including, but not limited to, the documents reviewed by the engagement quality reviewer.[14]

D. Respondent Violated PCAOB Rules and Auditing Standards In Connection with the Audit

10. Respondent served as the engagement quality reviewer for the Audit. As detailed below, he violated AS 7 by providing his concurring approval of issuance without performing an EQR for the 2013 Audit with due professional care.

11. During the Audit, C&C provided Respondent with substantially all of C&C's work papers for the Audit, which identified several significant risks and audit issues. Among others, the work papers identified a fraud risk involving improper revenue recognition.[15] The work papers also identified fraud risks related to "a clear lack of

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[10] See id. ¶ 10(b).

[11] See id. ¶ 10(e).

[12] See id. ¶ 11.

[13] See id. ¶ 9.

[14] See id. ¶ 19.

[15] See AS 12 ¶ 71 (fraud risks are significant risks); see also AS 12 ¶ 68 (the auditor should presume a fraud risk involving improper revenue recognition).

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segregation of duties and a high risk of management override of controls." The work papers additionally identified that Sungame's unearned revenue was a significant account, and that the transactions underlying Sungame's unearned revenue were "unusual." The work papers further identified a specific risk of misappropriation of assets by management, which principally concerned the cash Sungame generated through deposits giving rise to Sungame's unearned revenue.

12. Respondent violated AS 7 because he failed to evaluate the significant judgments made, and the related conclusions reached, by the engagement team. Respondent failed to adequately evaluate the engagement team's responses to significant risks. Although Respondent reviewed certain audit engagement documentation related to revenue and unearned revenue, he failed to properly evaluate whether the engagement documentation that he reviewed supported the conclusions reached by the engagement team. The work papers failed to demonstrate that the engagement team took steps to specifically address the risks of fraud connected with revenue and unearned revenue. Further, Respondent failed to hold any discussions with the engagement team to evaluate the judgments and conclusions reached with respect to Sungame's revenue and unearned revenue.

13. Respondent also violated AS 7 by failing to appropriately review the engagement completion document and confirm with the engagement partner that there were no significant unresolved matters.[16] The engagement completion document provided to Respondent did not meet PCAOB standards because it did not provide all information necessary to understand the significant findings and issues or cross-references to other available supporting audit documentation that provided such understanding.[17] Additionally, although the engagement partner did not document his review of the work papers,[18] Respondent failed to confirm with the engagement partner that there were no significant unresolved matters in the audit.[19]

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[16] See AS 7 ¶¶ 10(e), 11.

[17] See Auditing Standard No. 3, *Audit Documentation*, ¶¶ 3, 13.

[18] See fn. 3, supra.

[19] See AS 7 ¶ 10(e).

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14. For these reasons, Respondent failed to perform the engagement quality review for the Audit with due professional care, and violated AS 7 by providing his concurring approval of issuance of the engagement audit report.[20]

E. Respondent Violated PCAOB Rules and Auditing Standards by Failing to Adequately Document His Engagement Quality Review

15. PCAOB auditing standards require an engagement quality reviewer to document an engagement quality review.[21] "Documentation of an engagement quality review should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the engagement quality reviewer," including information that identifies the documents reviewed by the engagement quality reviewer.[22] Respondent failed to comply with this requirement for the Audit.

16. The only documentation of Respondent's engagement quality review for the Audit was a short e-mail to the engagement team. Respondent did not document the procedures he performed or the documents that he reviewed. As such, Respondent's documentation failed to comply with the requirements of AS 7.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Edward Andrew Hamilton, CPA, is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Edward Andrew Hamilton, CPA, is suspended from being an associated person of a registered public accounting firm, as that term is defined in

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20 See id. ¶ 12.

21 See id. ¶¶ 19-21.

22 See id. ¶ 19.

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Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i), for a period of one year from the date of this Order.[23]

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

February 23, 2017

[23] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Hamilton. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Donna Lynn Johnson, CPA,* Respondent.	PCAOB Release No. 105-2017-005 February 23, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Donna Lynn Johnson, CPA ("Johnson" or "Respondent"), and suspending her from being an associated person of a registered public accounting firm for a period of one year from the date of this Order. The Board is imposing these sanctions on Respondent on the basis of its findings that she violated PCAOB rules and auditing standards in connection with the audit of one issuer client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over her and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

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Public Company Accounting Oversight Board

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III.

On the basis of Respondent's Offer, the Board finds[2] that:

A. Respondent

1. Donna Lynn Johnson, CPA, 62, is a resident of Westminster, Colorado. Respondent is a certified public accountant licensed by the Colorado Board of Accountancy (License No. 0009658). She served as a member of the Cutler & Co., LLC (the "Firm")[3] engagement team for the issuer audit identified below, reporting directly to the engagement partner.[4] Johnson was, at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Johnson left the Firm in October 2015.

B. Summary

2. This matter concerns Respondent's violations of PCAOB rules and standards in connection with the Firm's issuance of an audit report on Sungame Corp.'s ("Sungame") financial statements for the year ended December 31, 2013 (the "Audit"). Respondent performed the majority of the procedures during the Audit, under the supervision of the engagement partner.

3. As detailed below, Respondent, under the supervision of the engagement partner, failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence to support the opinion expressed in the auditor's report. Specifically, Respondent failed to perform sufficient appropriate procedures, and to obtain sufficient appropriate evidence, to address identified fraud

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[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] See *Cutler & Co., LLC, and David J. C. Cutler, CPA,* PCAOB Rel. No. 105-2017-003 (Feb. 23, 2017).

[4] Id.

ORDER

risks related to Sungame's revenue and unearned revenue. Respondent also failed to adequately document critical aspects of the audit.

C. Respondent Violated PCAOB Rules and Standards

4. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable Board auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed that opinion on the basis of an audit performed in accordance with PCAOB standards.[6] Those standards require, among other things, that an auditor plan and perform the audit to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[7] PCAOB standards further require an auditor to exercise due professional care and professional skepticism in performing the audit.[8]

5. In addition, PCAOB standards require the auditor to design and implement audit responses that address the identified risks of material misstatement.[9] As the assessed risk of material misstatement increases, the amount of evidence that the auditor should obtain also increases.[10] "The auditor should perform substantive procedures for each relevant assertion of each significant account and disclosure, regardless of the assessed level of control risk."[11] If the auditor performs confirmation

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[5] See PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards*; 3200T, *Interim Auditing Standards*. All references to PCAOB standards in this Order are to the versions of those standards in effect for the Audit.

[6] See AU § 508.07, *Reports on Audited Financial Statements*.

[7] See Auditing Standard No. 15, *Audit Evidence* ("AS 15"), ¶ 4.

[8] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work.*

[9] See Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"), ¶ 3.

[10] See AS 15 ¶ 5; AS 13 ¶¶ 9(a), 37.

[11] AS 13 ¶ 36.

ORDER

procedures, "[t]he auditor should direct the confirmation request to a third party who the auditor believes is knowledgeable about the information to be confirmed."[12]

6. In the case of significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment, PCAOB standards require the auditor to gain an understanding of the business rationale for such transactions and whether that rationale (or the lack thereof) suggests that the transactions may have been entered into to engage in fraudulent financial reporting or conceal misappropriation of assets.[13] The auditor should also perform substantive procedures, including tests of details, that are specifically responsive to the assessed significant risks, including any fraud risks.[14]

7. The auditor's assessment of the risks of material misstatement, including fraud risks, should continue throughout the audit.[15] "When the auditor obtains audit evidence during the course of the audit that contradicts the audit evidence on which the auditor originally based his or her risk assessment, the auditor should revise the risk assessment and modify planned audit procedures or perform additional procedures in response to the revised risk assessments."[16]

8. "The auditor's responses to the assessed risks of material misstatement, particularly fraud risks, should involve the application of professional skepticism in gathering and evaluating audit evidence."[17] "[I]f the auditor has doubts about the reliability of information to be used as audit evidence, the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit."[18] "[T]he auditor should not be satisfied with less-

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[12] See AU § 330.26, *The Confirmation Process*.

[13] See AU § 316.66, *Consideration of Fraud in a Financial Statement Audit*; see also AS 13 ¶ 15(c).

[14] See AS 13 ¶¶ 11, 13.

[15] See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"), ¶ 74.

[16] Id.

[17] AS 13 ¶ 7.

[18] AS 15 ¶ 29.

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than-persuasive evidence because of a belief that management is honest."[19] Moreover, "[i]f a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made."[20]

9. As detailed below, Respondent failed to comply with the aforementioned rules and standards, among others, in connection with the Audit.

1. Background

10. Sungame was, at all relevant times, a Delaware corporation with its principal office located in Las Vegas, Nevada. Sungame's public filings disclosed that it was a development stage company, seeking to develop a media content management and discovery platform, called "Flightdeck," and a business directory service, called "Vidirectory." During 2013, Sungame also began a new line of business, selling glasses-free 3D tablets. Sungame had no history of producing or selling such tablets. At all relevant times, Sungame's common stock was registered under Section 12(g) of the Securities Exchange Act of 1934, and was traded on the OTCBB exchange. At all relevant times, Sungame was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

11. In its Form 10-K for the year ended December 31, 2012, filed on March 29, 2013,[21] Sungame disclosed that it was "grossly undercapitalized in 2012 and unable to raise a significant amount of capital, other than receiving $653,593 in advances from our majority shareholder." Sungame reported that its only assets at year-end 2012 consisted of $2,604 in cash, $612 in fixed assets and $121,043 in capitalized software. At the same time, it reported $1.9 million in liabilities, virtually all of which were attributable to loans and accounts payable that were due to related-parties. Sungame further disclosed that it had "no significant revenues from operations," and that "if we do not begin to generate revenue or cannot raise additional needed funds, we will either have to suspend development operations until we do raise the funds, or cease operations entirely."

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[19] AU § 316.13.

[20] AU § 333.04, *Management Representations*.

[21] The 2012 financial statements were audited by Ronald R. Chadwick, P.C., whose Board registration was revoked in 2015. See *In the Matter of Ronald R. Chadwick, P.C. and Ronald R. Chadwick, CPA*, PCAOB Rel. No. 105-2015-009 (Apr. 28, 2015).

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12. In January 2014, Sungame retained the Firm to serve as Sungame's independent auditor. The Firm audited Sungame's financial statements for the year ended December 31, 2013, and issued an audit report, dated April 15, 2014, containing an unqualified opinion on those financial statements. The audit report also included going concern explanatory language regarding those financial statements. The audit report was included in a Form 10-K filed by Sungame with the U.S. Securities and Exchange Commission (the "Commission") on April 15, 2014.

13. Respondent was the only member of the engagement team besides the engagement partner during the fieldwork and completion phases of the audit. Respondent performed the majority of the substantive testing for the Audit, and prepared the majority of the audit documentation.

14. During the Audit, Respondent did not speak to any Sungame executive officer or director. Respondent only obtained written representations and brief responses to questionnaires from Sungame's CEO. All of Respondent's verbal communications with Sungame during the audit were either with a consultant or with Sungame's controller, who she understood acted as a bookkeeper.

2. Respondents Failed to Gather Sufficient Appropriate Audit Evidence

15. During the audit, the engagement team identified several significant risks. Among others, the engagement team identified a fraud risk involving improper revenue recognition.[22] The engagement team also identified fraud risks related to "a clear lack of segregation of duties and a high risk of management override of controls." The engagement team further identified a specific fraud risk of misappropriation of assets by management, including a risk that the cash deposits could have been inappropriately diverted by management to related parties. Respondent performed the audit procedures for both revenue and unearned revenue, subject to the supervision of the engagement partner. However, Respondent failed to perform sufficient appropriate procedures to specifically address the identified risks.

16. Sungame disclosed in its 2013 financial statements approximately $122,000 in revenue from tablet computer sales in 2013. Fifty-four percent of the revenue ($66,000) was attributed to sales to Sungame's majority shareholder,

[22] See AS 12 ¶ 71 (fraud risks are significant risks); see also AS 12 ¶ 68 (the auditor should presume a fraud risk involving improper revenue recognition).

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Chandran Holding Media, Inc. ("CHMI"), which was controlled by Sungame's CEO. Approximately $43,000 (35%) of Sungame's revenue was recorded on the last day of the Company's fiscal year, December 31, 2013. Other than obtaining written management representations concerning related party revenue, Respondent failed to perform any procedures regarding Sungame's revenue.

17. As of year-end 2013, Sungame reported approximately $1.9 million in unearned revenue, which it attributed to deposits for future deliveries of tablet computers and advertising services. Sungame disclosed in its 2013 Form 10-K that the unearned revenue originated from deposits received from "resellers" and a new "master distributor." Respondent identified that Sungame's unearned revenue was a significant account, and that the transactions underlying Sungame's unearned revenue were "unusual."

18. Sungame represented to Respondent that virtually all of the deposits for Sungame's unearned revenue balance had been obtained through the master distributor. Respondent obtained a confirmation from the master distributor, confirming $1.78 million (95%) of Sungame's unearned revenue balance. However, during the audit, Respondent learned that the vast majority of the deposits had been received directly from individuals, and not from the distributor. Additionally, the master distribution agreement wasn't signed until 2014 and stated that it was effective as of December 31, 2013 (i.e., it was not effective until the last day of the year under audit). Moreover, the agreement did not cover prepayments for tablets by third parties; the agreement provided for the distributor's purchase of tablets for resale and distribution, with payment occurring after delivery. Despite this information, Respondent, under the supervision of the engagement partner, failed to consider whether the master distributor was sufficiently knowledgeable to provide confirmation of Sungame's year-end 2013 unearned revenue balance and failed to perform procedures necessary to resolve any doubts about the reliability of the information received.[23]

19. During the audit, Respondent also learned that Sungame had not received approximately $500,000 of the deposits recorded as unearned revenue. Instead, those deposits had been paid to CHMI rather than Sungame. In lieu of receiving the cash, Sungame received credits against an undocumented loan from CHMI. Respondent failed to gain an understanding of the business rationale for the undocumented loan to determine whether it may have been entered into to engage in fraudulent financial reporting or to conceal misappropriation of assets.[24]

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[23] See AU § 330.26; AU § 333.04; AS 15 ¶ 29.

[24] See AS 13 ¶ 15(c); AU § 316.66.

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20. In addition, Respondent failed to evaluate red flags concerning Sungame's unearned revenue. For example, Respondent reviewed receipts sent to Sungame's customers for their deposits, and realized that they lacked both customer contact information and terms, and might not be reliable. In addition, Respondent reviewed Sungame's bank statements, which reflected that numerous deposits had been sent with notations indicating they were an "investment" or for the purchase of stock. Respondent, however, failed to perform any audit procedures necessary to resolve those inconsistencies and determine the effect, if any, on other aspects of the audit before the Firm, as authorized by the engagement partner, issued its audit report.[25]

21. On August 15, 2014, Sungame filed a Form 8-K with the Commission, announcing that Sungame's audited December 31, 2013 financial statements should no longer be relied upon.[26] Sungame subsequently disclosed, in a Form 10-Q filing for the period ended June 30, 2014,[27] that, "all items previously recognized as revenue and deferred revenue [for the year ended 2013 and the first quarter of 2014] will be restated as rebate liability, advances payable, or debt."

3. Respondent Failed to Prepare Appropriate Audit Documentation

22. PCAOB standards require that auditor document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[28] "Audit documentation must clearly demonstrate that

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[25] See AS 15 ¶ 29.

[26] Subsequent to the Audit, in July 2014, a consultant hired by the Firm to perform a post-issuance review of the Audit identified publicly available information that raised concerns related to Sungame's recorded revenue and unearned revenue balances. Some of that information was publicly available at the time of the Audit. The Firm conveyed that information to Sungame in July 2014. Sungame thereafter conducted an internal investigation, which led to the August 15, 2014 Form 8-K filing.

[27] That Form 10-Q, filed with the Commission on September 18, 2014, stated that the financial information contained therein had not been reviewed by Sungame's independent accountant.

[28] See Auditing Standard No. 3, *Audit Documentation*, ¶ 6.

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the work was in fact performed."[29] Among other things, the auditor must document significant findings or issues, actions taken to address them (including additional evidence obtained), and the basis for the conclusions reached in connection with each engagement.[30] Significant findings or issues that must be documented include risks of material misstatement that are determined to be significant risks and the results of the auditing procedures performed in response to those risks.[31] "The auditor must identify all significant findings or issues in an engagement completion document."[32]

23. Respondent violated the foregoing standards during the Audit because she failed to adequately document significant issues and findings and failed to adequately document other audit procedures so that an auditor with no previous connection with the engagement could understand the nature, timing, extent, and results of the procedures performed, evidence obtained and conclusions reached.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Donna Lynn Johnson, CPA, is hereby censured;

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29 Id. ¶ 6.

30 See id. ¶ 12.

31 See id. ¶ 12(f-1).

32 Id. ¶ 13.

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Public Company Accounting Oversight Board

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B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Donna Lynn Johnson, CPA, is suspended for one (1) year from the date of this Order from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[33]

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 23, 2017

[33] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Johnson. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Canuswa Accounting & Tax Services Inc. and Jun Zhang, CPA,* *Respondents.*	PCAOB Release No. 105-2017-006 March 20, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Canuswa Accounting & Tax Services Inc. ("Canuswa" or "Firm"), revoking the Firm's registration,[1] and imposing a $20,000 civil money penalty on the Firm; and censuring Jun Zhang, CPA ("Zhang") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Zhang (collectively, "Respondents") violated PCAOB rules and standards, and the Firm violated Section 10A of the Securities Exchange Act of 1934 ("Exchange Act"), in connection with two audits for one issuer.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondents pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to

[1] The Firm may reapply for registration after three (3) years from the date of this Order.

[2] Zhang may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

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which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Canuswa Accounting & Tax Services Inc. is a corporation organized under the laws of the state of Washington with headquarters in Bellevue, Washington and offices in Richmond and Burnaby, British Columbia, Canada. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accountancy by the Washington State Board of Accountancy (License No. 5680) and the Chartered Professional Accountants of British Columbia ("CPABC"). At all relevant times, it was the external auditor for the issuer identified below.

2. Jun Zhang, CPA, age 52, of Bellevue, Washington is a certified public accountant licensed under the laws of the states of Washington (License No. 29895) and Colorado (License No. V5H4T2). He is also a chartered accountant licensed by the CPABC. He is the president and sole owner of the Firm, and was the engagement partner on the two audits at issue herein. He is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and auditing standards in connection with the preparation and issuance of an audit report on the 2012 financial statements of issuer American Jianye Greentech Holdings Ltd. ("AJ Greentech"). As set forth below, Respondents failed to obtain sufficient appropriate audit evidence and failed to exercise due care and professional skepticism in connection with their audit of AJ Greentech's 2012 financial statements ("2012 Audit"). The Firm also violated Section 10A(a)(2) of the Exchange Act by failing to perform procedures to identify related party transactions, and Zhang violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, because he took actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation.

4. In addition, the Firm failed to comply with PCAOB Auditing Standard No. ("AS") 7, *Engagement Quality Review*, because it failed to obtain an engagement quality review and concurring approval of issuance for the 2012 Audit.[5] Zhang violated PCAOB Rule 3502 because he took actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of AS 7.

5. This matter also concerns the Firm's violations of Section 10A(b) of the Exchange Act, and Respondents' violations of PCAOB rules and auditing standards, in connection with the 2012 Audit and Respondents' unfinished audit of AJ Greentech's 2013 financial statements ("2013 Audit"). Respondents' violations arise from their failure to have taken certain actions required by Section 10A(b) and PCAOB Interim Auditing Standard ("AU") § 317, *Illegal Acts by Clients*, in response to becoming aware of information about possible illegal acts by AJ Greentech relating to the 2012 Audit and 2013 Audit. Additionally, Zhang violated PCAOB Rule 3502 because he took actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violations of Section 10A(b).

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[5] All references to PCAOB standards are to the versions of those standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2016), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

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C. Respondents Violated PCAOB Rules and Standards, The Firm Violated Section 10A(a) of the Exchange Act, and Zhang Contributed to The Firm's Violation

6. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[7] Among other things, those standards require that an auditor exercise due professional care and professional skepticism in performing the audit.[8] They require that an auditor plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.[9] If the auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the financial statements as a whole are free of material misstatement, the auditor should express a qualified opinion or a disclaimer of opinion.[10]

7. The Exchange Act further requires a registered public accounting firm to include, in each audit required by the Exchange Act, procedures designed to identify related party transactions that are material to an issuer's financial statement amounts or otherwise require disclosure.[11] PCAOB standards similarly require an auditor to obtain sufficient appropriate audit evidence to determine whether related parties and relationships and transactions with related parties have been properly identified, accounted for, and disclosed in the financial statements.[12]

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[6] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[7] AU § 508, *Reports on Audited Financial Statements*, at .07.

[8] AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*.

[9] AS 15, *Audit Evidence*, ¶ 4.

[10] AS 14, *Evaluating Audit Results*, ¶ 35.

[11] Section 10A(a)(2) of the Exchange Act, 15 U.S.C. § 78j-1(a)(2).

[12] AU § 334, *Related Parties*, at .02.

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8. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.

The 2012 AJ Greentech Audit

9. At all relevant times, AJ Greentech was a Nevada corporation with principal executive offices in Flushing, New York. AJ Greentech's public filings disclosed that it earned revenue by marketing, manufacturing, and distributing alcohol-based automobile fuel products in the People's Republic of China. Its common stock was registered under Section 12(g) of the Exchange Act and quoted on the OTC Bulletin Board. At all relevant times, AJ Greentech was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

10. Canuswa was engaged as AJ Greentech's external auditor for the 2012 Audit. As the Firm's engagement partner for the 2012 Audit, Zhang authorized the issuance of the Firm's audit report, dated September 30, 2013, expressing an unqualified auditor's opinion on AJ Greentech's 2012 financial statements. The report was included in a Form 10-K containing copies of AJ Greentech's 2012 financial statements that AJ Greentech filed with the U.S. Securities and Exchange Commission ("Commission") on September 30, 2013.

11. In connection with the 2012 Audit, Respondents violated PCAOB rules and auditing standards because they failed to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion in the Firm's audit report;[13] failed to evaluate the results of the audit to determine whether the audit evidence obtained was sufficient and appropriate to support the opinion expressed in the audit report;[14] and failed to exercise due professional care and professional skepticism.[15]

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[13] *See* AS 15 ¶ 4.

[14] *See* AS 14 ¶ 2.

[15] *See* AU § 150.02; AU § 230.

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12. In particular, Respondents failed to perform any procedures to establish an overall audit strategy and develop an audit plan for the 2012 Audit,[16] establish a materiality level for the financial statements as a whole,[17] determine an amount or amounts of tolerable misstatement,[18] identify and assess the risks of material misstatement at the financial statement level and the assertion level,[19] and examine journal entries and other adjustments for evidence of possible material misstatements due to fraud.[20] Also, they failed to obtain written management representations[21] and prepare an engagement completion document.[22]

13. In addition, the 2012 financial statements included in the Form 10-K AJ Greentech filed with the Commission on September 30, 2013 ("2012 Financial Statements"), reported approximately $13.7 million in the aggregate of assets held for sale. This represented approximately 94 percent of AJ Greentech's total reported assets. Respondents failed to perform any procedures to test whether these assets were properly valued, presented, and disclosed in the 2012 Financial Statements.[23]

14. The 2012 Financial Statements also reported approximately $12.4 million of advances from related parties, including AJ Greentech's Chairman and CEO. These advances represented approximately 99 percent of AJ Greentech's total reported liabilities. Other than obtaining representations from management, Respondents failed to perform any procedures to identify and test related party relationships and transactions.[24] In addition, by failing to perform any procedures to identify material

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[16] *See* AS 9, *Audit Planning*, ¶¶ 8-10.

[17] *See* AS 11, *Consideration of Materiality in Planning and Performing an Audit*, ¶ 6.

[18] *See id.* ¶ 8.

[19] *See* AS 12, *Identifying And Assessing Risks of Material Misstatement*, ¶ 59.

[20] *See* AS 13, *The Auditor's Responses to the Risks of Material Misstatement*, ¶ 15(a); AU § 316, *Consideration of Fraud in a Financial Statement Audit*, at .58.

[21] *See* AU § 333, *Management Representations*, at .05-.06.

[22] *See* AS 3, *Audit Documentation*, ¶ 13.

[23] *See* AS 13 ¶ 36; AS 14 ¶¶ 4(e)-(f); AS 15 ¶ 11.

[24] *See* AU § 334 at .04-.11.

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related party transactions, the Firm violated Section 10A(a)(2) of the Exchange Act, and Zhang violated PCAOB Rule 3502 because he took actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation.

D. The Firm Violated A PCAOB Standard Concerning Engagement Quality Reviews and Zhang Contributed to The Firm's Violation

15. AS 7 provides that an engagement quality review be performed for all audits and interim reviews conducted pursuant to PCAOB standards.[25] A firm may grant permission to a client to use an engagement report only after an engagement quality reviewer provides concurring approval of issuance of the report.[26]

The 2012 AJ Greentech Audit

16. In connection with the 2012 Audit, the Firm violated AS 7 because it failed to obtain an engagement quality review and concurring approval of issuance before authorizing AJ Greentech to use its audit report on the 2012 Financial Statements.

17. At the time, Zhang was the sole owner of the Firm and the engagement partner for the 2012 Audit. He was responsible for the 2012 Audit and ensuring that the Firm complied with PCAOB rules and standards in performing the 2012 Audit.[27] By failing to obtain an engagement quality review and concurring approval of issuance, Zhang violated PCAOB Rule 3502 because he knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violation of AS 7.

E. The Firm Violated Section 10A(b) of the Exchange Act, Zhang Contributed to The Firm's Violation, and Respondents Violated PCAOB Rules and Standards

18. When conducting an audit of an issuer's financial statements required pursuant to the Exchange Act, registered firms must comply with the requirements of Section 10A of the Exchange Act. Section 10A(b) requires a firm to take certain defined

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[25] AS 7 ¶ 1.

[26] *Id.* ¶ 13.

[27] *See* AS 10, *Supervision of the Audit Engagement*, ¶ 3.

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actions if, in the course of an audit, it detects or otherwise becomes aware of information indicating that an illegal act has or may have occurred.[28]

19. Unless an illegal act is clearly inconsequential, Section 10A(b)(1) requires that a firm inform the appropriate level of management about the illegal act and assure itself that the issuer's audit committee, or board of directors in the absence of an audit committee, is adequately informed with respect to the illegal act.

20. In addition, under Section 10A(b)(1), if a firm concludes that it is likely that an illegal act occurred, the firm must consider the effect of the illegal act on the issuer's financial statements. If the firm concludes that the illegal act has a material effect on the financial statements, that senior management has not taken (and the board of directors has not caused them to take) timely and appropriate remedial actions, and that the absence of remedial action is reasonably expected to warrant departure from a standard report of the firm, when made, or warrant resignation from the engagement, then Section 10A(b)(2) requires the firm to report those conclusions to the board of directors as soon as practicable. If the board of directors fails to take certain required actions in response to such a report, Section 10A(b)(3) requires the firm to resign from the engagement or report its Section 10A(b)(2) conclusions to the Commission.[29]

21. In addition, AU § 317 provides that when an auditor becomes aware of information concerning a possible illegal act by a client, the auditor should obtain an understanding of the nature of the act, the circumstances in which it occurred, and sufficient other information to evaluate the effect on the financial statements.[30] The auditor should also inquire of management at a level above those involved, if possible, and, if management does not provide satisfactory information that there has been no illegal act, the auditor should, among other things, apply additional procedures, if necessary, to obtain a further understanding of the nature of the acts.[31]

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[28] Section 10A(b)(1) of the Exchange Act, 15 U.S.C. § 78j-1(b)(1).

[29] If the firm resigns from the engagement pursuant to Section 10A(b)(3)(A), the firm must report the matter to the Commission pursuant to Section 10A(b)(4).

[30] AU § 317.10.

[31] *Id.* at .10-.11.

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The 2012 and 2013 AJ Greentech Audits

22. During the 2012 Audit and 2013 Audit, Respondents became aware of information concerning possible illegal acts by AJ Greentech. During the 2012 Audit, Zhang reviewed the Form 10-K containing AJ Greentech's 2011 and 2012 financial statements and approved the inclusion of the Firm's accompanying audit report in that Form 10-K, which AJ Greentech filed with the Commission on September 30, 2013 ("2012 10-K").

23. AJ Greentech inserted in that audit report a statement that the Firm had audited both AJ Greentech's 2011 and 2012 financial statements included in the 2012 10-K, notwithstanding that the Firm had audited only the 2012 and not the 2011 financial statements. In addition, the 2012 financial statements included in the 2012 10-K reflected certain amounts in financial statement line items and disclosures that were significantly different from corresponding amounts included in the Firm's 2012 audit work papers. In response to this information, Respondents took no action to satisfy the Firm's obligations under Section 10A(b) of the Exchange Act and Respondents' obligations under AU § 317.

24. Respondents were engaged to audit AJ Greentech's 2013 financial statements but did not complete the 2013 Audit and did not issue an audit report. Nonetheless, in a Form 10-K AJ Greentech filed with the Commission on April 14, 2014, and Forms 10-K/A AJ Greentech filed with the Commission on July 10, 2014, January 12, 2015, and February 9, 2015, AJ Greentech included 2013 financial statements and an unqualified audit report on those financial statements purportedly issued by the Firm. Respondents became aware of this information in February 2015 while the Firm was still engaged as AJ Greentech's external auditor, but they took no action other than to tell a third party, who had arranged for the Firm to serve as AJ Greentech's auditor, that AJ Greentech should stop using the Firm's name in its Commission filings and should cancel the abovementioned filings. The Firm failed to inform management of the information and also assure that the audit committee was adequately informed of it.

25. The abovementioned acts by AJ Greentech violated or may have violated federal securities laws and regulations, including but not limited to the requirement that reports filed with the Commission contain information necessary to ensure that statements made in such reports are not materially misleading.[32]

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[32] *See* Exchange Act Rule 12b-20, 17 C.F.R. § 240.12b-20 (requiring reports to include "material information . . . as may be necessary to make the required

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26. Accordingly, the Firm violated Section 10A(b) of the Exchange Act, and Respondents violated AU § 317, by failing to take required actions in response to becoming aware of the abovementioned information concerning possible illegal acts by AJ Greentech. In addition, Zhang violated PCAOB Rule 3502 because he knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violation of Section 10A(b).

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Canuswa Accounting & Tax Services Inc. and Jun Zhang, CPA are censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Canuswa Accounting & Tax Services Inc. is revoked;

C. Pursuant to PCAOB Rule 5302(a), after three (3) years from the date of the Order, Canuswa Accounting & Tax Services Inc. may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jun Zhang, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[33]

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statements, in the light of the circumstances under which they are made not misleading"); *see also SEC v. Parklane Hosiery, Inc.*, 558 F.2d 1083, 1085 n.1 (2d Cir. 1977) (implicit in requirement to file annual report is requirement that report not be materially false or misleading).

[33] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Zhang. Section 105(c)(7)(B) of the Act provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial

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E. Pursuant to PCAOB Rule 5302(b), after three (3) years from the date of this Order, Jun Zhang, CPA may file a petition for Board consent to associate with a registered public accounting firm; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon Canuswa Accounting & Tax Services Inc. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Canuswa Accounting & Tax Services Inc. shall pay the civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter that identifies Canuswa Accounting & Tax Services Inc. as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

March 20, 2017

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management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Wander Rodrigues Teles,* *Respondent.*	PCAOB Release No. 105-2017-007 March 20, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Wander Rodrigues Teles ("Teles" or "Respondent"); barring Teles from being an associated person of a registered public accounting firm;[1] and imposing a civil money penalty in the amount of $10,000 on Teles. The Board is imposing these sanctions on the basis of its findings that Teles violated PCAOB rules and standards in connection with the audits of the consolidated financial statements of Sara Lee Corporation ("Sara Lee") as of and for the fiscal years ended ("FYE") July 3, 2010 and July 2, 2011.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent

[1] Teles may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. **Teles**, 56, of Sao Paulo, Brazil, is an accountant licensed by the Conselho Regional De Contabilidade for the Federal District of Brazil (license No. DF-005919/O-3). From July 1992 to June 2014, he was a partner of the Brazil-based firm PricewaterhouseCoopers Auditores Independentes ("PwC-Brazil"), which is registered with the Board.[4] Teles was the lead partner for PwC-Brazil's audit work in connection with the audits of Sara Lee's FYE 2007 through FYE 2011 consolidated financial statements. U.S.-based PricewaterhouseCoopers LLP ("PwC-US") prepared and issued the audit reports on Sara Lee's consolidated financial statements, which were filed with the U.S. Securities and Exchange Commission. Teles and PwC-Brazil performed the audit procedures on the special purpose financial information of Sara Lee's Brazilian subsidiaries, which was prepared for Sara Lee's consolidated financial statements, for the express purpose of assisting PwC-US's audits. As the lead partner for PwC-Brazil's audit work, Teles was responsible for supervising the PwC-Brazil engagement team's audit procedures, and for issuing PwC-Brazil's interoffice reports on the Brazilian subsidiaries' special purpose financial information. At all relevant times,

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5) of the Act, which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] While a partner of PwC-Brazil, Teles participated in financial statement audits of issuers (as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii)) in which PwC-Brazil issued the audit report, including issuer audits in which he served as the engagement partner or engagement quality reviewer. Teles also participated in issuer audits where PwC-Brazil performed referred work and another audit firm issued the audit report.

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Teles was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer

2. **Sara Lee** was, at all relevant times, a Maryland corporation headquartered in Illinois. Sara Lee's common stock was registered with the Commission under Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act"), and was quoted on the Chicago Stock Exchange, New York Stock Exchange, and the London Stock Exchange. At all relevant times, Sara Lee was an issuer, as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). The company's public filings disclosed that it was a global manufacturer and marketer of consumer products, focused primarily on the meats, bakery, and beverage product categories.

3. **Sara Lee Cafés do Brasil Ltda. ("SLCB")** was, at all relevant times, a Brazilian subsidiary of Sara Lee. SLCB was a producer of roasted coffee and coffee-related consumer goods, which it primarily sold to wholesalers, retailers and retail customers in Brazil.

C. Summary

4. This matter concerns Teles's repeated violations of PCAOB rules and standards[5] as the lead partner for the audit procedures that PwC-Brazil performed under his supervision on SLCB's FYE 2010 and FYE 2011 special purpose financial information. Teles, an experienced audit partner, violated PCAOB rules and standards in connection with PwC-Brazil's testing of SLCB's net accounts receivable ("Net A/R"),

[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its rules and auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre Reorganized Numbering* (January 2016), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

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net revenues, and trade promotions accounts, which were identified as areas having increased risks of material misstatement, including a risk of fraud.[6]

5. Teles knew of red flags suggesting that SLCB's reported Net A/R and net revenues may have been materially overstated, and that its reported trade promotion accounts may have been materially understated, due to SLCB (1) failing to record trade promotions, or (2) failing to record adequate reserves for receivables for which collection was not probable. Teles, however, failed to respond to those red flags and the increased risks with appropriate due professional care and professional skepticism, and failed to obtain sufficient competent evidence concerning those accounts.

6. During both the FY 2010 and FY 2011 Sara Lee audits, Teles knew that a material portion of SLCB's accounts receivable balance was overdue and disputed by customers. As recorded in SLCB's accounting records, approximately 87 million Brazilian reais ("R$") of SLCB's A/R were overdue at both FYE 2010 and FYE 2011 (40% and 36% of those balances, respectively), including approximately R$20 million in receivables more than 90 days overdue (10% and 8% of SLCB's reported A/R balance at FYE 2010 and FYE 2011, respectively). Teles was aware that many of the customers' disputes involved claims that SLCB had failed to recognize trade promotion obligations that should have offset the accounts receivable. Teles also knew that, with very few exceptions, SLCB had not accrued A/R Reserves or trade promotion liabilities to offset the disputed amounts.

7. Teles further knew that SLCB management was re-aging overdue receivables by extending their due dates in SLCB's accounting system. Teles understood that the re-aging of receivables could cause overdue receivables to appear current. Teles therefore knew, or should have known, that an even larger portion of SLCB's receivables was likely overdue than what was shown in SLCB's accounting records. He further understood that the re-aging could cause SLCB to underestimate its A/R Reserves and thereby cause an overstatement of SLCB's reported Net A/R.

8. In light of the information that Teles had and the risks associated with SLCB's Net A/R, net revenues, and trade promotion accounts, Teles failed to exercise due professional care and professional skepticism, and failed to obtain sufficient

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[6] Net A/R consisted of SLCB's gross accounts receivable less reserves for doubtful accounts and sales returns and allowances ("A/R Reserves"). Net revenues consisted of SLCB's gross sales less sales returns and trade promotion costs. SLCB also reported a liability for trade promotions. Trade promotion liabilities were typically satisfied by SLCB crediting the customers' A/R balances.

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competent audit evidence, with regard to those accounts. Among other things, Teles repeatedly failed to address the impact of management's re-aging of SLCB's overdue receivables when planning the audit procedures and evaluating the audit evidence. As a result, Teles and his engagement team improperly relied on SLCB's re-aged A/R data as audit evidence, and failed to obtain other sufficient competent evidence to support Net A/R. Teles also unreasonably assessed the audit risk for trade promotions as "normal" in both audits, contrary to instructions he received for the audits and despite internal control deficiencies at SLCB related to trade promotions. As a result, Teles failed to plan or perform sufficient procedures to respond to the risk of material misstatement from unrecorded trade promotions indicated by the substantial customer disputes.

9. Teles's violations impaired his and the engagement team's ability to detect material misstatements due to error or fraud in SLCB's financial information. As a result of his violations, Teles improperly authorized PwC-Brazil's issuance of interoffice reports on SLCB's special purpose financial information for FY 2010 and FY 2011.

10. In 2012, Sara Lee disclosed that an internal investigation had identified intentional overrides of certain internal controls as well as extensive cross-functional collusion by management of SLCB, resulting in improper revenue recognition and overstatement of accounts receivable due to the failure to write-off uncollectable customer discounts, among other things. As a result of the internal investigation, which included findings indicating fraud, Sara Lee restated its FY 2010 and FY 2011 financial statements and concluded a material weakness existed in internal control over financial reporting as of June 30, 2012. The restatements reflected that, based on the internal investigation, SLCB's Net A/R, as originally reported, was overstated by approximately R$151 million (or 246%) at FYE 2010, and R$170 million (or 263%) at FYE 2011, and that SLCB's total assets, as originally reported, were also overstated by approximately R$102 million (or 14%) and R$121 million (or 15%) at FYE 2010 and FYE 2011, respectively.

D. Background

1. Structure of the Audit

11. PwC-US is a public accounting firm, organized as a Delaware limited liability partnership, and is headquartered in New York, NY. PwC-US is a member of PwC Global network ("PwC Global"), which comprises firms that are members of, or have other connections to, PricewaterhouseCoopers International Ltd. PwC-US is registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

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12. PwC-US served as the independent auditor of Sara Lee's FY 2010 and FY 2011 consolidated financial statements, and issued unqualified audit reports on those financial statements, and on the effectiveness of Sara Lee's internal controls over financial reporting as of those fiscal year ends. In both of those audits, PwC-US relied upon affiliates in the PwC Global network to perform audit procedures concerning specific Sara Lee subsidiaries around the globe. To do so, PwC-US utilized Netherlands-based PricewaterhouseCoopers Accountants N.V. ("PwC-NL") to coordinate and report on the audit procedures performed on Sara Lee's international operations.

13. For both the FY 2010 and FY 2011 audits, PwC-NL instructed PwC-Brazil to perform what it described as an "integrated audit" of SLCB's special purpose financial information, which included both a balance sheet and income statement, using a planning/performance materiality of 2.25 million Euros (approximately R$5 million). PwC-NL further instructed PwC-Brazil to perform its audit work in accordance with PCAOB standards, and to opine on whether SLCB's financial information was presented in accordance with Sara Lee Corporation's Finance Policy Manual ("Sara Lee policies"), which the instructions stated, Sara Lee had "developed . . . in accordance with U.S. GAAP."

14. As the lead partner for PwC-Brazil's audit work, Teles authorized the issuance of PwC-Brazil's interoffice reports on SLCB's special purpose financial information for both the FY 2010 and FY 2011 audits (the "Interoffice Reports"). The FY 2010 and FY 2011 Interoffice Reports, dated August 5, 2010, and August 2, 2011, respectively, stated that PwC-Brazil had audited SLCB's special purpose financial information in accordance with PCAOB auditing standards. Except for certain qualifications that are not relevant to this Order, both Interoffice Reports stated that SLCB's special purpose financial information "has been prepared to give the information required to be shown in accordance with the policies and instructions contained in [Sara Lee's policies]."

15. Teles understood that PwC-NL would rely upon PwC-Brazil's Interoffice Reports to issue its own interoffice reports on consolidated special purpose financial information of Sara Lee's international subsidiaries. Teles further understood that PwC-US would rely upon PwC-NL's interoffice reports in preparing and issuing its audit reports on Sara Lee's consolidated financial statements. And, in fact, PwC-US issued unqualified audit reports on Sara Lee's FY 2010 and FY 2011 financial statements based, in part, on PwC-Brazil's Interoffice Reports.

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2. SLCB's Revenue Recognition, Trade Promotions and Accounts Receivable

16. SLCB earned revenue from the sale of coffee. Customers were primarily large distributors and grocery chains. SLCB provided a variety of sales incentives to its customers, including discounts, promotional credits and other consideration ("trade promotions"). "Key account" customers had written agreements with SLCB,[7] which granted them certain trade promotions. Additionally, salespersons were able to offer temporary trade promotions to both key and non-key account customers.

17. Consistent with U.S. GAAP,[8] Sara Lee policies required that SLCB report its revenues net of its estimated trade promotion costs. SLCB was to record the sale price before any discounts or rebates as gross sales and record the cost of any related trade promotions in contra-revenue accounts.

18. For trade promotions that a customer was immediately entitled to receive as a discount, SLCB was to record accounts receivable net of the trade promotions. For trade promotions that could not be immediately applied to the customer account (e.g., promotions payable on a future date), SLCB was to record accounts receivable based on the gross sale price, while also recording a liability to recognize its obligation to provide the trade promotions. When SLCB's customer became entitled to receive the trade promotions, SLCB would reduce the liability either by paying the customer or offsetting the liability against the accounts receivable.

19. Teles understood that, when an SLCB customer believed it was entitled to a trade promotion, it was common for the customer to take a "self-deduction" to claim the anticipated trade promotion—i.e., the customer would pay the net amount owed after the anticipated trade promotion, rather than paying the gross sales price and waiting for reimbursement. Teles further understood that it was an accepted practice for SLCB customers to use self-deductions to claim the benefit of an agreed-upon trade promotion that had not been reflected in the invoiced amount. Sara Lee policies recognized that customers would claim trade promotions through self-deductions. In such scenarios, assuming that SLCB had properly recorded the trade promotion liability at the time of sale, SLCB was expected to reduce the trade promotion liability established for that sale by the unpaid portion of the gross sales price.

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[7] In contrast to key accounts, non-key accounts were typically smaller accounts for which there were no written master agreements.

[8] See FASB Accounting Standards Codification ("ASC") 605-50, *Revenue Recognition – Customer Payments and Incentives*.

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20. Teles knew that customers also took self-deductions when no specific trade promotion liability had been recorded. This would occur, for example, if a salesperson had agreed to a discount at the time of sale, but SLCB failed to record it. Self-deductions taken when no specific trade promotion liability had been recorded, until resolved, remained a part of SLCB's receivables balance.

21. Teles was aware that many self-deductions were essentially disputed receivables, and raised a risk of non-collectablility. Self-deductions presented a risk that SLCB might not have recorded all of its trade promotions. If SLCB failed to record all of the costs of its trade promotions, its net revenues would be overstated. In addition, accounts receivable would be overstated or the trade promotion liability would be understated.

3. Teles's Knowledge of the Risks and Red Flags

22. Before beginning work on the FY 2010 and FY 2011 audits, Teles became aware of several risks and red flags that should have caused him to heighten his professional skepticism with respect to SLCB's Net A/R, net revenues, and trade promotions. Teles and his engagement team recognized these risks, and documented a "critical matter" for Net A/R in both years.[9]

a. Teles Understood that SLCB was Experiencing Significant Levels of Overdue Receivables

23. At the time of the FY 2010 and FY 2011 audits, Teles knew that SLCB's receivables more than 90 days overdue were significant. SLCB's records indicated that there had been an eleven-fold increase in SLCB's accounts receivable recorded as more than 90 days overdue at FYE 2009. SLCB's records did not indicate significant improvement in the aging of SLCB's receivables at either FYE 2010 or FYE 2011 when compared to FYE 2009.

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[9] A "critical matter," sometimes referred to as a "significant matter," was a defined term in PwC-Brazil's internal guidance. That term referred to significant findings or issues that were important to the procedures performed, evidence obtained, or conclusions reached, within the meaning of Auditing Standard No. 3, *Audit Documentation,* ¶ 12. Under PwC-Brazil policy, Teles was required to be involved in the resolution of critical matters and to review the documentation of the critical matters.

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b. Teles Understood that Significant Overdue Accounts Receivable Were Disputed

24. During the FY 2010 and FY 2011 audits, SLCB management informed Teles that a significant portion of the A/R more than 90 days past due were the result of customers taking self-deductions. Teles understood from his discussions with SLCB management that the customers were taking self-deductions to dispute their obligation to pay the remaining balances, claiming that SLCB owed them trade promotion credits. Management also represented to Teles that the overdue receivables had increased in conjunction with a global financial crisis.

c. Teles Understood that SLCB Was Re-Aging Overdue Accounts Receivable

25. Teles understood that SLCB's accounts receivable, as reflected in SLCB's records, had been re-aged. Before issuing the FY 2010 Interoffice Report, Teles learned from management that SLCB had extended due dates on some of its receivables (including self-deductions) that were the subject of disputes by SLCB's customers.

26. Teles understood that, when SLCB extended due dates, SLCB revised the due dates for the overdue receivables in its A/R subledger, the basis for which Teles did not test.[10] Teles also understood that changes to the due dates of receivables in the A/R subledger would cause the receivables to appear less overdue, and possibly current. As a result, Teles knew, or should have known, that any analyses of the A/R aging prepared from the A/R subledger would depict the receivables as less-aged than they really were.

d. SLCB Had Identified Internal Control Deficiencies Concerning Net A/R, Net Revenues and Trade Promotion Accounts

27. Teles knew, or should have known, that the Sara Lee internal audit function ("Internal Audit") had identified internal control deficiencies related to SLCB's Net A/R, net revenues and trade promotion accounts. During the FY 2009 audit, Teles received access to an internal audit report ("2009 IA Report") that indicated that there had been several deficiencies in SLCB's internal controls, which could cause misstatements in SLCB's Net A/R, net revenues and trade promotion accounts.

[10] Management represented to Teles that it had extended due dates based on negotiations with SLCB's customers.

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Although SLCB purported to have taken steps to address those deficiencies, Teles received access to another IA Report in mid-FY 2010 ("2010 IA Report"), which noted several similar deficiencies.[11]

e. Teles Understood that there Were Audit Risks, Including a Risk of Material Misstatement Due to Fraud, Associated with SLCB's Net A/R, Net Revenues and Trade Promotions

28. For both the FY 2010 and FY 2011 audits, PwC-NL advised Teles and his PwC-Brazil engagement team that there were increased audit risks relating to Net A/R, net revenues and trade promotions. In addition, in both years, Teles understood that there were risks of material misstatement due to fraud related to those accounts. Among other things, the disputes between SLCB and its customers raised a major concern for Teles about whether the recorded accounts receivable balance was accurate. That concern was documented, in part, in the FY 2010 and FY 2011 "critical matter" work papers.

29. In both years, PwC-NL's audit instructions indicated that it was unlikely that evidence from controls and substantive analytical procedures alone would be sufficient to address the risks identified for revenue and trade promotions, and that tests of details were typically necessary to address such risks.

E. Applicable PCAOB Standards During the FY 2010 and FY 2011 Audits

30. In connection with the preparation or issuance of an audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[12] As the lead partner for PwC-Brazil's audit work on SLCB's special purpose financial information, Teles had an obligation under PCAOB standards to supervise the audit and

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[11] The 2010 IA Report indicated that the deficiencies were "important strategic, financial, compliance or operational issue[s] for the operating company." It also indicated that "[t]he related risk[s] ha[ve] mitigating controls in place and/or the likelihood of having a significant effect on the operating company is small."

[12] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

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to obtain "sufficient competent evidential matter."[13] To be competent, audit evidence must be both valid and relevant.[14]

31. Teles was required to plan PwC-Brazil's audit procedures based on assessments of both audit risk and materiality.[15] Although an audit client's internal controls could impact the assessment of audit risk, a determination that audit risk was lower due to the client's internal controls was required to be based on an assessment of both those controls' design and effectiveness.[16] Additionally, Teles and his engagement team needed to perform substantive tests for all relevant assertions related to all significant accounts, regardless of assessed level of control risk.[17]

32. Teles was required to perform his work with due professional care, which, in turn, required him to exercise professional skepticism.[18] Teles also was required "to be thorough in his . . . search for evidential matter," to be "unbiased in its evaluation," and to consider relevant evidential matter regardless of whether it appeared to corroborate or to contradict the assertions in SLCB's financial information.[19] Teles could not be satisfied with less-than-persuasive evidence because of a belief that management was honest.[20]

33. Teles should have conducted PwC-Brazil's audit procedures "with a mindset that recognizes the possibility that a material misstatement due to fraud could be present, regardless of any past experience with the entity and regardless of [his] belief about management's honesty and integrity."[21] To ensure that the risks of material misstatement due to fraud were appropriately identified and assessed, Teles was required to consider how and where SLCB's financial information might be susceptible

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[13] See AU § 311, *Planning and Supervision*; AU § 326.22, *Evidential Matter*.

[14] See AU § 326.21.

[15] See AU § 312, *Audit Risk and Materiality in Conducting an Audit*.

[16] See AU §§ 319.03, .66, .80-.81, .86, *Consideration of Internal Control in a Financial Statement Audit.*

[17] See AU § 319.107.

[18] See AU §§ 230.02, .07, *Due Professional Care in the Performance of Work*.

[19] See AU § 326.25.

[20] See AU § 316.13, *Consideration of Fraud in a Financial Statement Audit*.

[21] See AU § 316.13.

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to material misstatement due to fraud, and how management could perpetrate and conceal fraudulent financial reporting.[22] To do so, Teles should have considered whether there were accounts or classes of transactions that may have been susceptible to manipulation by management.[23] In particular, PCAOB standards instructed that Teles should have presumed a risk of material misstatement due to fraud relating to revenue recognition,[24] and PCAOB standards also warned that "[f]raudulent financial reporting often is accomplished through intentional misstatements of accounting estimates."[25] Teles also should have considered whether there were "fraud risk factors" present,[26] including deficiencies in internal controls that increased the opportunity for fraud.[27]

34. Teles was also responsible for ensuring that the procedures performed by the engagement team adequately addressed the identified risks of material misstatement due to fraud.[28] The response to risks of material misstatement due to fraud should have included application of professional skepticism in gathering and evaluating audit evidence, including critical assessment of the competency and sufficiency of the audit evidence.[29] PCAOB standards required Teles to thoroughly probe the issues of potential fraud, and acquire additional evidence as necessary, rather than rationalize or dismiss information or other conditions that indicated a material misstatement due to fraud may have occurred.[30]

35. As detailed, below, Teles violated these and other PCAOB standards in both the FY 2010 and FY 2011 audits.

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22 See AU §§ 316.14, .34.

23 See AU § 316.39.

24 See AU § 316.41.

25 See AU § 316.63.

26 See AU §§ 316.31-33.

27 See AU § 316.85.

28 See AU § 311.13; AU § 326.25; AU § 316.02, .46, .48(b), .51-.56.

29 See AU § 316.46.

30 See AU § 316.16.

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F. Teles Violated PCAOB Rules and Standards

36. Teles violated PCAOB standards during the FY 2010 and FY 2011 audits because he failed to appropriately plan and supervise PwC-Brazil's audit procedures with due professional care and professional skepticism. He further failed to ensure that the engagement team adequately responded to the risks of material misstatement, including risks of material misstatement due to fraud, and red flags for SLCB's Net A/R, net revenues and trade promotion accounts. As a result, he failed to obtain sufficient competent audit evidence.

37. Teles determined that, in light of the risks described above, he should be directly involved in, and review, the work performed over SLCB's accounts receivable, and he designated SLCB's Net A/R a "critical matter." Nevertheless, he failed to ensure that PwC-Brazil adequately responded to the identified risks and red flags related to SLCB's Net A/R.[31] For audit procedures that his engagement team did perform, he failed to consider whether the audit evidence obtained to support SLCB's reported Net A/R was relevant or reliable, in light of SLCB's re-aging of receivables. He also failed to sufficiently address contradictory evidence obtained by the engagement team concerning Net A/R.[32]

38. Moreover, although Teles was aware of the risks relating to trade promotions, he inappropriately determined to treat trade promotions as a normal risk. As a result, he failed to plan or perform procedures beyond control testing and analytical procedures to address trade promotions. And the procedures that the engagement team did perform failed to address the risk that all of SLCB's trade promotions were not recorded.

1. Teles's Failures Concerning SLCB's Net A/R

39. When planning PwC-Brazil's FY 2010 and FY 2011 audit procedures for SLCB, Teles inappropriately determined to place high reliance on SLCB's internal controls and analytical procedures, and to reduce the extent of substantive testing for Net A/R. Besides performing tests of internal controls and analytical procedures, PwC-Brazil's principal audit procedures for Net A/R in FY 2010 consisted of: (1) attempting to confirm a sample of receivables and performing alternative procedures for nonresponses to confirmation requests, (2) reviewing SLCB's A/R aging and A/R Reserves for doubtful accounts, and (3) reviewing bad debt write-offs. For the FY 2011

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[31] See AU § 312; AU § 316.

[32] See AU § 326.25.

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audit, despite the continuing risks surrounding Net A/R, Teles and his engagement team eliminated the confirmation procedures, including alternative procedures for non-responses, and review of bad debt write-offs, and relied principally on the review of SLCB's A/R aging and A/R Reserves.

40. The procedures performed, however, were inadequate to respond to the risk that SLCB was re-aging and otherwise delaying the write-off or reserving of uncollectable receivables.

41. Teles failed to identify and address the deficiencies in PwC-Brazil's planned procedures, their execution, or the evidence that they produced. He failed to appropriately supervise and review the engagement team's performance of those procedures. As a result, Teles failed to exercise due professional care and professional skepticism, and failed to obtain sufficient competent evidence to support that SLCB's Net A/R existed and was appropriately valued.

a. Teles and His Team Failed to Appropriately Perform Confirmation and Alternative Procedures on SLCB's Receivables

FY 2010

42. Under PCAOB standards, it is presumed that an auditor will request confirmation of accounts receivable,[33] and PwC-NL explicitly requested that PwC-Brazil confirm accounts receivable for the FY 2010 audit. PwC-Brazil accordingly planned to perform confirmation procedures for A/R and alternative procedures for nonresponses, including tracing the receivables to subsequent cash receipts.[34]

43. Despite the importance of the confirmation and alternative procedures, Teles failed to appropriately supervise those procedures, or evaluate their results with due professional care. PwC-Brazil's confirmation testing and alternative procedures

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[33] See AU § 330.34, *The Confirmation Process*.

[34] PCAOB standards provide that "[t]he nature of alternative procedures varies according to the account and assertion in question." AU § 330.32. They also provide that "[i]n he examination of accounts receivable, for example, alternative procedures may include examination of subsequent cash receipts (including matching such receipts with the actual items being paid), shipping documents, or other client documentation to provide evidence for the existence assertion." Id.

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were performed on a non-representative sample of ten receivables.[35] Additionally, those procedures were not performed with due professional care, and did not address contradictory evidence. As a result, they did not provide sufficient competent evidence to support either the existence or value of SLCB's FYE 2010 accounts receivable.

44. PCAOB standards provide that, in order to obtain relevant audit evidence about a population of transactions through a test of details performed on a sample of transactions, a sample should be designed so that it is reasonably expected to be representative of that larger population.[36] However, the engagement team failed to select a representative sample of receivables for its confirmations and alternative procedures, and instead made a targeted selection of ten very large receivables from those that SLCB had marked "current." Other receivables in the A/R population did not have an opportunity for selection.[37] Accordingly, the results of the test could not be extrapolated to the entire A/R balance, including the population of high-risk overdue receivables for FY 2010. However, because Teles did not appropriately supervise the confirmation testing, he was not aware that his team had restricted that testing to "current" receivables.

45. Teles's failure to appropriately supervise the confirmation and alternative procedures also resulted in the engagement team failing to appropriately respond to contradictory evidence obtained through the alternative procedures. When positive confirmation procedures are performed, but no replies are received, the auditor should apply alternative procedures to the nonresponses to obtain the evidence necessary to reduce audit risk to an acceptably low level.[38]

46. PwC-Brazil did not receive any responses from customers confirming the receivables, which was consistent with the engagement team's experience on the prior year's audit and Teles's experience in Brazil, generally. PwC-Brazil attempted to apply alternative procedures for the receivables not confirmed by examining subsequent cash receipts for the selected receivables. However only two of the ten receivables tested for subsequent cash receipts were matched to a cash receipt of equal value to the

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[35] The confirmation and alternative procedures were performed on a selection of just ten current receivables from SLCB's May 31, 2010 A/R balance. That selection covered just 2.4% of the total value of the May 31, 2010 A/R balance, which was comprised of more than 32,000 receivables totaling R$205.8 million.

[36] See AU §§ 350.16-.17, .24, *Audit Sampling*.

[37] See AU § 350.39.

[38] See AU § 330.31.

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receivable. For three other receivables, SLCB provided PwC-Brazil with information indicating that SLCB had received cash, but the amounts of the cash it received were different from the amounts of the receivables. PwC-Brazil did not obtain any evidence that the customers had designated the cash for the receivables it was testing, nor did it perform any procedures to test whether the cash receipts had been appropriately applied.[39]

47. For the remaining five receivables, PwC-Brazil did not obtain evidence of cash being subsequently received by SLCB. PwC-Brazil did, however, receive information that three of those receivables (totaling 18% of the tested value) had been subsequently reversed by applying credit memos for trade promotions. Such information alone did not provide audit evidence that the receivables were valid. In particular, the relative magnitude of the receivables reversed through credit memos within PwC-Brazil's selection should have garnered additional attention from Teles.

48. At the end of the FY 2010 audit work, Teles signed-off that the engagement team had properly performed accounts receivable confirmation testing and alternative procedures. However, before doing so, Teles failed to properly evaluate the evidence obtained, including contradictory audit evidence that cast doubt on whether A/R Reserves and/or trade promotion liabilities had been appropriately recorded to prevent misstatements of SLCB's special purpose financial information.

FY 2011

49. For the FY 2011 audit, Teles and his engagement team did not perform any confirmation or alternative procedures for A/R. Teles and the engagement team documented that they decided to forego confirmation of A/R with SLCB's customers, based on the prior year's poor response rate. Although an auditor may choose to forego confirmation of accounts receivable where the use of confirmations would be ineffective,[40] PwC-Brazil was still required to obtain sufficient competent evidence concerning the existence and value of accounts receivable, a significant account, through substantive testing,[41] and neither Teles nor his engagement team recorded the reason for eliminating the subsequent cash receipts testing they had performed the prior

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[39] As reflected in AU § 330.32, examination of subsequent cash receipts as an alternative procedure for receivables confirmations typically includes "matching such receipts with the actual items being paid."

[40] See AU § 330.34.

[41] See AU § 319.107.

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year. Nor did Teles or his team devise or carry out any other alternative procedures to test SLCB's A/R as of FYE 2011.

b. Teles's and His Team's Analysis of Receivables' History, Aging, Collectability and Bad Debt Write-Offs Was Flawed

50. For both FYE 2010 and FYE 2011, Teles and his engagement team planned to respond to the risks indicated by the customer disputes and overdue receivables by testing the reasonableness of management's estimated A/R Reserves for doubtful accounts. PwC-Brazil's procedures to evaluate the reasonableness of the A/R Reserve for doubtful accounts included recalculating the aging of SLCB's A/R by using aging data in SLCB's A/R subledger, and holding discussions with management about customers with large overdue balances. The procedures also included examining period-to-period changes in the age of receivables balances. That testing, however, was flawed because it ignored the impact of SLCB's re-aging of receivables and placed undue reliance on management representations that were contradicted by other information.

51. Teles knew that there was an elevated risk that Net A/R was materially overstated with uncollectable receivables and amounts that should have been offset by trade promotion credits. Teles also understood that a material portion of SLCB's reported A/R more than 90 days overdue were disputed by SLCB's customers, and therefore raised the risk of uncollectability. Teles also should have realized that the disputed receivables, and thus the potential for overstatement of Net A/R, were not confined to those A/R that were recorded as being more than 90 days overdue, since he knew SLCB had been re-aging some overdue A/R that had been the subject of disputes.

52. Under PCAOB standards, Teles needed to assess the reliability of SLCB's A/R subledger data, before he could use that data to evaluate the reasonableness of SLCB's estimated A/R Reserves.[42] Nevertheless, Teles failed to make an appropriate assessment of the reliability of that data. Teles never sought to have his engagement team determine the extent and impact of the re-aging, nor did he seek to quantify the amounts in dispute. Had he done so, data already contained in PwC-Brazil's work papers would have allowed Teles and his engagement team to observe that SLCB's FYE 2010 and FYE 2011 receivables balances had been significantly re-aged.

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[42] See AU §§ 342.04, .09-.12, *Auditing Accounting Estimates*.

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53. PwC-Brazil's review of SLCB's bad debt write-offs was also compromised by the practice of re-aging, and that review provided insufficient evidence as to the reasonableness of A/R Reserves. That review did not take into consideration that uncollectable receivables, if re-aged, might persist in the A/R balance without being written-off as bad debts. Without evidence to support that all bad debts were being timely written off, this procedure could not provide competent evidence to support the reasonableness of the A/R Reserves.

54. Because the aging analysis and the bad debt write-off review both failed to yield audit evidence that was either relevant or reliable, PwC-Brazil's substantive testing of the AR Reserve for doubtful accounts amounted to little more than management inquiry about the collectability of SLCB's A/R. In both FY 2010 and FY 2011, Teles and the engagement team made inquiries to various members of SLCB's management, including SLCB's CFO, about the overdue receivables. Teles and the engagement team received representations that SLCB was pursuing the overdue receivables and that management believed SLCB would be successful in collecting them.[43]

55. However, management inquiry, alone, could not provide sufficient competent evidence as to the collectability of A/R or the reasonableness of the A/R Reserves. Although management representations "are part of the evidential matter the independent auditor obtains, . . . they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[44] In particular, "[i]f a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made."[45]

56. Teles failed to obtain evidence to corroborate management's representations. Teles should have sought additional evidence to corroborate management's representations, particularly because the claims by SLCB customers that they were owed additional trade promotions constituted contradictory evidence as to the existence and value of the overdue receivables, and as to the adequacy of SLCB's related estimates for its A/R Reserves. .

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[43] Sara Lee's internal investigation indicated that SLCB management did not accurately represent the circumstances surrounding the receivables.

[44] See AU § 333.02, *Management Representations*.

[45] See AU § 333.04.

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57. At the request of Teles and the engagement team, management also presented the engagement team with management's own analyses of changes in the aging of the receivables from period-to-period, but those analyses (like the ones prepared by PwC-Brazil) were based on altered due dates.

c. PwC-Brazil's Control Testing and Analytical Procedures Did Not Provide Sufficient Competent Audit Evidence to Respond to the Elevated Risk of Material Misstatement for Net A/R

58. During the FYE 2010 and FYE 2011 audits, Teles placed significant reliance on SLCB's internal controls to substantially reduce the level of substantive testing for Net A/R. That reliance was unreasonable for the following reasons:

a. Teles had direct knowledge that SLCB was re-aging overdue receivables, and did not test the basis for the re-aging.

b. PwC-Brazil's test of the control for estimating the A/R Reserves for doubtful accounts only examined whether the calculation was being performed and reviewed.

c. As highlighted by the 2009 and 2010 IA Reports, some of SLCB's revenue and receivables were recorded during a period when Internal Audit had identified deficiencies in related internal controls.

59. Although Teles relied on control testing related to sales transactions, those tests did not provide sufficient competent evidence to support the existence or valuation of accounts receivable at either fiscal year-end. In the FY 2010 control test the engagement team selected 25 sales transactions and sought to verify the existence of (1) an invoice, (2) an inventory picking list, (3) a delivery confirmation slip, and (4) a subsequent payment. When performing the same control test in FY 2011, the engagement team selected 45 sales transactions, but failed to seek evidence of subsequent payment. Although the engagement team obtained evidence indicating that the shipments had occurred and/or been delivered, the engagement team did not perform procedures to test whether the receivables had been correctly recorded or appropriately credited.

60. Teles also relied on PwC-Brazil's analytical procedures for A/R, but those procedures did not provide substantive audit evidence to overcome the deficiencies in PwC-Brazil's other Net A/R testing. The analytical procedures could not provide the high level of assurance needed to address the elevated risk and fraud risk associated with A/R. Among other things, PwC-Brazil's expectation was not precise enough to

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provide a high level of assurance, because it was based on overall changes to total revenue and A/R, and not disaggregated (e.g., by customer or customer type).[46]

2. Teles's Failures Concerning Net Revenues and Trade Promotions

61. Teles also violated PCAOB standards by failing to appropriately plan and supervise his team's testing of trade promotions with due professional care and professional skepticism, in light of the red flags and risks associated with trade promotions. As a result of those failures, Teles and the engagement team failed to appropriately assess the reasonableness of the trade promotion estimates. And they failed to obtain sufficient competent audit evidence that SLCB had appropriately recorded its obligations relating to trade promotions.

62. SLCB's trade promotion accounts were significant accounts and were susceptible to fraud risks. SLCB's recorded trade promotion costs totaled R$320 million in FY 2010 and R$639 million in FY 2011, and comprised a significant component of SLCB's net revenues. As a constituent part of SLCB's revenue, there was a presumptive fraud risk for trade promotion costs.

63. In both FY 2010 and 2011, PwC-Brazil also identified in its work papers that SLCB's trade promotion liability was a significant management estimate for which there was a risk of fraud. As Teles was aware, by FYE 2010, SLCB's trade promotion liability had been almost entirely exhausted. And although the trade promotion liability balance had increased to R$5.9 million as of FYE 2011, it was still relatively low in light of the volume of SLCB's trade promotion activity and customer disputes over trade promotions.

64. During both FY 2010 and 2011, there were also multiple indications that there was an increased risk of material understatement in SLCB's trade promotion accounts, which should have caused Teles to expand the testing of trade promotions. For example, Teles knew that SLCB's management attributed much of the A/R more than 90 days past due to customer disputes and claims that they were owed additional trade promotions. Further, during the FY 2010 audit, Teles was provided with information demonstrating that SLCB's FYE 2010 trade promotion liability balance of just R$1.1 million was more than R$13 million below its budgeted amount. PwC-NL's instructions for the audits also indicated that trade promotions were a "key" risk in FY 2010 and an "elevated" risk in FY 2011.

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[46] See AU § 329.14, .17-.19, *Analytical Procedures*.

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65. Nevertheless, Teles changed PwC-NL's risk assessment for trade promotions, and decided that the audit risk for SLCB's trade promotion accounts was normal. Teles decided that PwC-Brazil would seek a low level of assurance from its substantive testing for those accounts and would evaluate trade promotions through a combination of control testing and analytical procedures. Teles also permitted the engagement team to forego several of the procedures that were identified as part of the planned response to the risk of fraud for the trade promotion liability, including retrospective review of the trade promotion liability estimate. Moreover, despite PwC-NL's instructions specifically identifying a high risk to completeness and accuracy of revenue related to trade promotions, Teles failed to ensure that PwC-Brazil's testing adequately addressed these assertions for trade promotions.

66. Teles's decision to reduce the assessed risk for trade promotions was unreasonable, and demonstrates his failure to exercise due professional care and professional skepticism. Teles did not document the reason for his lower trade promotions risk assessment, and nothing in the circumstances of SLCB supported that risk assessment. Indeed, Teles should have considered that the disputes between SLCB and its customers indicated an increased risk that SLCB may have failed to record all trade promotions, and therefore may have materially understated its trade promotion costs and related trade promotion liability, and overstated its net revenues. Likewise, the re-aging of the disputed receivables and the history of adverse findings in the IA Reports relating to trade promotion controls should have caused Teles to perform additional procedures and obtain additional audit evidence during the FY 2010 and FY 2011 audits.

67. In light of the actual audit risks surrounding SLCB's trade promotions, Teles's decision to restrict the trade promotion testing to certain tests of controls and analytical procedures violated PCAOB auditing standards,[47] as did his decision not to perform planned retrospective reviews of the trade promotion liability.[48] PwC-Brazil's control tests and analytical procedures were neither designed nor executed to provide the level of assurance for substantive testing necessary to address the increased risk of misstatement, including for fraud, in trade promotions. The nature, timing and extent of the control tests—including the small number of occurrences and transactions tested—were too limited to provide sufficient competent evidence as to whether all trade

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[47] See AU § 319.107; AU § 329.09; AU § 316.51; see also AU § 316.41.

[48] See AU § 316.64 (the auditor should perform a retrospective review of significant accounting estimates reflected in the financial statements of the prior year to determine whether management judgments and assumptions relating to the estimates indicate a possible bias on the part of management).

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Public Company Accounting Oversight Board

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promotion costs were appropriately recorded.[49] Also, the tested controls failed to address the risk that SLCB's trade promotions could be understated because of failures to record liabilities and reserves for agreed-upon trade promotions and other incentives/concessions. And the analytical procedures performed by PwC-Brazil did not serve to provide a high level of assurance, because they did not employ any detailed expectation based on a plausible relationship.[50]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Wander Rodrigues Teles is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Wander Rodrigues Teles is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[51] and

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[49] See AU § 350.44.

[50] See AU § 329.14 (as higher levels of assurance are desired from analytical procedures, more predictable relationships are required to develop the expectation); AU § 329.17 ("The expectation should be precise enough to provide the desired level of assurance that differences that may be potential material misstatements, individually or when aggregated with other misstatements, would be identified for the auditor to investigate.").

[51] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Teles. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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C. After two (2) years from the date of this Order, Wander Rodrigues Teles may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Wander Rodrigues Teles. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay the civil money penalty imposed within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter that identifies Teles as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of said cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

March 20, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Michael John Morrell*, Respondent.	PCAOB Release No. 105-2017-008 March 29, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Michael John Morrell ("Morrell" or "Respondent"); (2) barring Morrell from being an associated person of a registered public accounting firm;[1] and (3) imposing a civil money penalty in the amount of $35,000 on Morrell. The Board is imposing these sanctions on the basis of its findings that Morrell directly and substantially contributed to a registered firm's failure to cooperate with a Board investigation.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent

[1] Morrell may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

PCAOB
Public Company Accounting Oversight Board

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consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Michael John Morrell, 61, is a retired partner of a Brazilian entity in the Deloitte Touche Tohmatsu Limited network ("Deloitte Brazil Entity"). From June 1, 2012 until May 31, 2016, Morrell served as Chairman of the Policy Committee, the governing body of the Deloitte entities in Brazil, including PCAOB registered firm Deloitte Touche Tohmatsu Auditores Independentes ("Deloitte Brazil" or "Firm"). On June 1, 2016, Morrell rotated out of the chairmanship of the Policy Committee, and on September 21, 2016, he retired from the Deloitte Brazil Entity. At all relevant times, Morrell was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondent Directly and Substantially Contributed to Deloitte Brazil's Failure to Cooperate with a Board Investigation

Applicable PCAOB Rules

2. Section 105(b)(3)(A) of the Act authorizes the Board to sanction a registered public accounting firm for "refus[ing] to…cooperate with the Board in connection with an investigation[.]"[4] Board rules include procedures for implementing that authority.[5] Noncooperation with a Board investigation includes: (a) "fail[ing] to comply with an accounting board demand"; (b) "knowingly ma[king] any false material

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard.

[4] 15 U.S.C. § 7215(b)(3)(A).

[5] See PCAOB Rule 5110, *Noncooperation with an Investigation*; PCAOB Rule 5200(a)(3), *Commencement of Disciplinary Proceedings*.

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declaration or ma[king] or us[ing] any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration"; (c) "abus[ing] the Board's processes for the purpose of obstructing an investigation"; and (d) "otherwise [failing] to cooperate in connection with an investigation."[6]

3. PCAOB rules also prohibit associated persons of registered public accounting firms from taking or omitting to take any action "knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of," among other things, the Rules of the Board.[7]

Respondent Violated PCAOB Rules in Connection with a Board Investigation

4. During the relevant time period, the Policy Committee oversaw, among other things, the governance of the Firm and the compliance of its partners with applicable law and with the Firm's policies and procedures. As Chairman of the Policy Committee, therefore, Morrell was one of the partners with the most responsibility for setting an appropriate tone and establishing controls concerning integrity, ethics, and compliance.

5. On October 15, 2013, the PCAOB Division of Enforcement and Investigations (the "Division") issued a document request to Deloitte Brazil as part of an informal inquiry, requesting that the Firm produce, among other things, the work papers from the Firm's audit of Gol Linhas Aéreas Inteligentes S.A., also known as Gol Intelligent Airlines Inc. ("Gol"), for fiscal year 2010 ("2010 Gol Audit"). In response to that request, the Firm produced a set of 2010 Gol Audit work papers that had been improperly altered in connection with a 2012 Board inspection of the audit. At the time the Firm produced the work papers to the Division in 2013, it did not disclose the improper alterations, which it had made to conceal deficiencies in the 2010 Gol Audit.[8]

6. On or about March 7, 2014, Morrell had conversations with two senior Deloitte Brazil partners in which: (a) Morrell, in his capacity as Chairman of the Policy Committee, was informed about the Firm's production of improperly altered work papers to the Division, and was asked to concur in the decision not to disclose the improper

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[6] See PCAOB Rule 5110(a).

[7] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

[8] See *Deloitte Touche Tohmatsu Auditores Independentes*, PCAOB Rel. No. 105-2016-031 (Dec. 5, 2016).

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alteration to the Division; (b) Morrell was made aware by the senior partners that informing the Division of the improper alterations could have negative consequences for the Firm; and (c) Morrell concurred with the Firm's course of action, thereby directly and substantially contributing to the Firm's obstruction of the Division's inquiry. Morrell subsequently had a conversation with a different senior Firm partner in which Morrell again concurred with the decision not to disclose the improper alterations, despite being made aware that the failure to disclose could have negative consequences for the Firm.

7. After the Board issued an Order of Formal Investigation in June 2014, the Firm continued to provide false documents and information to the Division, including by failing to produce the original work papers from the 2010 GoI Audit. Morrell was aware that the Firm was failing to cooperate with the investigation. Despite his responsibilities as the Chairman of the Policy Committee (including the responsibility to establish a tone of integrity and compliance), however, Morrell failed to take any steps to halt the Firm's noncooperation with the investigation or to rescind his support for the Firm's plan to conceal the improper alterations from the Division.

8. Given Morrell's position as Chairman of the Deloitte Brazil Policy Committee, his actions and omissions directly and substantially contributed to the Firm's failure to cooperate with the Division's investigation. Morrell knew, or was reckless in not knowing, that his actions and omissions played a direct and substantial role in the Firm's noncooperation.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Michael John Morrell is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Michael John Morrell is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[9]

[9] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Morrell. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being

PCAOB
Public Company Accounting Oversight Board

ORDER

C. After five (5) years from the date of this Order, Michael John Morrell may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $35,000 is imposed upon Michael John Morrell. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Morrell shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Morrell as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2017

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associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Juarez Lopes de Araújo*, Respondent.	PCAOB Release No. 105-2017-009 March 29, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Juarez Lopes de Araújo ("Araújo" or "Respondent"); and (2) barring Araújo from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings that Araújo failed to cooperate with a Board investigation.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(3) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer, the Board finds[2] that:

A. Respondent

1. Juarez Lopes de Araújo, 62, is a retired partner of certain of the Brazilian entities in the Deloitte Touche Tohmatsu Limited network ("Deloitte Brazil Entities"). From June 1, 2008 through May 31, 2016, Araújo served as Chief Executive Officer ("CEO") and Managing Partner of the Deloitte Brazil Entities, including PCAOB registered firm Deloitte Touche Tohmatsu Auditores Independentes ("Deloitte Brazil" or "Firm"). In that capacity, Araújo served both on the Policy Committee, the governing body of the Deloitte Brazil Entities, and on the Executive Committee. On June 1, 2016, Araújo rotated out of the CEO and Managing Partner positions, and on July 18, 2016, he retired from the Deloitte Brazil Entities. At all relevant times, Araújo was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondent Failed to Cooperate with a Board Investigation

Applicable PCAOB Rules

2. Section 105(b)(3)(A) of the Act authorizes the Board to sanction an associated person of a registered public accounting firm for "refus[ing] to…cooperate with the Board in connection with an investigation[.]"[3] Board rules include procedures for implementing that authority.[4] Noncooperation with a Board investigation includes "fail[ing] to comply with an accounting board demand ['ABD']."[5]

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[2] The sanctions that the Board is imposing on Respondent in this Order are imposed pursuant to Section 105(b)(3) of the Act, 15 U.S.C. § 7215(b)(3), and PCAOB Rule 5300(b).

[3] 15 U.S.C. § 7215(b)(3)(A).

[4] See PCAOB Rule 5110, *Noncooperation with an Investigation*; PCAOB Rule 5200(a)(3), *Commencement of Disciplinary Proceedings*.

[5] PCAOB Rule 5110(a)(1).

ORDER

Background

3. Beginning in 2013, the PCAOB Division of Enforcement and Investigations (the "Division") conducted an informal inquiry and, beginning on June 24, 2014, a formal investigation of Deloitte Brazil in connection with, among other things, the Firm's audit of Gol Linhas Aéreas Inteligentes S.A., also known as Gol Intelligent Airlines Inc., for fiscal year 2010 ("2010 Gol Audit").

4. In response to that inquiry and investigation, Deloitte Brazil, with the knowledge and participation of certain of its senior partners, obstructed a PCAOB investigation by providing false documents and information to the Division, including improperly altered versions of certain 2010 Gol Audit work papers.[6]

Respondent Failed to Cooperate with a Board Investigation

5. On October 4, 2016, the Division issued an ABD to Araújo requiring him to appear for testimony on November 3, 2016. The Division informed Araujo that it intended to take his testimony concerning his possible knowledge of or participation in the Firm's provision of false documents and information to the Division in connection with its investigation of the 2010 Gol Audit.

6. Although the Division accommodated Araújo's request to change the date of the testimony, Araújo informed the Division through his counsel on November 28, 2016 that he would not appear for testimony as required by the ABD. By not complying with the ABD, Araújo failed to cooperate with a Board investigation.[7]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(iii) of the Act and PCAOB Rule 5300(b)(1), Juarez Lopes de Araújo is censured; and

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[6] See *Deloitte Touche Tohmatsu Auditores Independentes*, PCAOB Rel. No. 105-2016-031 (Dec. 5, 2016).

[7] See PCAOB Rule 5110(a).

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Public Company Accounting Oversight Board

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B. Pursuant to Section 105(b)(3)(A)(i) of the Act and PCAOB Rule 5300(b)(1), Juarez Lopes de Araújo is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[8]

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2017

[8] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Araújo. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Ernst & Young, S.L.,* *Respondent.*	PCAOB Release No. 105-2017-010 March 29, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Ernst & Young, S.L. ("Firm" or "Respondent"), a registered public accounting firm, and imposing a civil money penalty in the amount of $10,000 upon the Firm. The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Ernst & Young, S.L., is, and at all relevant times was, a limited liability corporation organized under Spanish law, and headquartered in Madrid, Spain. The Firm is a member of the Ernst & Young Global Limited network. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. As of its 2016 Annual Report on PCAOB Form 2, the Firm had 288 accountants, issued one audit report for one issuer during the reporting period, and did not play a substantial role in the preparation or furnishing of an audit report for an issuer that was issued during the reporting period. The Firm is licensed in Spain by the *Instituto de Contabilidad y Auditoria de Cuentas* ("ICAC"), the foreign auditor oversight authority in Spain (license no. S0530).[2]

B. Summary

2. This matter concerns the Firm's failures to timely disclose four reportable events to the Board on Form 3 as required by PCAOB rules. PCAOB rules required the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm needed to report on Form 3 were (a) its becoming a respondent in certain disciplinary proceedings; and (b) the conclusion of certain disciplinary proceedings in which it had been a respondent.

3. In February 2011, the Firm became a respondent in two separate disciplinary proceedings initiated by ICAC. Each of those two proceedings was a reportable event under Form 3. With respect to both proceedings, the Firm failed to file a Form 3 reporting the initiation of the proceedings for more than four years after learning of the initiation of the proceedings, well after the 30-day reporting deadline. The Firm also failed to file a Form 3 reporting the conclusion of one proceeding until approximately two years after becoming aware of the conclusion of the proceeding, and failed to file a Form 3 reporting the conclusion of the second proceeding until approximately three months after becoming aware of the conclusion of the proceeding.

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[2] A "foreign auditor oversight authority" means any governmental body or other entity empowered by a foreign government to conduct inspections of public accounting firms or otherwise to administer or enforce laws related to the regulation of public accounting firms. See Section 2(a)(17) of the Act, 15 U.S.C. § 7201(a)(17). See also PCAOB Rule 1001(f)(iii).

PCAOB
Public Company Accounting Oversight Board

ORDER

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

4. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[3] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding" ("Item 2.7 Proceeding").[4] Another such specified event occurs when a firm "has become aware that" an Item 2.7 Proceeding "has been concluded."[5] With respect to four such events involving two Item 2.7 Proceedings, the Firm failed to timely file a Form 3 with the Board.

5. First, on or about February 2, 2011, the Firm became aware that it had become a respondent in a disciplinary proceeding initiated by ICAC. The proceeding arose out of the Firm's audit of a Spanish company that was not an issuer.[6] The proceeding concluded no later than February 26, 2015.

6. Second, on or about February 25, 2011, the Firm became aware that it had become a respondent in another disciplinary proceeding initiated by ICAC. That

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[3] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[4] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer as those terms are defined under PCAOB rules.

[5] PCAOB Form 3, at Item 2.10.

[6] The term "issuer" means an issuer (as defined in Section 3 of the Securities and Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. See PCAOB Rule 1001(i)(iii).

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proceeding also arose out of the Firm's audit of a Spanish company that is not an issuer. The proceeding concluded no later than June 20, 2013.

7. In violation of Rule 2203, the Firm did not report the initiation and conclusion of these proceedings until June 25, 2015, approximately four years and four months after it became aware of the initiation of the proceedings, approximately three months after learning of the conclusion of the first proceeding, and approximately two years after learning of the conclusion of the second proceeding.

8. The Firm's internal compliance and reporting systems failed to identify the initiation and resolution of the proceedings before ICAC as being reportable to the PCAOB and to provide reasonable assurance of timely reporting pursuant to PCAOB rules.

IV.

9. The Firm has represented to the Board that, since the events described in this Order, it has established and implemented the following changes to its policies and procedures for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements:

a. The Firm has revised and supplemented its policies and procedures for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. The Firm has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

c. The Firm has assigned the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm.

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V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Grant Thornton Daejoo,* *Respondent.*	PCAOB Release No. 105-2017-011 March 29, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Grant Thornton Daejoo ("Firm," "Daejoo," or "Respondent") (formerly BDO Daejoo), a registered public accounting firm, and imposing a civil money penalty in the amount of $10,000 upon the Firm. The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted,

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Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Grant Thornton Daejoo is a limited liability corporation organized under the laws of the Republic of Korea, and headquartered in Seoul, Republic of Korea. The Firm is a member of the Grant Thornton International Limited network. Daejoo was formerly named BDO Daejoo LLC. On May 29, 2016, BDO Daejoo LLC filed a special report on Form 3 disclosing that it had terminated its member firm agreement with BDO International Limited, initiated a new member firm agreement with Grant Thornton International Limited, and changed its name to Grant Thornton Daejoo. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. As of its 2016 Annual Report on PCAOB Form 2, the Firm had 331 accountants, did not issue an audit report for an issuer during the reporting period, and did not play a substantial role in the preparation or furnishing of an audit report for an issuer that was issued during the reporting period. The Firm is licensed in the Republic of Korea by the Ministry of Finance and Economy (license no. 87).

B. Summary

2. This matter concerns the Firm's failures to timely disclose seven reportable events to the Board on Form 3 as required by PCAOB rules. PCAOB rules required the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm needed to report on Form 3 was its becoming a respondent in certain disciplinary proceedings.

3. In 2014 and 2015, the Firm became a respondent in seven separate disciplinary proceedings: three initiated by the Securities and Futures Commission of the Republic of Korea, three initiated by the Trust Supervision Commission of the Republic of Korea, and one initiated by the Korean Institute of Certified Public Accountants. Each of those seven proceedings involved a reportable event under Form 3. The Firm failed to file a Form 3 reporting one of the proceedings for over a year after learning of the initiation of that proceeding, and failed to report the other six proceedings

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

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on Form 3 until months after learning of the initiation of those proceedings, and well after the 30-day reporting deadline.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

4. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3]

The Firm Failed to Timely Disclose the Initiation of Seven Reportable Events

5. During 2014, the Firm became aware that it had become a respondent in four separate disciplinary proceedings. Each of the proceedings arose out of the Firm's audit of one or more Korean companies that were not issuers.[4] The Firm learned of each of the proceedings on or about the following dates:

- Proceeding 1 June 24, 2014

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[2] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer as those terms are defined under PCAOB rules.

[4] The term "issuer" means an issuer (as defined in Section 3 of the Securities and Exchange Act of 1934 (the "Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. See PCAOB Rule 1001(i)(iii).

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- Proceeding 2 November 5, 2014
- Proceeding 3 November 5, 2014
- Proceeding 4 December 18, 2014

6. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the four proceedings described above until June 22, 2015, nearly a year after learning of the initiation of the first proceeding and several months after learning of the initiation of each of the second, third, and fourth proceedings.

7. During 2015, the Firm became aware that it had become a respondent in three additional disciplinary proceedings. Each of the proceedings arose out of the Firm's audit of one or more Korean companies that were not issuers. The Firm learned of each of the proceedings on or about the following dates:

- Proceeding 5 April 27, 2015
- Proceeding 6 September 23, 2015
- Proceeding 7 November 3, 2015

8. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to Proceeding Six until June 6, 2016, and failed to file a Form 3 with respect to Proceedings Five and Seven until August 8, 2016. The Firm filed those Forms 3 months (and in one case over a year) after learning of the initiation of each of those proceedings.

Failures in the Firm's Internal System of Compliance

9. The Firm's internal compliance and reporting systems failed to identify the initiation of the seven proceedings described above as being reportable to the PCAOB.

IV.

10. The Firm has represented to the Board that, since the events described in this Order, it has established and implemented the following changes to its policies and procedures for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements:

a. The Firm has revised and supplemented its policies and procedures for the purpose of providing the Firm with reasonable assurance of

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compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. The Firm has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

c. The Firm has assigned the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary,

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Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Grant Thornton Fast & ABS Auditores y Consultores Ltda.,* *Respondent.*	PCAOB Release No. 105-2017-012 March 29, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Grant Thornton Fast & ABS Auditores y Consultores Ltda. ("Firm" or "Respondent"), a registered public accounting firm; (2) imposing a civil money penalty in the amount of $10,000 upon the Firm; and (3) in the event that the Board grants any future registration application by the Firm,[1] requiring the Firm to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements. The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

[1] The Firm has filed a Form 1-WD seeking leave to withdraw from registration with the Board, which the Board has determined to grant as of the date of this Order.

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Grant Thornton Fast & ABS Auditores y Consultores Ltda. is, and at all relevant times was, a limited liability partnership organized under Colombian law, and headquartered in Bogota, Colombia. The Firm is a member of the Grant Thornton International Limited network. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. As of its 2015 Annual Report on PCAOB Form 2, the Firm had 174 accountants, did not issue an audit report for an issuer during the reporting period, and played a substantial role in the preparation or furnishing of an audit report for one issuer that was issued during the reporting period.

B. Summary

2. This matter concerns the Firm's failures to timely disclose two reportable events to the Board on Form 3 as required by PCAOB rules. PCAOB rules required the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm needed to report on Form 3 was its becoming a respondent in certain disciplinary proceedings.

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[2] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

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3. In 2012 and 2013, the Firm became a respondent in two separate disciplinary proceedings, one proceeding initiated by the Disciplinary Panel of the Colombian Central Board of Accountants and the second proceeding initiated by the Superintendence of Companies. Each of the two proceedings was a reportable event under Form 3. With respect to the first proceeding, the Firm failed to file a Form 3 reporting the proceeding until approximately three years after learning of the initiation of the proceeding, and well after the 30-day reporting deadline. With respect to the second proceeding, the Firm failed to file a Form 3 reporting the proceeding until approximately two years after learning of the initiation of the proceeding.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

4. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[3] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[4] With respect to two such events, the Firm failed to timely file a Form 3 with the Board.

5. On or about November 22, 2012, the Firm became aware that it had become a respondent in a proceeding initiated by the Disciplinary Panel of the

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[3] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[4] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer as those terms are defined under PCAOB rules.

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Colombian Central Board of Accountants. The proceeding arose out of the Firm's audit of a Colombian company that was not an issuer.[5]

6. On or about November 11, 2013, the Firm became aware that it had become a respondent in a proceeding initiated by the Superintendence of Companies. That proceeding also arose out of the Firm's audit of a Colombian company that was not an issuer.

7. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the two proceedings described above until November 23, 2015, approximately three years after learning of the initiation of the first proceeding and two years after learning of the initiation of the second proceeding.

8. The Firm's internal compliance and reporting systems failed to identify the initiation of the proceedings described above as being reportable to the PCAOB.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered

[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities and Exchange Act of 1934 (the "Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. See PCAOB Rule 1001(i)(iii).

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to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm, should the Board grant any future application of the Firm for registration, is required:

1. within ninety (90) days from the date of the Board grants any future application of the Firm for registration ("Future Registration Date"), to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within ninety (90) days from the Future Registration Date, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process;

3. within ninety (90) days from the Future Registration Date, to assign the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm; and

4. within one hundred twenty (120) days from the Future Registration Date, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C.1 through C.3 above. The certification shall identify

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the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of KPMG Auditores Independentes,* *Respondent.*	PCAOB Release No. 105-2017-013 March 29, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring KPMG Auditores Independentes ("Firm" or "Respondent"), a registered public accounting firm, and imposing a civil money penalty in the amount of $15,000 upon the Firm. The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted,

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. KPMG Auditores Independentes is, and at all relevant times was, a partnership organized under Brazilian law, and headquartered in São Paulo, Brazil. The Firm is a member of the KPMG International Cooperative network. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. As of its 2016 Annual Report on PCAOB Form 2, the Firm had 1,564 accountants and issued audit reports for six issuers during the reporting period. The Firm is licensed in Brazil by the State of São Paulo (license no. 2SP014428/06) and by the *Commissão de Valores Mobiliários* ("CVM"), the foreign auditor oversight authority in Brazil.[2]

B. Summary

2. This matter concerns the Firm's failures to timely disclose five reportable events to the Board on Form 3 as required by PCAOB rules. PCAOB rules required the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm needed to report on Form 3 were: (a) the institution of certain criminal or disciplinary proceedings against the Firm or certain of its partners; and (b) the conclusion of those criminal or disciplinary proceedings.

3. During 2014 and 2015, the Firm became aware of the institution of three proceedings against the Firm or certain of its partners. The institution of each of those proceedings was a reportable event under Form 3. The Firm failed, however, to file a

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] A "foreign auditor oversight authority" means any governmental body or other entity empowered by a foreign government to conduct inspections of public accounting firms or otherwise to administer or enforce laws related to the regulation of public accounting firms. See Section 2(a)(17) of the Act, 15 U.S.C. § 7201(a)(17). See also PCAOB Rule 1001(f)(iii).

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Form 3 reporting the initiation of the proceedings until 2016, between one and three years after the proceedings were initiated and well after the 30-day reporting deadline. The Firm also failed to file a Form 3 reporting the conclusion of one of those proceedings, as well as the conclusion of another proceeding whose initiation had previously been reported, until over a year after becoming aware of the conclusion of those proceedings. When the Firm made the required filings, those filings were untimely.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

Applicable PCAOB Rules

4. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[3] The events required to be reported include:

- A firm's "becom[ing] aware that a partner, shareholder, principal, owner, member, or audit manager of the [f]irm who provided at least ten hours of audit services for any issuer, broker, or dealer during the [f]irm's current fiscal year or its most recently completed fiscal year has become a defendant in a criminal proceeding prosecuted by a governmental criminal law enforcement authority and is charged with fraud, embezzlement, forgery, extortion, bribery, obstruction of justice, perjury, or false statements; or charged with a crime arising out of alleged conduct related to accounting, auditing, securities, banking, commodities, taxation, consumer protection, or insurance" ("Item 2.6 Proceeding");[4]

- A firm's "becom[ing] aware that, in a matter arising out of the [f]irm's conduct in the course of providing professional services for a client, the [f]irm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an

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[3] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[4] PCAOB Form 3, Item 2.6 (italics in the original omitted).

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administrative or disciplinary proceeding other than a Board disciplinary proceeding" ("Item 2.7 Proceeding");[5]

- A firm's "becom[ing] aware that, in a matter arising out of his or her conduct in the course of providing professional services for a client, a partner, shareholder, principal, owner, member, or audit manager of the [f]irm who provided at least ten hours of audit services for any issuer, broker, or dealer during the [f]irm's current fiscal year or its most recently completed fiscal year has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding" ("Item 2.9 Proceeding");[6] and

- A firm's "becom[ing] aware that [an Item 2.6 Proceeding, Item 2.7 Proceeding, or Item 2.9 Proceeding, among others] has been concluded as to the Firm or a partner, shareholder, principal, owner, member, or audit manager of the Firm."[7]

Reportable Proceedings Disclosed on September 19, 2016

5. First, on or about June 30, 2014, the Firm became aware that the Public Prosecutor's Office of the State of São Paulo had initiated a proceeding against the Firm in the First Bankruptcy Court of São Paulo in connection with the Firm's audit of a Brazilian client that was not an issuer.[8] That proceeding qualified as an Item 2.7 Proceeding.

6. Second, on March 12, 2015, the Firm became aware that a criminal proceeding had been instituted in the Federal Criminal Court of São Paulo against two

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[5] Id., Item 2.7 (italics in the original omitted).

[6] Id., Item 2.9 (italics in the original omitted).

[7] Id., Item 2.10 (italics in the original omitted).

[8] The term "issuer" means an issuer (as defined in Section 3 of the Securities and Exchange Act of 1934 (the "Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. See PCAOB Rule 1001(i)(iii).

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Firm partners in connection with the Firm's audit of a Brazilian client that was not an issuer. That proceeding qualified as an Item 2.6 Proceeding.[9]

7. In violation of Rule 2203, the Firm did not report the initiation of these proceedings until September 19, 2016, over two years and one year, respectively, after it became aware of the initiation of the proceedings.

Reportable Proceedings Disclosed on November 14, 2016

8. First, on April 14, 2014, the Firm became aware that the CVM had instituted an administrative proceeding against a Firm partner in connection with his provision of professional services to a client that was not an issuer. That proceeding qualified as an Item 2.9 Proceeding. On or about May 7, 2015, the Firm became aware that the proceeding concluded.

9. Second, or about May 26, 2015, the Firm became aware that a CVM administrative proceeding against the Firm and two of its partners in connection with the Firm's audit of a non-issuer client (which qualified as both an Item 2.7 Proceeding and an Item 2.9 Proceeding and whose initiation had previously been reported) had concluded.

10. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the initiation and conclusion of the first proceeding and the conclusion of the second proceeding until November 14, 2016, between one and three years after learning of the reportable events.

Failures in the Firm's Internal System of Compliance

11. The Firm's internal compliance and reporting systems failed to identify the initiation and/or conclusion of the proceedings described above as being reportable to the PCAOB and to provide reasonable assurance of timely reporting pursuant to PCAOB rules.

[9] In its September 19, 2016 Form 3, the Firm identified the criminal proceeding against its partners as reportable pursuant to Form 3, Item 2.5. The Firm subsequently filed an amendment on Form 3/A identifying the proceeding as an Item 2.6 Proceeding.

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IV.

12. The Firm has represented to the Board that, since the events described in this Order, it has established and implemented the following changes to its policies and procedures for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements:

a. The Firm has revised and supplemented its policies and procedures for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. The Firm has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

c. The Firm has assigned the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order,

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bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Nexia Samduk,* *Respondent.*	PCAOB Release No. 105-2017-014 March 29, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Nexia Samduk ("Firm" or "Respondent"), a registered public accounting firm, imposing a civil money penalty in the amount of $10,000 upon the Firm, and requiring the Firm to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements. The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted,

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Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Nexia Samduk is, and at all relevant times was, a limited liability corporation organized under the laws of the Republic of Korea, and headquartered in Seoul, Republic of Korea. The Firm is a member of the Nexia International Limited network. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. As of its 2016 Annual Report on PCAOB Form 2, the Firm had 22 accountants, did not issue an audit report for an issuer during the reporting period, and did not play a substantial role in the preparation or furnishing of an audit report for an issuer that was issued during the reporting period. The Firm is licensed in the Republic of Korea by the Ministry of Finance and Economy (license no. 25).

B. Summary

2. This matter concerns the Firm's failures to timely disclose six reportable events to the Board on Form 3 as required by PCAOB rules. PCAOB rules required the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm needed to report on Form 3 was its becoming a respondent in certain disciplinary proceedings.

3. In 2014 and 2015, the Firm became a respondent in six separate disciplinary proceedings; two initiated by the Securities and Futures Commission of the Republic of Korea and four initiated by the Korean Institute of Certified Public Accountants. Each of those six proceedings involved a reportable event under Form 3. The Firm failed to file a Form 3 reporting the proceedings until months after learning of the initiation of the proceedings, and well after the 30-day reporting deadline.

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

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C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

4. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding" ("Item 2.7 Proceeding").[3] With respect to six such events involving Item 2.7 Proceedings, the Firm failed to timely file a Form 3 with the Board.

5. During 2014 and 2015, the Firm became aware that it had become a respondent in six separate disciplinary proceedings. Each of the proceedings arose out of the Firm's audit of one or more Korean companies that were not issuers.[4] The Firm learned of each of the proceedings on or about the following dates:

- Proceeding 1 February 14, 2014

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[2] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer as those terms are defined under PCAOB rules.

[4] The term "issuer" means an issuer (as defined in Section 3 of the Securities and Exchange Act of 1934 (the "Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. See PCAOB Rule 1001(i)(iii).

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- Proceeding 2 December 2, 2014
- Proceeding 3 December 12, 2014
- Proceeding 4 January 15, 2015
- Proceeding 5 January 15, 2015
- Proceeding 6 April 28, 2015

6. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to Proceeding 1 above until June 27, 2015, months after learning of the initiation of the proceeding. Additionally, in violation of Rule 2203, the Firm failed to file a Form 3 with respect to the other five proceedings described above until June 29, 2015, months after learning of the initiation of each of those proceedings.

Failures in the Firm's Internal System of Compliance

7. The Firm's internal compliance and reporting systems failed to identify the initiation of the six proceedings described above as being reportable to the PCAOB.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover

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letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process;

3. within ninety (90) days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm; and

4. within one hundred twenty (120) days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C.1 through C.3 above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as

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the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Price Waterhouse & Co. S.R.L.,* *Respondent.*	PCAOB Release No. 105-2017-015 March 29, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Price Waterhouse & Co. S.R.L. ("Firm" or "Respondent"), a registered public accounting firm, imposing a civil money penalty in the amount of $25,000 upon the Firm, and requiring the Firm to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements. The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making

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Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Price Waterhouse & Co. S.R.L. is, and at all relevant times was, a limited liability partnership organized under Argentinian law, and headquartered in Buenos Aires, Argentina. The Firm is a member of the PricewaterhouseCoopers International Limited network. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. As of its 2016 Annual Report on PCAOB Form 2, the Firm had 843 accountants, issued audit reports for 13 issuers during the reporting period, and did not play a substantial role in the preparation or furnishing of an audit report for an issuer that was issued during the reporting period. The Firm is licensed by different entities in several jurisdictions within Argentina.

B. Summary

2. This matter concerns the Firm's failures to timely disclose eight reportable events to the Board on Form 3 as required by PCAOB rules. PCAOB rules required the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm needed to report on Form 3 were (a) a partner of the Firm becoming a respondent in certain disciplinary proceedings; and (b) the conclusion of certain disciplinary proceedings in which a partner of the Firm had been a respondent.

3. From 2010 to 2015, partners of the Firm became respondents in eight separate disciplinary proceedings in Argentina. Each of those eight proceedings involved one or more reportable events under Form 3. With respect to four of the proceedings, the Firm failed to file a Form 3 reporting the proceedings until months, and in one case almost two years, after learning of the initiation of the proceedings, and well after the 30-day reporting deadline. Additionally, with respect to the other four proceedings, the Firm failed to file a Form 3 reporting the conclusion of the proceedings until over two years after becoming aware of the conclusion of the proceedings.

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

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ORDER

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

4. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of his or her conduct in the course of providing professional services for a client, a partner, shareholder, principal, owner, member, or audit manager of the Firm who provided at least ten hours of audit services for any issuer, broker, or dealer during the Firm's current fiscal year or its most recently completed fiscal year has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding" ("Item 2.9 Proceeding").[3] Another such specified event occurs when a firm "has become aware that" an Item 2.9 Proceeding "has been concluded."[4] With respect to eight such events involving eight Item 2.9 Proceedings, the Firm failed to timely file a Form 3 with the Board.

The Firm Failed to Timely Disclose the Initiation of Four Reportable Events

5. During 2014 and 2015, the Firm became aware that partners of the Firm had become respondents in four separate disciplinary proceedings: two proceedings before the Comisión Nacional de Valores ("CNV"), one proceeding before the Consejo Profesional de Ciencias Económicas de la Ciudad Autónoma de Buenos Aires, and one proceeding before the Superintendencia de Seguros de la Nación. Each of the proceedings arose out of the Firm's provision of non-audit professional services to an Argentinian company that was not an issuer.[5] The Firm learned of each of the proceedings on or about the following dates:

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[2] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.9 (italics in the original removed).

[4] PCAOB Form 3, at Item 2.10.

[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities and Exchange Act of 1934 (the "Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that

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- Proceeding 1 January 15, 2014
- Proceeding 2 May 14, 2015
- Proceeding 3 August 13, 2015
- Proceeding 4 October 5, 2015

6. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the four proceedings described above until November 26, 2015, months, and in the case of Proceeding 1 almost two years, after learning of the initiation of those four proceedings.

The Firm Failed to Timely Disclose the Conclusion of Four Reportable Events

7. During 2010, 2014, and 2015, the Firm became aware that four separate disciplinary proceedings in which partners of the Firm were respondents had concluded: three proceedings before the CNV and one proceeding before the Banco Central de la República Argentina. Each of the proceedings arose out of the Firm's provision of non-audit professional services to an Argentinian company that was not an issuer. The Firm learned of the conclusion of each of the proceedings on or about the following dates:

- Proceeding 5 January 28, 2010
- Proceeding 6 July 2, 2014
- Proceeding 7 December 10, 2014
- Proceeding 8 September 21, 2015

8. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the Proceedings 5 through 8 until November 26, 2015, months, and in the case of Proceeding 5 almost six years, after learning of the conclusion of those four proceedings.

Failures in the Firm's Internal System of Compliance

9. The Firm's internal compliance and reporting systems failed to identify the initiation of the proceedings described above as being reportable to the PCAOB. In

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has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. See PCAOB Rule 1001(i)(iii).

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addition, the Firm's systems failed to identify the conclusion of the proceedings described above as being reportable to the PCAOB. As a result, the Firm inappropriately delayed, sometimes for years, notifying the PCAOB of the initiation and/or conclusion of disciplinary proceedings.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm

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personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process;

3. within ninety (90) days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm; and

4. within one hundred twenty (120) days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C.1 through C.3 above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of PricewaterhouseCoopers Auditores, S.L.,* *Respondent.*	PCAOB Release No. 105-2017-016 March 29, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring PricewaterhouseCoopers Auditores, S.L. ("Firm" or "Respondent"), a registered public accounting firm, and (2) imposing a civil money penalty in the amount of $15,000 upon the Firm. The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. PricewaterhouseCoopers Auditores, S.L. is, and at all relevant times was, a limited liability corporation organized under Spanish law, and headquartered in Madrid, Spain. The Firm is a member of the PricewaterhouseCoopers International Limited network. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. As of its 2016 Annual Report on PCAOB Form 2, the Firm had 879 accountants, did not issue an audit report for an issuer during the reporting period, and did not play a substantial role in the preparation or furnishing of an audit report for an issuer that was issued during the reporting period. The Firm is licensed in Spain by the *Instituto de Contabilidad y Auditoria de Cuentas* ("ICAC"), the foreign auditor oversight authority in Spain (license no. S0242).[2]

B. Summary

2. This matter concerns the Firm's failures to timely disclose seven reportable events to the Board on Form 3 as required by PCAOB rules. PCAOB rules required the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm needed to report on Form 3 were (a) its becoming a respondent in certain disciplinary proceedings; and (b) the conclusion of certain disciplinary proceedings in which it had been a respondent.

3. From 2012 to 2015, the Firm became a respondent in six separate disciplinary proceedings initiated by ICAC. Each of those six proceedings involved reportable events under Form 3. With respect to five of the proceedings, the Firm failed

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] A "foreign auditor oversight authority" means any governmental body or other entity empowered by a foreign government to conduct inspections of public accounting firms or otherwise to administer or enforce laws related to the regulation of public accounting firms. See Section 2(a)(17) of the Act, 15 U.S.C. § 7201(a)(17). See also PCAOB Rule 1001(f)(iii).

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to file a Form 3 reporting the proceedings until approximately a year after learning of the initiation of the proceedings, and well after the 30-day reporting deadline. Additionally, with respect to the sixth ICAC proceeding, the Firm never filed a Form 3 reporting the initiation of the proceeding and failed to file a Form 3 reporting the conclusion of the proceeding until over two years after becoming aware of the conclusion of the proceeding.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

4. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[3] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding" ("Item 2.7 Proceeding").[4] Another such specified event occurs when a firm "has become aware that" an Item 2.7 Proceeding "has been concluded." With respect to seven such events involving six Item 2.7 Proceedings, the Firm failed to timely file a Form 3 with the Board.

The Firm Failed to Timely Disclose the Initiation of Five Reportable Events

5. During 2014 and 2015, the Firm became aware that it had become a respondent in five separate disciplinary proceedings initiated by ICAC. Each of the

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[3] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[4] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer as those terms are defined under PCAOB rules.

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proceedings arose out of the Firm's audit of a Spanish company that was not an issuer.[5] The Firm learned of each of the proceedings on or about the following dates:

- Proceeding 1 March 11, 2014
- Proceeding 2 June 18, 2014
- Proceeding 3 July 3, 2014
- Proceeding 4 February 27, 2015
- Proceeding 5 February 27, 2015

6. In violation of Rule 2203, the Firm (a) failed to file a Form 3 with respect to the first three proceedings described above until June 30, 2015, approximately a year after learning of the initiation of each of those three proceedings; and (b) failed to file a Form 3 with respect to the fourth and fifth proceedings described above until March 26, 2016, approximately a year after learning of the initiation of each of those proceedings. The Firm filed the required Forms 3 as to Proceedings 1 through 5 only after receiving notice that ICAC had decided, pursuant to its administrative procedures, to propose a sanction on the Firm.

The Firm Failed to Timely Disclose the Initiation and Conclusion of a Proceeding

7. On or about May 9, 2012, the Firm became aware that it had become a respondent in another disciplinary proceeding initiated by ICAC. The proceeding arose out of the Firm's audit of a Spanish company that was not an issuer. In violation of Rule 2203, the Firm never reported the initiation of this proceeding in a Form 3.

8. In addition, on or about April 11, 2013, the Firm became aware that the proceeding had concluded. The Firm failed to file a Form 3 with respect to the conclusion of this proceeding, however, until June 30, 2015, over two years after learning of the conclusion of the proceeding.

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[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities and Exchange Act of 1934 (the "Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. See PCAOB Rule 1001(i)(iii).

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Failure of the Firm's Reporting System

9. The Firm's reporting system failed to identify the initiation and/or conclusion of the proceedings described above as being reportable to the PCAOB.

IV.

10. The Firm has represented to the Board that, since the events described in this Order, it has established and implemented the following changes to its policies and procedures for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements:

a. The Firm has revised and supplemented its policies and procedures for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. The Firm has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

c. The Firm has assigned the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil

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money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2017-017
In the Matter of Goldstein, Zugman, Weinstein & Poole, LLC and Frederick Weinstein, CPA,	March 29, 2017
Respondents.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Goldstein, Zugman, Weinstein & Poole, LLC ("Goldstein Zugman" or "Firm"); (2) imposing upon the Firm a civil money penalty in the amount of $10,000; (3) in the event the Board grants any future registration application by the Firm,[1] (a) requiring the Firm to undertake certain remedial measures directed toward satisfying independence criteria applicable to audits of brokers and dealers, and (b) prohibiting the Firm from accepting any new broker-dealer engagement clients for a period of one year from the date of this Order; (4) censuring Frederick Weinstein, CPA ("Weinstein"); and (5) imposing upon Weinstein a civil money penalty in the amount of $2,500. The Board is imposing these sanctions on the basis of its findings (a) that the Firm violated PCAOB rules and auditing standards in connection with an audit of a registered broker-dealer client as a result of preparing for that client its financial statements and supporting schedules that were filed with the Securities and Exchange Commission ("Commission" or "SEC"), which impaired the Firm's independence, and (b) that Weinstein directly and substantially contributed to the Firm's violations of PCAOB rules and auditing standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and

[1] The Firm filed on February 23, 2016 a Form 1-WD seeking leave to withdraw from registration with the Board, which the Board has determined to grant as of the date of this Order.

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PCAOB Rule 5200(a)(1) against the Firm and Weinstein ("Respondents").

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondents each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[2]

III.

On the basis of Respondents' Offers, the Board finds[3] that:

A. Respondents

1. Goldstein Zugman is, and at all relevant times was, a limited liability company organized under the laws of the state of Florida, with offices in Fort Lauderdale and Sunrise, Florida, and registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Goldstein Zugman is licensed by the Florida Board of Accountancy (license no. AD63677), the Georgia State Board of Accountancy (license no. ACF006518), the Illinois Board of Examiners (license no. 066.004798), the Maryland Board of Public Accountancy (license no. 0042156), the Michigan State Board of Accountancy (license no. 1102003887), the Montana Board of Public Accountants (license no. PAC-FIRM-LIC-23603), and the Texas State Board of Public Accountancy (license no. C08793). At all relevant times the Firm was the external auditor for the broker-dealer identified below.

2. Frederick Weinstein, 65, of Delray Beach, Florida, is a certified public accountant licensed by the Florida Board of Accountancy (license no. AC0013184). He

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[2] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of (i) intentional or knowing conduct, including reckless conduct, or (ii) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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is a partner at Goldstein Zugman. Weinstein served as the engagement partner for the Firm's audit of the 2014 financial statements of the broker-dealer identified below. Weinstein is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Firm's audit of the 2014 financial statements of registered broker-dealer client Slavic Investment Corporation ("SIC"). The Firm prepared SIC's financial statements and supporting schedules for the year ended December 31, 2014 filed with the Commission. As a result, Goldstein Zugman was not independent of SIC under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(1) to audits of brokers and dealers.[4] The Firm nevertheless audited the financial statements and issued an audit report that SIC included with the financial statements it filed with the Commission. Weinstein authorized the issuance of that audit report, notwithstanding his knowledge that the Firm had prepared SIC's financial statements and supporting schedules and that such preparation impaired an auditor's independence. As a result, the Firm violated PCAOB Rule 3520, *Auditor Independence*, by failing to satisfy the independence criteria applicable to the engagement, including the criteria set out in Rule 2-01(c)(4)(i) of Commission Regulation S-X, and violated AU § 220, *Independence*.[5] Weinstein directly and substantially contributed to the Firm's violation of applicable independence requirements, in violation of PCAOB Rule 3502.

C. Respondents Violated Board Rules and Auditing Standards

4. At all relevant times, SIC was a broker-dealer incorporated in the state of Florida with its principal place of business in Boca Raton, Florida. SIC's public filings

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[4] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5.

[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audit. As of December 31, 2016, the PCAOB reorganized its rules and standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2016), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

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disclosed that its business consisted of executing mutual fund transactions and life insurance annuities for its customers and that it was, for certain customers, a fully disclosed introducing broker-dealer. SIC did not claim an exemption from Exchange Act Rule 15c3-3 (the Customer Protection Rule).[6] At all relevant times, SIC was a "broker" or "dealer," as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and 1001(d)(iii).

5. Rule 17a-5(d)(1) requires, among other things, that every broker or dealer registered under section 15 of the Securities Exchange Act of 1934 file annually a financial report audited by an independent public accountant. Rule 17a-5(d)(2) requires that the financial report filed by a registered broker or dealer contain, among other things, certain financial statements: a Statement of Financial Condition, a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and a Statement of Changes in Liabilities Subordinated to Claims of General Creditors. Rule 17a-5(d)(2) also requires that the financial report contain certain supporting schedules—a net capital computation, a reserve requirement computation, and information relating to possession or control requirements—as well as a reconciliation between either computation and any materially different corresponding computation in the most recent Part II or Part IIA of Form X-17A-5 filed by the broker-dealer.

6. Rule 17a-5(g) requires that an independent public accountant prepare a report based on an examination of the financial report required to be filed by the broker or dealer under Rule 17a-5(d) in accordance with PCAOB standards.

7. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7] PCAOB rules and standards also require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[8]

> [A] registered public accounting firm or associated person's independence obligation with respect to an audit client encompasses not only an

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[6] 17 C.F.R. § 240.15c-3-3, *Customer Protection – Reserves and Custody of Securities*.

[7] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[8] See PCAOB Rule 3520; AU § 220.

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> obligation to satisfy the independence criteria applicable to the engagement set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[9]

8. Pursuant to Rule 17a-5(f)(1), certain of the Commission's auditor independence criteria described in Rule 2-01 of Regulation S-X[10] apply to audits of brokers and dealers.[11] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

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[9] See PCAOB Rule 3520, Note 1.

[10] 17 C.F.R. § 210.2-01(b)-(c).

[11] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 70073 at II.E.

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9. In February 2015, SIC filed with the Commission a Form X-17A-5 Part III containing its annual financial report for the year ended December 31, 2014. Included in that filing was a report signed by Goldstein Zugman and dated February 19, 2015 ("Audit Report") in connection with Goldstein Zugman's audit of SIC's December 31, 2014 financial statements ("Audit").

10. In November 2014, Firm staff completed an "Engagement Acceptance and Continuance Form" in connection with the Audit. That form included pre-printed text reading:

> The SEC expects accountants to comply with the independence requirements established by the PCAOB, Independence Standards Board, and the accounting profession (the AICPA), as well as the requirements promulgated by the Commission and its staff. The SEC's independence rules are set forth in Rule 2-01 of Regulation S-X. Rule 2-01's general standard of independence requires both the fact and the appearance of independence.

11. In December 2014, Weinstein read the PCAOB's Staff Guidance for Auditors of SEC-Registered Brokers and Dealers issued on June 26, 2014, including a section therein under the header "SEC Independence Rules." That section reads:

> . . . SEC Rule 17a-5 requires auditors of brokers and dealers to comply with SEC independence rules. These independence requirements predate the recent July 2013 amendments to Rule 17a-5. Among other things, SEC independence rules prohibit auditors from performing bookkeeping or other services related to the accounting records or financial statements of the audit client. These prohibited services include: (1) maintaining or preparing the audit client's accounting records; (2) preparing financial statements that are filed with the Commission or the information that forms the basis of financial statements filed with the Commission; or (3) preparing or originating source data underlying the audit client's financial statements.[12]

12. Firm staff obtained from SIC in January and February 2015 various documents including a "Balance Sheet" as of December 31, 2014, a "Profit & Loss" report for January through December 2014, a trial balance and "Trial Balance Worksheet" as of December 31, 2014, and a "Statement of Net Capital" as of December

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[12] Staff Guidance for Auditors of SEC-Registered Brokers and Dealers (Jun. 26, 2014) at 4 (footnotes omitted).

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31, 2014. Firm staff also obtained a Form X-17A-5 Part II that Firm staff understood had been filed by the Broker-Dealer with the Financial Industry Regulatory Authority ("FINRA") and that bore the header "FOCUS Report (Financial and Operational Combined Uniform Single Report)." That Form X-17A-5 Part II contained, among other things, a Statement of Financial Condition as of December 31, 2014; a Statement of Income (Loss) for the period October 1, 2014 through December 31, 2014; a Statement of Changes in Ownership Equity for the period October 1, 2014 through December 31, 2014; a Computation of Net Capital as of December 31, 2014 ("FOCUS Net Capital Computation"); and a Formula for Determination of Customer Account Reserve Requirements of Brokers and Dealers Under Rule 15c3-3 as of December 31, 2014.

13. Firm staff used the trial balance obtained from SIC to prepare the Statement of Financial Condition and Computation of Net Capital as of December 31, 2014, as well as the Statements of Income and Changes in Stockholders' Equity for the year ended December 31, 2014, filed by SIC with the Commission in February 2015.

14. In preparing the Statements of Financial Condition, Income, and Changes in Stockholders' Equity and the Net Capital Computation, Firm staff added and aggregated line items, changed line item descriptions, changed line item amounts to reflect the incorporation of management-approved adjusting journal entries, and added a caption as compared to corresponding information in the documents obtained from SIC. Firm staff also prepared as part of the Net Capital Computation a reconciliation (captioned "Reconciliation with Company's Computation") between amounts therein and amounts in SIC's FOCUS Net Capital Computation.

15. Firm staff also prepared the Statement of Cash Flows for the year ended December 31, 2014; the notes to SIC's financial statements, by updating the notes to SIC's financial statements for the prior year as well as incorporating material provided by SIC; and three additional supporting schedules, including a Computation for Determination of Reserve Requirements. All of these were filed by SIC with the Commission.

16. Firm staff emailed SIC a set of draft financial statements and supporting schedules on February 19, 2015, and an additional draft set on February 24, 2015, for management approval.

17. As a result of Goldstein Zugman's conduct in preparing the financial statements and supporting schedules,[13] the Firm was not independent of SIC under the

[13] The preparation of SIC's supporting schedules constituted "[b]ookkeeping or other services related to the accounting records or financial statements of the audit

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independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the Audit. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[14] The Firm consequently violated PCAOB Rule 3520 and AU § 220 in connection with the Audit.

18. Firm staff prepared SIC's financial statements and supporting schedules under Weinstein's supervision, and Weinstein authorized the issuance of the Audit Report notwithstanding his knowledge that Firm staff had done so, and notwithstanding his understanding that such preparation impaired the Firm's independence. Through his actions, Weinstein directly and substantially contributed to the Firm's violation of applicable independence requirements, in violation of PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm, and a separate and additional civil money penalty in the amount of $2,500 is imposed upon Frederick Weinstein, CPA. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. The Firm and Frederick Weinstein, CPA each shall pay the civil money penalty within

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client" within the meaning of Rule 2-01(c)(4)(i) and accordingly was a non-audit service inconsistent with auditor independence.

[14] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm or Frederick Weinstein, CPA as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm, should the Board grant any future application of the Firm for registration, is required:

1. within ninety (90) days from the date the Board grants any future application of the Firm for registration ("Future Registration Date"), to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the Future Registration Date, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the Future Registration Date and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement, to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

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4. to provide a copy of this Order—

a. within thirty (30) days from the Future Registration Date, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the Future Registration Date,

b. within thirty (30) days from the Future Registration Date, to any client of the Firm as of the Future Registration Date for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the Future Registration Date. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

D. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), the Firm, should the Board grant any future application of the Firm for registration, is prohibited from accepting any new SEC Registered Broker-Dealer Engagement clients for a period of one year from the date of this Order.

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E. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Frederick Weinstein, CPA, is censured.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Korwek & Company, PA and Charles E. Posey, CPA,* *Respondents.*	PCAOB Release No. 105-2017-018 March 29, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Korwek & Company, PA ("Korwek & Company" or "Firm"); (2) imposing upon the Firm a civil money penalty in the amount of $10,000; (3) in the event the Board grants any future registration application by the Firm,[1] (a) requiring the Firm to undertake certain remedial measures directed toward satisfying independence criteria applicable to audits of brokers and dealers, and (b) prohibiting the Firm from accepting any new broker-dealer engagement clients for a period of one year from the date of this Order; (4) censuring Charles E. Posey, CPA ("Posey"); and (5) imposing upon Posey a civil money penalty in the amount of $2,500. The Board is imposing these sanctions on the basis of its findings that the Firm and Posey violated PCAOB rules and auditing standards in connection with an audit of a registered broker-dealer client as a result of preparing for that client its financial statements and supporting schedules that were filed with the Securities and Exchange Commission ("Commission" or "SEC"), which impaired their independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against the Firm and Posey ("Respondents").

[1] The Firm has filed a Form 1-WD seeking leave to withdraw from registration with the Board, which the Board has determined to grant as of the date of this Order.

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II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondents each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[2]

III.

On the basis of Respondents' Offers, the Board finds[3] that:

A. Respondents

1. Korwek & Company is, and at all relevant times was, a professional corporation organized under the laws of Maryland, with an office in Odenton, Maryland, and registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Korwek & Company is licensed by the Maryland Board of Public Accountancy (license no. 0034344). Korwek & Company filed articles of dissolution with the Maryland State Department of Assessments and Taxation on or around November 8, 2016. At all relevant times the Firm was the external auditor of the broker-dealer identified below.

2. Charles E. Posey, CPA, age 64, of Millersville, Maryland, is a certified public accountant licensed by the Maryland Board of Public Accountancy (license no. 0004672). At all relevant times he was a partner at Korwek & Company. Posey served as the engagement partner for the Firm's audit of the 2015 financial statements of the broker-dealer identified below. Posey is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[2] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of (i) intentional or knowing conduct, including reckless conduct, or (ii) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Firm's audit of the 2015 financial statements of registered broker-dealer client McDuffie/Morris Financial Group, Inc. ("McDuffie/Morris"). The Firm and Posey prepared McDuffie/Morris's financial statements and supporting schedules for the year ended April 30, 2015 filed with the Commission. As a result, the Firm and Posey were not independent of McDuffie/Morris under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(1) to audits of brokers and dealers.[4] The Firm nevertheless audited the financial statements and issued an audit report that McDuffie/Morris included with the financial statements it filed with the Commission. As a result, the Firm and Posey violated PCAOB Rule 3520, *Auditor Independence*, by failing to satisfy the independence criteria applicable to the engagement, including the criteria set out in Rule 2-01(c)(4)(i) of Commission Regulation S-X, and violated AU § 220, *Independence*.[5]

C. Respondents Violated Board Rules and Auditing Standards

4. At all relevant times, McDuffie/Morris was a broker-dealer incorporated in the state of Florida with its principal place of business in Ormond Beach, Florida. McDuffie/Morris's public filings disclosed that it was a broker-dealer concentrating in mutual funds, tax deferred investments, and related insurance products. McDuffie/Morris claimed an exemption from Exchange Act Rule 15c3-3 (the Customer Protection Rule).[6] At all relevant times, McDuffie/Morris was a "broker" or "dealer," as

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[4] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5.

[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audit. As of December 31, 2016, the PCAOB reorganized its rules and standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2016), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

[6] 17 C.F.R. § 240.15c-3-3, *Customer Protection – Reserves and Custody of Securities*.

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defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and 1001(d)(iii).

5. Rule 17a-5(d)(1) requires, among other things, that every broker or dealer registered under section 15 of the Securities Exchange Act of 1934 file annually a financial report audited by an independent public accountant. Rule 17a-5(d)(2) requires that the financial report filed by a registered broker or dealer contain, among other things, certain financial statements: a Statement of Financial Condition, a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and a Statement of Changes in Liabilities Subordinated to Claims of General Creditors. Rule 17a-5(d)(2) also requires that the financial report contain certain supporting schedules—a net capital computation, a reserve requirement computation, and information relating to possession or control requirements—as well as a reconciliation between either computation and any materially different corresponding computation in the most recent Part II or Part IIA of Form X-17A-5 filed by the broker-dealer.

6. Rule 17a-5(g) requires that an independent public accountant prepare a report based on an examination of the financial report required to be filed by the broker or dealer under Rule 17a-5(d) in accordance with PCAOB standards.

7. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7] PCAOB rules and standards also require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[8]

> [A] registered public accounting firm or associated person's independence obligation with respect to an audit client encompasses not only an obligation to satisfy the independence criteria applicable to the engagement set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[9]

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[7] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[8] See PCAOB Rule 3520; AU § 220.

[9] See PCAOB Rule 3520, Note 1.

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8. Pursuant to Rule 17a-5(f)(1), certain of the Commission's auditor independence criteria described in Rule 2-01 of Regulation S-X[10] apply to audits of brokers and dealers.[11] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

9. In July 2015, McDuffie/Morris filed with the Commission a Form X-17A-5 Part III containing its annual financial report for the year ended April 30, 2015. Included in that filing was a report signed by Korwek & Company and dated June 12, 2015 ("Audit Report") in connection with Korwek & Company's audit of McDuffie/Morris's April 30, 2015 financial statements ("Audit").

10. In May 2014, Posey and another partner at the Firm learned while viewing an online seminar about auditing that auditors of broker-dealers were prohibited from preparing the financial statements that those clients filed with the Commission. The

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[10] 17 C.F.R. § 210.2-01(b)-(c).

[11] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 70073 at II.E.

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other partner subsequently contacted an accountant not employed at the Firm (the "Outside Accountant") and asked him whether he would prepare financial statements in the future for any broker-dealer audit client of the Firm that would not be preparing its own financial statements, if retained and paid by the broker-dealer to do so. The Outside Accountant said he would. The other partner informed Posey of the Outside Accountant's willingness to enter into such an arrangement with any Firm broker-dealer audit client.

11. Posey obtained from McDuffie/Morris in May and June 2015 various documents including a trial balance as of April 30, 2015.

12. Notwithstanding the Firm's communications with the Outside Accountant about preparing financial statements for broker-dealer audit clients of the Firm, Posey used the trial balance obtained from McDuffie/Morris to prepare the Statement of Financial Condition and Net Capital Computation as of April 30, 2015, as well as the Statement of Operations and Statement of Stockholder Equity for the year ended April 30, 2015, filed by McDuffie/Morris with the Commission in July 2015.

13. In preparing the Statements of Financial Condition, Operations, and Stockholder Equity and the Net Capital Computation filed by McDuffie/Morris with the Commission, Posey aggregated line items and changed line item descriptions as compared to corresponding information in the trial balance obtained from McDuffie/Morris.

14. Posey also prepared the Statement of Cash Flows for the year ended April 30, 2015; the notes to McDuffie/Morris's financial statements, by updating the notes to McDuffie/Morris's financial statements for the prior year as well as by incorporating material provided by McDuffie/Morris; and two additional supporting schedules. All of these were filed by McDuffie/Morris with the Commission.

15. Posey emailed McDuffie/Morris a set of draft financial statements and supporting schedules in June 2015 for management approval.

16. As a result of Korwek & Company's and Posey's conduct in preparing the financial statements and supporting schedules,[12] the Firm and Posey were not

[12] The preparation of McDuffie/Morris's Net Capital Computation and related reconciliation constituted "[b]ookkeeping or other services related to the accounting records or financial statements of the audit client" within the meaning of Rule 2-01(c)(4)(i) and accordingly was a non-audit service inconsistent with auditor independence.

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independent of McDuffie/Morris under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the Audit. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[13] The Firm and Posey consequently violated PCAOB Rule 3520 and AU § 220 in connection with the Audit.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm, and a separate and additional civil money penalty in the amount of $2,500 is imposed upon Charles E. Posey, CPA. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. The Firm and Charles E. Posey, CPA each shall pay the civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm or Charles E. Posey, CPA as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this

[13] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm, should the Board grant any future application of the Firm for registration, is required:

1. within ninety (90) days from the date the Board grants any future application of the Firm for registration ("Future Registration Date"), to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the Future Registration Date, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the Future Registration Date and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement, to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within thirty (30) days from the Future Registration Date, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the Future Registration Date,

b. within thirty (30) days from the Future Registration Date, to any client of the Firm as of the Future Registration Date for which

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the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the Future Registration Date. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

D. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), the Firm, should the Board grant any future application of the Firm for registration, is prohibited from accepting any new SEC Registered Broker-Dealer Engagement clients for a period of one year from the date of this Order.

E. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Charles E. Posey, CPA, is censured.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2017

PCAOB
Public Company Accounting Oversight Board

1666 K Street, N.W.
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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Maurice F. Wallace, CPA,* *Respondent.*	PCAOB Release No. 105-2017-019 March 29, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Maurice F. Wallace CPA ("Wallace" or "Firm"); (2) imposing upon the Firm a civil money penalty in the amount of $7,500; and (3) in the event the Board grants any future registration application by the Firm,[1] (a) requiring the Firm to undertake certain remedial measures directed toward satisfying independence criteria applicable to audits of brokers and dealers and (b) prohibiting the Firm from accepting any new broker-dealer engagement clients for a period of one year from the date of this Order. The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and auditing standards in connection with an audit of a registered broker-dealer client as a result of (1) impairing its independence by (a) preparing financial statements and supporting schedules filed with the Securities and Exchange Commission ("Commission" or "SEC"), (b) preparing Financial and Operational Combined Uniform Single ("FOCUS") reports and supplemental schedules filed with the Financial Industry Regulatory Authority ("FINRA"), and (c) providing ongoing monitoring of the client's compliance with certain regulatory requirements, and (2) failing to have an engagement quality review performed.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and

[1] The Firm has filed a Form 1-WD seeking leave to withdraw from registration with the Board, which the Board has determined to grant as of the date of this Order.

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independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against the Firm ("Respondent").

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Wallace is, and at all relevant times was, a sole proprietorship organized under the laws of Maryland, with an office in Easton, Maryland, and registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Wallace's sole proprietor is licensed by the Maryland Board of Public Accountancy (license no. 0004504). At all relevant times the Firm was the external auditor for the broker-dealer identified below.

B. Summary

2. This matter concerns Respondent's violations of PCAOB rules and standards in connection with the Firm's audit of the 2015 financial statements of registered broker-dealer client Holloway & Associates, Inc. ("Holloway"). The Firm

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of (i) intentional or knowing conduct, including reckless conduct, or (ii) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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prepared Holloway's financial statements and supporting schedules for the year ended December 31, 2015 filed with the Commission. The Firm also prepared and filed with FINRA Holloway's quarterly FOCUS reports and supplemental schedules. In addition, the Firm prepared calculations on a monthly basis to monitor whether Holloway was in compliance with net capital regulatory requirements. As a result, Wallace was not independent of Holloway under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(1) to audits of brokers and dealers.[4] The Firm nevertheless audited the financial statements and issued an audit report that Holloway included with the financial statements it filed with the Commission. As a result, the Firm violated PCAOB Rule 3520, *Auditor Independence*, by failing to satisfy the independence criteria applicable to the engagement, including the criteria set out in Rule 2-01(c)(4)(i) and (vi) of Commission Regulation S-X, and violated AU § 220, *Independence*.[5]

3. The Firm also failed to have an engagement quality review performed for the audit of Holloway's December 31, 2015 financial statements. As a result, the Firm failed to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), which requires an engagement quality review and concurring approval of issuance for audit and attestation engagements conducted pursuant to PCAOB auditing standards.

C. Respondent Violated Board Rules and Auditing Standards

4. At all relevant times, Holloway was a broker-dealer incorporated in the state of Maryland with its principal place of business in Easton, Maryland. Holloway's public filings disclosed that it sold annuities, mutual funds, and other insurance products. Holloway claimed an exemption from Exchange Act Rule 15c3-3 (the Customer Protection Rule).[6] At all relevant times, Holloway was a "broker" or "dealer,"

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[4] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5.

[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant engagements. As of December 31, 2016, the PCAOB reorganized its rules and standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2016), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

[6] 17 C.F.R. § 240.15c3-3, *Customer Protection – Reserves and Custody of Securities*.

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as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and 1001(d)(iii).

5. Rule 17a-5(d)(1) requires, among other things, that every broker or dealer registered under section 15 of the Securities Exchange Act of 1934 file annually a financial report audited by an independent public accountant. Rule 17a-5(d)(2) requires that the financial report filed by a registered broker or dealer contain, among other things, certain financial statements: a Statement of Financial Condition, a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and a Statement of Changes in Liabilities Subordinated to Claims of General Creditors. Rule 17a-5(d)(2) also requires that the financial report contain certain supporting schedules—a net capital computation, a reserve requirement computation, and information relating to possession or control requirements—as well as a reconciliation between either computation and any materially different corresponding computation in the most recent Part II or Part IIA of Form X-17A-5 filed by the broker-dealer.

6. Rule 17a-5(g) requires that an independent public accountant prepare a report based on an examination of the financial report required to be filed by the broker or dealer under Rule 17a-5(d) in accordance with PCAOB standards.

7. Rule 17a-5 also requires broker-dealers that claim an exemption from Rule 15c3-3, or the Customer Protection Rule, to prepare an exemption report.[7] Rule 17a-5 moreover requires the broker-dealer to engage an independent public accountant registered with the PCAOB to review and independently report on the statements in the broker-dealer's exemption report.[8]

8. In March 2016, Holloway filed with the Commission a Form X-17A-5 Part III containing its annual financial report for the year ended December 31, 2015. Included in that filing was a report ("Audit Report") in connection with Wallace's audit of Holloway's December 31, 2015 financial statements ("Audit"). Also included in that filing was a report ("Review Report") on Wallace's review of the statements in Holloway's exemption report. Both reports were signed by Wallace and dated February 2, 2016.

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[7] See Rule 17a-5(d)(1)(i)(B)(2).

[8] See Rule 17a-5(d)(1)(i)(C) and (g)(2)(ii).

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9. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[9]

Independence Violations

10. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[10]

> [A] registered public accounting firm or associated person's independence obligation with respect to an audit client encompasses not only an obligation to satisfy the independence criteria applicable to the engagement set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[11]

11. Pursuant to Rule 17a-5(f)(1), certain of the Commission's auditor independence criteria described in Rule 2-01 of Regulation S-X[12] apply to audits of brokers and dealers.[13] The applicable provisions include Rule 2-01(c)(4), which states in part:

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[9] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[10] See PCAOB Rule 3520; AU § 220.

[11] See PCAOB Rule 3520, Note 1.

[12] 17 C.F.R. § 210.2-01(b)-(c).

[13] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 70073 at II.E.

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> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .
>
> . . .
>
> (vi) *Management functions.* Acting, temporarily or permanently, as a director, officer, or employee or an audit client, or performing any decision-making, supervisory, or ongoing monitoring function for the audit client.

12. On a monthly basis during 2015, Firm staff obtained from Holloway various documents including a prior-month-end "Balance Sheet" from Holloway's accounting system. Firm staff entered amounts on the balance sheet into a net capital worksheet that the Firm used to monitor Holloway's net capital levels and to determine whether Holloway was in compliance with applicable net capital requirements.

13. On a quarterly basis during 2015, Firm staff obtained from Holloway various documents including a quarter-end "Balance Sheet" and a "Profit & Loss" report generated from Holloway's accounting system. Firm staff used these items to prepare Holloway's quarterly FOCUS report for each of the four quarters of 2015, which included a Statement of Financial Condition for Noncarrying, Nonclearing and Certain Other Brokers or Dealers; a Computation of Net Capital; and a Statement of Income (Loss). The Firm also prepared two required supplemental schedules: a Supplemental Statement of Income and a Form Custody for Broker-Dealers. In preparing each quarterly FOCUS report and supplemental schedule, Firm staff calculated the amounts for various line items and aggregated multiple line items. Firm staff then filed each of those quarterly FOCUS reports and supplemental schedules with FINRA on Holloway's behalf.

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14. In January and February 2016, Firm staff obtained from Holloway, among other items, a "Balance Sheet" as of December 31, 2015; a "Balance Sheet" comparing account balances as of December 31, 2015 with corresponding balances as of December 31, 2014; and a "Profit & Loss" report for the year ended December 31, 2015.

15. Firm staff used the documents obtained from Holloway to prepare Statements of Financial Condition and Changes in Ownership Equity as of December 31, 2015, a Statement of Income (Loss) for the year ended December 31, 2015, and a Computation of Net Capital as of December 31, 2015, all of which were filed by Holloway with the Commission. In preparing these financial statements and supporting schedule, Wallace and the Firm's staff aggregated line items and changed line item descriptions and captions as compared to corresponding information in the documents obtained from Holloway.

16. Moreover, Firm staff prepared a Statement of Cash Flows for the year ended December 31, 2015, notes to the financial statements, and supporting schedules reconciling the amounts in the Statement of Changes in Ownership Equity and the Computation of Net Capital with corresponding amounts in a previously filed FOCUS report. All of these were filed by Holloway with the Commission.

17. Firm staff provided Holloway with draft financial statements, including notes, and draft supporting schedules in February 2016 for management approval.

18. As a result of the Firm's conduct in preparing Holloway's financial statements and supporting schedules filed with the Commission,[14] the Firm was not independent of Holloway under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the Audit. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the

[14] Wallace's preparation of the supporting schedules accompanying Holloway's SEC-filed financial statements constituted "[b]ookkeeping or other services related to the accounting records or financial statements of the audit client" within the meaning of Rule 2-01(c)(4)(i) and accordingly was a non-audit service inconsistent with auditor independence.

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auditor and the audit client."[15] Moreover, the Firm's preparation and filing of Holloway's quarterly FOCUS reports and supplemental schedules and its monitoring of Holloway's compliance with net capital requirements also caused it not to be independent of Holloway under the independence criteria of Rule 2-01(c)(4).[16] The Firm accordingly violated PCAOB Rule 3520 and AU § 220 in connection with the Audit.

Engagement Quality Review Violation

19. AS 7 requires that an engagement quality review be performed on all audits conducted pursuant to PCAOB standards and on certain attestation engagements, including engagements performed pursuant to Attestation Standard No. 2, *Review Engagements Regarding Exemption Reports of Brokers and Dealers* ("AT 2")*.*[17] AS 7 also provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance of the report.[18]

20. The Firm failed to obtain an engagement quality review for the Audit and the attestation engagement performed pursuant to AT 2, and improperly permitted the issuance of the Audit Report and Review Report—which were included in Holloway's filing with the Commission—without obtaining an engagement quality review and concurring approval of issuance in violation of AS 7.

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[15] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

[16] Wallace's preparation and filing of quarterly FOCUS reports and its monitoring of Holloway's compliance with applicable net capital rules constituted "[a]cting, temporarily or permanently, as a director, officer, or employee of an audit client, or performing any decision making, supervisory or ongoing monitoring function for the audit client" within the meaning of Rule 2-01(c)(4)(vi) and accordingly were non-audit services inconsistent with auditor independence. See *Rosenberg Rich Baker Berman & Company*, Exchange Act Release No. 69765, 2013 WL 2898032, at *3-*4 (June 14, 2013) (firm and firm partner lacked independence from broker-dealer audit client where partner performed and directed a staff accountant to perform Financial and Operations Principal services for broker-dealer client including preparing and filing with FINRA the broker-dealer's FOCUS reports and calculating the broker-dealer's net capital).

[17] See AS 7 ¶ 1.

[18] Id. ¶¶ 13, 18, 18C.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $7,500 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay the civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm, should the Board grant any future application of the Firm for registration, is required:

1. within ninety (90) days from the date the Board grants any future application of the Firm for registration ("Future Registration Date"), to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with (a) applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an

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examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended); and (b) AS 1220, *Engagement Quality Review*;

2. within ninety (90) days from the Future Registration Date, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement, concerning (a) applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement; and (b) AS 1220;

3. within ninety (90) days from the Future Registration Date, and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within thirty (30) days from Future Registration Date, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the Future Registration Date,

b. within thirty (30) days from the Future Registration Date, to any client of the Firm as of the date of the Future Registration Date for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to

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demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the Future Registration Date. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

D. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), the Firm, should the Board grant any future application of the Firm for registration, is prohibited from accepting any new SEC Registered Broker-Dealer Engagement clients for a period of one year from the date of this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of SEJONG LLP,* *Respondent.*	PCAOB Release No. 105-2017-020 March 29, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm SEJONG LLP ("Sejong" or "Firm"); (2) imposing upon the Firm a civil money penalty in the amount of $5,000; (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures directed toward satisfying independence criteria applicable to audits of brokers and dealers; and (4) prohibiting the Firm from accepting any new broker-dealer engagement clients for a period of one year from the date of this Order. The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and auditing standards in connection with an audit of a registered broker-dealer client as a result of preparing for that client its financial statements and a supporting schedule that were filed with the Securities and Exchange Commission ("Commission" or "SEC"), which impaired the Firm's independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against the Firm ("Respondent").

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and

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without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[1]

III.

On the basis of Respondent's Offer, the Board finds[2] that:

A. Respondent

1. Sejong is, and at all relevant times was, a limited liability partnership organized under the laws of the state of New York, with offices in Fort Lee, New Jersey and New York, New York, and registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Sejong is licensed by the New Jersey State Board of Accountancy (license no. 20CB00639400) and the North Carolina State Board of Certified Public Accountant Examiners (certificate no. 33546) and registered with the New York State Education Department (Certified Public Accountancy Partnership No. 050709). At all relevant times the Firm was the external auditor for the broker-dealer identified below.

B. Summary

2. This matter concerns Respondent's violation of PCAOB rules and standards in connection with the Firm's audit of the 2014 financial statements of registered broker-dealer client Daewoo Securities (America) Inc. ("Daewoo"). The Firm prepared Daewoo's financial statements and a supporting schedule for the year ended December 31, 2014 filed with the Commission. As a result, Sejong was not independent of Daewoo under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(1) to audits of brokers and dealers.[3]

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of (i) intentional or knowing conduct, including reckless conduct, or (ii) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5.

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The Firm nevertheless audited the financial statements and issued an audit report that Daewoo included with the financial statements it filed with the Commission. As a result, the Firm violated PCAOB Rule 3520, *Auditor Independence,* by failing to satisfy the independence criteria applicable to the engagement, including the criteria set out in Rule 2-01(c)(4)(i) of Commission Regulation S-X, and violated AU § 220, *Independence*.[4]

C. Respondent Violated Board Rules and Auditing Standards

3. At all relevant times, Daewoo was a broker-dealer incorporated in the state of New York with its principal place of business in New York, New York. Daewoo's public filings disclosed that it was a wholly owned subsidiary of a Korean corporation, Daewoo Securities Co., Ltd.; engaged primarily in broker and dealer transactions of Korean securities on behalf of institutional investors in the United States; and also engaged in broker and dealer transactions of United States securities on behalf of institutional customers in Korea. Daewoo claimed an exemption from Exchange Act Rule 15c3-3 (the Customer Protection Rule).[5] At all relevant times, Daewoo was a "broker" or "dealer," as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and 1001(d)(iii).

4. Rule 17a-5(d)(1) requires, among other things, that every broker or dealer registered under section 15 of the Securities Exchange Act of 1934 file annually a financial report audited by an independent public accountant. Rule 17a-5(d)(2) requires that the financial report filed by a registered broker or dealer contain, among other things, certain financial statements: a Statement of Financial Condition, a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and a Statement of Changes in Liabilities Subordinated to Claims of General Creditors. Rule 17a-5(d)(2) also requires that the financial report contain certain supporting schedules—a net capital computation, a

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[4] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audit. As of December 31, 2016, the PCAOB reorganized its rules and standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2016), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

[5] 17 C.F.R. § 240.15c-3-3, *Customer Protection – Reserves and Custody of Securities*.

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reserve requirement computation, and information relating to possession or control requirements—as well as a reconciliation between either computation and any materially different corresponding computation in the most recent Part II or Part IIA of Form X-17A-5 filed by the broker-dealer.

5. Rule 17a-5(g) requires that an independent public accountant prepare a report based on an examination of the financial report required to be filed by the broker or dealer under Rule 17a-5(d) in accordance with PCAOB standards.

6. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] PCAOB rules and standards also require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[7]

> [A] registered public accounting firm or associated person's independence obligation with respect to an audit client encompasses not only an obligation to satisfy the independence criteria applicable to the engagement set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[8]

7. Pursuant to Rule 17a-5(f)(1), certain of the Commission's auditor independence criteria described in Rule 2-01 of Regulation S-X[9] apply to audits of brokers and dealers.[10] The applicable provisions include Rule 2-01(c)(4), which states in part:

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[6] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards* (reorganized as PCAOB Rule 3200, *Auditing Standards*).

[7] See PCAOB Rule 3520; AU § 220.

[8] See PCAOB Rule 3520, Note 1.

[9] 17 C.F.R. § 210.2-01(b)-(c).

[10] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the

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> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

8. In March 2015, Daewoo filed with the Commission a Form X-17A-5 Part III containing its annual financial report for the year ended December 31, 2014. Included in that filing was a report signed by Sejong and dated February 26, 2015 ("Audit Report") in connection with Sejong's audit of Daewoo's December 31, 2014 financial statements ("Audit").

9. In November 2014, Firm staff completed an "Engagement Acceptance and Continuance Form" in connection with the Audit. That form included pre-printed text reading:

> The SEC expects accountants to comply with the independence requirements established by the PCAOB, Independence Standards Board, and the accounting profession (the AICPA), as well as the requirements promulgated by the Commission and its staff. The SEC's independence rules are set forth in Rule 2-01 of Regulation S-X. Rule 2-01's general standard of independence requires both the fact and the appearance of independence.

Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 70073 at II.E.

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10. In February 2015, Firm staff obtained from Daewoo various documents including a "Balance Sheet" as of December 31, 2014, a "Profit & Loss" report for January through December 2014, and a trial balance as of December 31, 2014.

11. Firm staff used the documents obtained from Daewoo to prepare the Statement of Financial Condition and Net Capital Computation as of December 31, 2014, as well as the Statements of Income, Changes in Stockholder's Equity, and Cash Flows for the year ended December 31, 2014, filed by Daewoo with the Commission in March 2015.

12. In preparing the Statements of Financial Condition and Income filed by Daewoo with the Commission, Firm staff added and aggregated line items, changed line item descriptions and a line item amount, and changed captions as compared to corresponding information in the documents obtained from Daewoo.

13. Moreover, Firm staff prepared the Statements of Cash Flow and Changes in Stockholder's Equity for the year ended December 31, 2014; the Net Capital Computation as of December 31, 2014; and the notes to the financial statements by updating the notes to Daewoo's financial statements for the prior year. All of these were filed by Daewoo with the Commission in March 2015.

14. Firm staff emailed Daewoo draft financial statements, including notes, and a draft Net Capital Computation in February 2015 for management approval.

15. As a result of Sejong's conduct in preparing the financial statements and supporting schedule,[11] the Firm was not independent of Daewoo under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the Audit. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate

[11] The preparation of Daewoo's Net Capital Computation constituted "[b]ookkeeping or other services related to the accounting records or financial statements of the audit client" within the meaning of Rule 2-01(c)(4)(i) and accordingly was a non-audit service inconsistent with auditor independence.

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mutuality of interests between the auditor and the audit client."[12] The Firm consequently violated PCAOB Rule 3520 and AU § 220 in connection with the Audit.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $5,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing

[12] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within thirty (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within thirty (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight

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Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

D. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), the Firm is prohibited from accepting any new SEC Registered Broker-Dealer Engagement clients for a period of one year from the date of this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Thomas J. Trumeter and Thomas J. Trumeter, CPA,* *Respondents.*	PCAOB Release No. 105-2017-021 March 29, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Thomas J. Trumeter ("TJT" or "Firm"); (2) imposing upon the Firm a civil money penalty in the amount of $15,000; (3) requiring the Firm to undertake certain remedial measures directed toward satisfying independence criteria applicable to audits of brokers and dealers; (4) prohibiting the Firm from accepting any new broker-dealer engagement clients for a period of one year from the date of this Order; and (5) censuring Thomas J. Trumeter, CPA ("Trumeter"). The Board is imposing these sanctions on the basis of its findings that the Firm and Trumeter violated PCAOB rules and auditing standards in connection with two audits of a registered broker-dealer client as a result of preparing for that client in each of two successive years its financial statements and a supporting schedule that were filed with the Securities and Exchange Commission ("Commission" or "SEC"), which impaired their independence.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against the Firm and Trumeter ("Respondents").

II.

In anticipation of the institution of these proceedings and pursuant to PCAOB Rule 5205, Respondents each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any

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other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[1]

III.

On the basis of Respondents' Offers, the Board finds[2] that:

A. Respondents

1. TJT, at all relevant times, had an office in Rochester, New York and was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Based on public records, the Firm does not appear to be currently licensed or registered in the state of New York or any other state. At all relevant times the Firm was the external auditor for the broker-dealer identified below.

2. Thomas J. Trumeter, age 57, of Rochester, New York, is a certified public accountant licensed by the New York State Education Department (license no. 061605). He is the founder and sole owner of TJT. Trumeter served as the engagement partner for the Firm's audits of the 2014 and 2015 financial statements of the broker-dealer identified below. Trumeter is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Firm's audits of the 2014 and 2015 financial statements of registered broker-dealer client John James Investments, LTD. ("John

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[1] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that certain sanctions may be imposed in the event of (i) intentional or knowing conduct, including reckless conduct, or (ii) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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James").[3] The Firm and Trumeter prepared John James' financial statements and a supporting schedule for the year ended December 31, 2014 and again for the year ended December 31, 2015. As a result, the Firm and Trumeter were not independent of John James under auditor independence criteria established by the Commission and made applicable by Exchange Act Rule 17a-5(f)(1) to audits of brokers and dealers.[4] The Firm nevertheless audited the financial statements and issued audit reports that John James included with the financial statements it filed with the Commission. As a result, the Firm and Trumeter violated PCAOB Rule 3520, *Auditor Independence*, by failing to satisfy the independence criteria applicable to the engagement, including the criteria set out in Rule 2-01(c)(4)(i) of Commission Regulation S-X, and violated AU § 220, *Independence*.[5]

C. Respondents Violated Board Rules and Auditing Standards

4. At all relevant times, John James was a broker-dealer incorporated in the state of New York with its principal place of business in Williamsville, New York. John James' public filings disclosed that in 2014 it engaged primarily in the sale of mutual fund investments, insurance, and variable annuities and in 2015 effected transactions in variable contracts and investment company shares (mutual funds) on an application way basis. John James claimed an exemption from Exchange Act Rule 15c3-3 (the Customer Protection Rule).[6] At all relevant times, John James was a "broker" or

---

[3] John James, which makes filings with the Commission under the name "John James Investments, LTD.," is also known and identified itself in earlier filings with the Commission as, and is incorporated in New York under the name of, "John James Futures Group, LTD."

[4] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5," is found at 17 C.F.R. § 240.17a-5.

[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its rules and standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2016), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

[6] 17 C.F.R. § 240.15c-3-3, *Customer Protection – Reserves and Custody of Securities*.

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"dealer," as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and 1001(d)(iii).

5. Rule 17a-5(d)(1) requires, among other things, that every broker or dealer registered under section 15 of the Securities Exchange Act of 1934 file annually a financial report audited by an independent public accountant. Rule 17a-5(d)(2) requires that the financial report filed by a registered broker or dealer contain, among other things, certain financial statements: a Statement of Financial Condition, a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and a Statement of Changes in Liabilities Subordinated to Claims of General Creditors. Rule 17a-5(d)(2) also requires that the financial report contain certain supporting schedules—a net capital computation, a reserve requirement computation, and information relating to possession or control requirements—as well as a reconciliation between either computation and any materially different corresponding computation in the most recent Part II or Part IIA of Form X-17A-5 filed by the broker-dealer.

6. Rule 17a-5(g) requires that an independent public accountant prepare a report based on an examination of the financial report required to be filed by the broker or dealer under Rule 17a-5(d) in accordance with PCAOB standards.

7. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7] PCAOB rules and standards also require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[8]

> [A] registered public accounting firm or associated person's independence obligation with respect to an audit client encompasses not only an obligation to satisfy the independence criteria applicable to the engagement set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[9]

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[7] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*.

[8] See PCAOB Rule 3520; AU § 220.

[9] See PCAOB Rule 3520, Note 1.

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8. Pursuant to Rule 17a-5(f)(1), certain of the Commission's auditor independence criteria described in Rule 2-01 of Regulation S-X[10] apply to audits of brokers and dealers.[11] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

2014 Audit

9. In March 2015, John James filed with the Commission a Form X-17A-5 Part III containing its annual financial report for the year ended December 31, 2014. Included in that filing was a report signed by TJT and dated March 12, 2015 ("2014 Audit Report") in connection with TJT's audit of John James' December 31, 2014 financial statements ("2014 Audit").

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[10] 17 C.F.R. § 210.2-01(b)-(c).

[11] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 70073 at II.E.

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10. On December 10, 2014, Trumeter sent John James a letter noting "significant changes" in the upcoming audit of John James' December 31, 2014 financial statements due to the change in standards under which the audit was required to be conducted from Generally Accepted Auditing Standards ("GAAS") to PCAOB standards. Trumeter stated in that letter, among other things:

> In accordance with the PCAOB standards on independence, your auditor cannot type or prepare the draft financial statement[s as] has been done in the past. Management should provide, along with a completed QuickBooks file, a typed draft of the financial statement[s], complete with footnotes. We will speak with you separately about how you can go about doing this.[12]

11. Trumeter obtained from John James in February and March 2015 various documents including a "Balance Sheet" as of December 31, 2014, a "Profit & Loss" report for January through December 2014, and a "Statement of Cash Flows" for January through December 2014.

12. Notwithstanding the letter he sent in December 2014, Trumeter, at the client's subsequent request, prepared John James' December 31, 2014 financial statements, including notes, and a supporting schedule, all of which John James filed with the Commission in March 2015.

13. Trumeter used the documents obtained from John James to prepare the Statement of Financial Condition as of December 31, 2014, as well as the Statement of Operations for the year ended December 31, 2014. In preparing the Statements of Financial Condition and Operations, Trumeter added and aggregated line items, changed line item descriptions, and—in two instances—reclassified amounts from one line item to another, as compared to corresponding information in the documents obtained from John James.

14. Moreover, Trumeter prepared the Statements of Cash Flows and Changes in Shareholder's Equity for the year ended December 31, 2014 and the Net Capital Computation as of December 31, 2014. Trumeter also prepared the notes to John

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[12] As noted above, certain independence criteria in Rule 2-01 of Regulation S-X were made applicable to broker-dealer audits by Commission Rule 17a-5. They accordingly applied to broker-dealer audits even before, and not as a result of, the onset of PCAOB standards for broker-dealer audits of fiscal years ending on or after June 1, 2014.

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James' financial statements by updating the notes to John James' financial statements for the prior year as well as incorporating material provided by John James.

15. Trumeter emailed John James draft financial statements, including notes, and a draft supporting schedule in March 2015 for management approval.

16. In November 2015, Board inspection staff conducted a review of certain aspects of the 2014 Audit. Board inspection staff communicated to the Firm the staff's finding that, as a result of the Firm's preparation of John James' financial statements and supporting schedule, the Firm had not been independent from John James with respect to the 2014 Audit.

2015 Audit

17. In April 2016, John James filed with the Commission a Form X-17A-5 Part III containing its annual financial report for the year ended December 31, 2015. Included in that filing was a report signed by TJT and dated April 6, 2016 ("2015 Audit Report") in connection with TJT's audit of John James' December 31, 2015 financial statements ("2015 Audit").

18. Trumeter completed an "Engagement Acceptance and Continuance Form" in connection with the 2015 Audit. That form included pre-printed text stating:

> The SEC expects accountants to comply with the independence requirements established by the PCAOB, Independence Standards Board, and the accounting profession (the AICPA), as well as the requirements promulgated by the Commission and its staff. The SEC's Independence rules are set forth in Rule 2-01 of Regulation S-X. Rule 2-01's general standard of independence requires both the fact and the appearance of independence.

19. On March 31, 2016, John James emailed Trumeter a set of draft financial statements, including Statements of Financial Condition, Operations, Shareholder's Equity, and Cash Flows; notes to the financial statements (with a note reading "needs fixing"); and a Net Capital Computation.

20. Trumeter identified certain aspects of those financial statements, notes, and supporting schedule that he believed should be revised. Trumeter discussed and obtained approval for those proposed revisions during calls in April 2016 with the president of John James; made those revisions in the electronic copy of the draft financial statements that he had received; provided John James with a copy of that revised set for management approval; and generated from that set that he had revised

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the final versions of the financial statements including notes and of the Net Capital Computation, which were later filed by John James with the Commission.

21. The revisions made by Trumeter to the financial statements drafted by and obtained from John James included changes to 12 of 20 line item amounts and to three of 20 line item descriptions, as well as the addition of a line item, in the Statement of Financial Condition; changes to five of nine line item amounts and to one of nine line item descriptions, as well as the aggregation of two line items, in the Statement of Operations; changes to four of 10 amounts in the Statement of Shareholder's Equity; and changes to six of eight line item amounts, as well as the addition of five line items, in the Statement of Cash Flows.

22. Trumeter also revised four of eight notes to the financial statements, including, for example, to substantially rewrite Note 4, "Related Party Transactions," and to add one of three paragraphs in Note 6, "Income Taxes."

23. With respect to the Net Capital Computation, Trumeter changed 12 of 14 line item amounts; revised a statement therein indicating there were no differences with the net capital computation contained in the Form X-17A-5 Part IIA filed by John James with the Financial Industry Regulatory Authority for the year ended December 31, 2015 ("FOCUS Net Capital Computation") to indicate, instead, that there were four such differences; and added a listing of those differences with item descriptions and amounts.

24. Trumeter emailed John James revised draft financial statements, including notes, and a revised draft supporting schedule in April 2016 for management approval.

25. TJT and Trumeter prepared John James' December 31, 2015 financial statements, including notes, and supporting schedule, notwithstanding the fact that Trumeter took different steps to do so than he had in the previous year and believed that those steps would not impair the Firm's independence.

26. As a result of TJT's and Trumeter's conduct—both in preparing the December 31, 2014 financial statements and supporting schedule[13] before being notified by Board inspection staff that such preparation impaired the Firm's independence, and in preparing the December 31, 2015 financial statements after that

[13] The preparation of John James' supporting schedule constituted "[b]ookkeeping or other services related to the accounting records or financial statements of the audit client" within the meaning of Rule 2-01(c)(4)(i) and accordingly was a non-audit service inconsistent with auditor independence.

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notification—the Firm and Trumeter were not independent of John James under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the 2014 Audit and 2015 Audit. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[14] The Firm and Trumeter consequently violated PCAOB Rule 3520 and AU § 220 in connection with the 2014 Audit and 2015 Audit.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay the civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary,

[14] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

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Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Rule 17a-5, as amended);

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable independence requirements, including those requirements of Rule 2-01 of Regulation S-X applicable to an SEC Registered Broker-Dealer Engagement, of any Firm audit personnel who participate in any way in the planning or performing of any SEC Registered Broker-Dealer Engagement;

3. within ninety (90) days from the date of this Order and before the Firm's commencement of any SEC Registered Broker-Dealer Engagement (or, where the Firm by the date of this Order has already commenced but not completed such an engagement, before the Firm's release of its report), to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within thirty (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order,

b. within thirty (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform an SEC Registered Broker-Dealer Engagement,

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c. before the commencement of any SEC Registered Broker-Dealer Engagement, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such an engagement; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

D. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), the Firm is prohibited from accepting any new SEC Registered Broker-Dealer Engagement clients for a period of one year from the date of this Order.

E. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Thomas J. Trumeter, CPA, is censured.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2017

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2017-022
In the Matter of Paul L. Ford, Jr., CPA,	March 29, 2017
Respondent.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Paul L. Ford, Jr., CPA ("Ford" or "Respondent"), barring him from being an associated person of a registered public accounting firm,[1] and imposing on him a civil money penalty in the amount of $30,000. The Board is imposing these sanctions on the basis of its findings that Ford made and directed additions and alterations to work papers in 15 broker-dealer audits after the documentation completion dates for those audits and after learning of an upcoming PCAOB broker-dealer inspection, as well as in his firm's only issuer audit after the documentation completion date and after learning of a separate PCAOB issuer inspection. Ford made improperly modified work papers in one of the broker-dealer audits and in the issuer audit available to PCAOB inspectors without disclosing the modifications. Ford thereby violated Auditing Standard No. 3, *Audit Documentation* ("AS 3"), and PCAOB Rule 4006, *Duty to Cooperate with Inspectors* ("Rule 4006").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Ford.

[1] Ford may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

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II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Respondent admits the facts, findings, and violations set forth below, admits the Board's jurisdiction over him and the subject matter of this proceeding, and consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Paul L. Ford, Jr., CPA, age 54, of Medway, Massachusetts, is a certified public accountant licensed by the Massachusetts Board of Public Accountancy (license no. 14677). At all relevant times, Ford was a partner at registered public accounting firm Samet & Company PC ("Samet" or "Firm"), an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i), and Samet's Accounting and Audit Partner as well as its Quality Control Partner. Ford was the engagement partner responsible for Samet's audit of the December 31, 2014 financial statements of its sole issuer client ("Issuer Audit"). Ford was also the engagement partner responsible for each of Samet's 2014 year-end audits of its broker-dealer audit clients.

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[2] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The sanctions that the Board is imposing on Respondent in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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B. Summary

2. This matter concerns improper modifications to audit documentation made and directed by Ford after applicable documentation completion dates and while aware that staff of the PCAOB's Division of Registration and Inspections ("Inspections") intended to inspect audits for which he had been responsible. In April 2015, after learning that the PCAOB intended to inspect one or more of Samet's 2014 year-end audits of its broker-dealer clients, Ford—who was the engagement partner responsible for each of those audits—made and directed additions and alterations to work papers in the audit files for 15 of those audits ("Broker-Dealer Audits") following the applicable documentation completion dates. Ford and other personnel under his direction concealed the modifications by setting back the clocks on their computers to dates before the documentation completion dates while making the modifications. That computer backdating caused document metadata and the audit file index to indicate falsely that the added and altered work papers were last modified on those earlier dates. After PCAOB Inspections staff in April 2015 selected one of those audits for inspection ("Inspected Broker-Dealer Audit"), Ford continued to make and direct modifications to work papers for the Inspected Broker-Dealer Audit and made available those work papers to Inspections staff in advance of their fieldwork in July 2015. At no time did Ford make PCAOB inspectors aware that the audit documentation for the Inspected Broker-Dealer Audit contained modifications made after the documentation completion date.

3. In addition, after the Firm was notified in September 2015 that Inspections staff intended to inspect the Issuer Audit, Ford—who was the engagement partner responsible for that audit—made or directed additions and alterations to audit documentation for the Issuer Audit. Those modifications were made after the documentation completion date for the Issuer Audit and on backdated computers. Ford made available the improperly modified audit documentation to Inspections staff in advance of their fieldwork in November-December 2015. At no time did Ford make PCAOB inspectors aware that the audit documentation for the Issuer Audit contained modifications made after the documentation completion date.

4. By making and directing improper modifications of audit documentation in broker-dealer and issuer audits, Ford violated AS 3.[4] By making improperly modified

[4] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its rules and standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release

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audit documentation in two of those audits available to PCAOB inspectors without disclosing the modifications, Ford violated Rule 4006.

C. Ford Violated PCAOB Rules and Auditing Standards

5. PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[5]

6. AS 3 requires that a complete and final set of documentation for an audit be assembled for retention by the documentation completion date, a date no later than 45 days after the date on which the auditor grants permission to use its audit report.[6] After the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date it was added, the name of the person who prepared it, and the reason for adding it.[7] AS 3 also requires that audit documentation contain sufficient information to enable an experienced auditor, having no previous connection with an engagement, to determine who performed the work that has been documented, the date the work was completed, who reviewed that work, and the date of the review.[8]

7. Rule 4006 requires registered firms and their associated persons to "cooperate with the Board in the performance of any Board inspection." This cooperation requirement includes an "obligation not to provide misleading documents or information in connection with the Board's inspection processes."[9]

No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2016), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[6] See AS 3 ¶ 15.

[7] See id. ¶ 16.

[8] See id. ¶ 6.b.

[9] *Nathan M. Suddeth, CPA*, PCAOB Rel. No. 105-2013-007 (Sept. 10, 2013).

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Background Regarding the Audits

8. Each of the 15 Broker-Dealers was, at all relevant times, a broker and dealer as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and 1001(d)(iii). Samet's audit report in connection with each of the Broker-Dealer Audits stated that the audit was conducted in accordance with PCAOB standards.

9. The report release dates for the Broker-Dealer Audits were between February 13, 2015 and February 28, 2015.[10] The documentation completion dates for the Broker-Dealer Audits, therefore, were between March 30, 2015 through April 14, 2015.[11]

10. The Firm's sole issuer client was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

11. The report release date for the Issuer Audit was June 23, 2015. The documentation completion date for the Issuer Audit, therefore, was no later than August 7, 2015.

Ford Violated AS 3 and Rule 4006 in Connection with Broker-Dealer Audits

12. On March 24, 2015, Inspections staff notified the Firm that it was due for an inspection pursuant to the Board's interim broker-dealer inspection program, and that one or more of Samet's audits of broker-dealer clients would be reviewed in connection with that inspection. That notification came during the 45-day documentation period for each of the Broker-Dealer Audits, for which Samet had signed and released audit reports between February 13, 2015 and February 28, 2015.

13. Ford led Samet's efforts in preparing for, providing information to, and otherwise communicating with PCAOB inspectors in connection with their broker-dealer inspection of the Firm.

14. Ford and other personnel, who had made permissible changes to the work papers for the 15 Broker-Dealer Audits before and after the March 24, 2015 notification,

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[10] See AS 3 ¶ 14 (defining report release date as the "date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements").

[11] See id. ¶ 15 (defining documentation completion date as "a date not more than 45 days after the report release date").

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continued to make changes even after the documentation completion dates for those audits, which were between March 30, 2015 and April 14, 2015.

15. Specifically, in April through early June 2015, Ford made changes after applicable documentation completion dates to the audit files for nine of the 15 Broker-Dealer Audits, including the Inspected Broker-Dealer Audit. During the same time period, Ford directed junior personnel to make changes after applicable documentation completion dates to audit files for 10 of the 15 Broker-Dealer Audits, including some of the same audit files to which Ford made changes directly. The changes consisted of additions of work papers to, and alterations of text in existing work papers contained in, the 15 audit files.

16. Ford and other personnel under his direction concealed the modifications by backdating their computers while making them. The backdated computers caused the "Last Modified" date field in the metadata for each added or altered work paper, as well as the "Modified" date entry for that work paper in the audit file index, to reflect a date preceding the documentation completion date rather than the date on which the work paper was actually added or altered.

17. On June 11, 2015, Inspections staff notified the Firm that it had selected the Inspected Broker-Dealer Audit for inspection. Later that month, Ford made and directed additional changes to the audit documentation for the Inspected Broker-Dealer Audit. Those changes included the revision of planning documentation to include an explanation concerning internal controls, the revision of a work paper reflecting confirmation testing to add tick marks and cross-references to other work papers, and the addition of work papers documenting procedures concerning related parties and investment-related testing. Those changes were all made after the April 11, 2015 documentation completion date for that audit.

18. Ford and personnel directed by Ford made the above additions without documenting the date the documentation was added, the name of the person who prepared it, or the reason for adding it. Moreover, Ford and personnel directed by Ford again concealed the additions and alterations by backdating their computers while making the changes to the audit work papers.

19. Ford made available the improperly modified work papers for the Inspected Broker-Dealer Audit to Inspections staff in advance of the staff's July 2015 inspection fieldwork. Those work papers included an audit file index with false, computer-backdated "Modified" date entries. At no time did Ford make PCAOB inspectors aware that the audit documentation for the Inspected Broker-Dealer Audit had been altered after the documentation completion date. As a result of the above conduct, Ford violated AS 3 and Rule 4006.

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Ford Violated AS 3 and Rule 4006 in Connection with the Issuer Audit

20. In May 2015, as it had done in previous years, Samet arranged for the performance of an annual quality review of several of its completed audits by an accountant from outside of the Firm. In September 2015, Samet transmitted to the outside accountant performing the 2015 review ("Outside Accountant") the audit files for certain of its most recently completed audits, including the Issuer Audit.

21. On September 11, 2015, Inspections staff notified the Firm that it was due for an inspection pursuant to the Board's issuer inspection program, and that they would review the Issuer Audit in connection with that inspection. Ford led Samet's efforts in preparing for, providing information to, and otherwise communicating with PCAOB inspectors in connection with their issuer inspection of the Firm.

22. On September 30, 2015, the Outside Accountant emailed Samet comments based on his review of the work papers for the Issuer Audit. Those comments identified several items for the Firm's consideration, including instances of apparently absent or incomplete documentation.

23. On October 23, 2015, Ford and others at Samet had a call with the Outside Accountant during which they discussed his review of the Issuer Audit work papers and certain of the comments he had emailed on September 30, including those concerning documentation.

24. In October and November 2015, after the documentation completion date, Ford made and directed changes to the audit file for the Issuer Audit. Those changes included the additions of work papers to, and alterations of text in existing work papers contained in, the audit file for the Issuer Audit.

25. For example, on November 13, 2015, Ford emailed a manager and asked him to send the "open list of items" for the Issuer Audit. The manager emailed Ford an eight-item list referencing various aspects of the audit file for the Issuer Audit, including items corresponding to the Outside Accountant's documentation-related comments. With respect to one of these, the manager noted: "I sent you the work paper yesterday that I came up with." Ford supplemented the eight-item list with his own instructions and comments; inserted below it a separate 21-item list based on his own review of the audit file that identified missing or incomplete audit documentation or ways in which existing documentation could be improved; and included with many of these 21 items specific instructions on how to address the deficiencies. Ford emailed these lists to the manager with a message referencing preparations for the upcoming Board inspection: "We should plan on cleaning up on Monday—with the goal of copying the completed binder onto a laptop on Tuesday."

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26. The work paper additions included not only additional documentation for procedures performed during the audit but also documentation of audit procedures that were performed in October 2015 by Samet personnel as directed by Ford.

27. Ford made and directed the above changes in the audit file before its review by Inspections staff. The changes were made after the August 7, 2015 documentation completion date for the Issuer Audit. Ford and those working under his direction failed to document the date documentation was added, the name of the person who prepared it, or the reason for adding it. Moreover, Ford was aware that personnel under his direction concealed the additions and alterations by backdating the clocks on their computers while making the changes to the audit work papers.

28. Ford made available the improperly modified work papers for the Issuer Audit to Inspections staff in advance of the staff's inspection fieldwork in November and December 2015. Those work papers included an audit file index with false, computer-backdated "Modified" date entries. At no time did Ford make PCAOB inspectors aware that the audit documentation for the Issuer Audit had been altered after the documentation completion date. As a result of the above conduct, Ford violated AS 3 and PCAOB Rule 4006.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Paul L. Ford, Jr., CPA is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Paul L. Ford, Jr., CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[12]

[12] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Ford. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise

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Public Company Accounting Oversight Board

ORDER

C. After five (5) years from the date of this Order, Paul L. Ford, Jr., CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed upon Paul L. Ford, Jr., CPA. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Paul L. Ford, Jr., CPA shall pay the civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Paul L. Ford, Jr., CPA as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2017

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of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2017-023
In the Matter of Schild & Co., Inc. and David Schild, CPA	April 12, 2017
Respondents.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Schild & Co., Inc. ("Firm"), a registered public accounting firm, and suspending the Firm's registration for one (1) year from the date of the issuance of this Order; and censuring David Schild, CPA ("Schild"), and, for a period of one (1) year, limiting his activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act") by prohibiting him from serving in the role of engagement partner or engagement quality reviewer. The Board is imposing these sanctions on the basis of its findings that: (a) Schild and the Firm (collectively "Respondents") violated PCAOB rules and standards in connection with the Firm's audit of an issuer client's financial statements; and (b) Respondents violated Section 10A(g) of the Securities Exchange Act of 1934 ("Exchange Act"), Exchange Act Rule 10A-2, and PCAOB rules and standards concerning auditor independence in connection with the audit.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondents.

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Public Company Accounting Oversight Board

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II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the facts contained in paragraphs 17 through 21 and the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. Schild & Co., Inc. is a professional corporation organized under the laws of the state of California, and headquartered in Fountain Valley, California. The Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accountancy in California (Lic. No. COR 7241) and in the state of Washington (Lic. No. 6175). At all relevant times, the Firm was the external auditor for the issuer identified below.

2. David Schild, CPA, 53, of Rancho Santa Margarita, California, is the sole partner of the Firm, and a certified public accountant ("CPA") licensed by the state of California (Lic. No. CPA 78824). Schild served as the engagement partner on the audit identified below. At all relevant times, Schild was an associated person of a registered

[1] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Firm's audit of the December 31, 2014 financial statements of Perko Worldwide Corp. ("Perko").[3] As detailed below, Schild and the Firm failed to obtain sufficient appropriate audit evidence and exercise due care and professional skepticism in connection with the Perko audit.[4]

4. This matter also concerns Respondents' violations of PCAOB rules and standards and federal securities laws concerning auditor independence in connection with the Perko audit. Respondents prepared Perko's 2014 financial statements, which they then audited.[5]

5. The Firm also failed to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), in connection with the Perko audit by failing to obtain an engagement quality review before issuing its audit opinion even though an engagement quality review was required to be performed. Additionally, Schild violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, by contributing to the Firm's violation of AS 7.

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[3] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards in effect for the audit described herein. As of December 31, 2016, the PCAOB reorganized its rules and auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and PreReorganized Numbering* (January 2016) https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

[4] See AU § 150.02, Generally Accepted Auditing Standards; AU § 230, Due Professional Care in the Performance of Work; Auditing Standard No. 15, Audit Evidence ("AS 15").

[5] See PCAOB Rule 3520, *Auditor Independence*; Section 10A(g)(1) of the Exchange Act; AU § 220, *Independence*.

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Public Company Accounting Oversight Board

ORDER

C. Respondents Violated PCAOB Rules and Standards in Connection with the FYE December 31, 2014 Perko Audit

6. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards.[6] Among other things, PCAOB standards require that an auditor exercise due professional care, including professional skepticism, and obtain sufficient appropriate audit evidence to afford a reasonable basis for an opinion regarding the financial statements.[7] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[8]

7. The auditor's responses to the assessed risks of material misstatement, particularly fraud risks, should involve the application of professional skepticism in gathering and evaluating audit evidence.[9] PCAOB standards further require the auditor to evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[10] If audit evidence obtained from one source is inconsistent with that obtained from another, or if the auditor has doubts about the reliability of information to be used as audit evidence, PCAOB standards require the auditor to perform the audit procedures necessary to resolve the matter and determine the effect, if any, on other aspects of the audit.[11]

8. As detailed below, Respondents failed to comply with PCAOB rules and standards in connection with the Perko audit.

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[6] See PCAOB Rules 3100, *Compliance with Auditing and Related Professional Standards*; 3200T, *Interim Auditing Standards*.

[7] See AU § 150.02; AU § 230; AS 15.

[8] See AU § 508.07, Reports on Audited Financial Statements.

[9] See Auditing Standard No. 13, The Auditor's Responses to the Risks of Material Misstatement ("AS 13"), ¶ 7.

[10] See Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), ¶ 30.

[11] See AS 15, ¶ 29.

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ORDER

2014 Audit of Perko

9. Perko is a Delaware corporation headquartered in Fort Lauderdale, Florida. Perko's public filings disclose that it is a development stage company, formed to develop and build a patented revolutionary type of high-speed roll on/roll off container cargo transportation vessel having secondary and tertiary sources of income within each ship of parcels and passengers. Perko filed an amended registration statement on a Form S-1/A with the U.S. Securities and Exchange Commission ("Commission") on June 16, 2015. The amended registration statement included an audit report containing an unqualified audit opinion issued by the Firm, dated June 8, 2015, on the financial statements of Perko as of and for the year ended December 31, 2014. At all relevant times, Perko was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

10. Schild was the engagement partner for the Firm's audit of the December 31, 2014 financial statements of Perko with primary responsibility for the audit. On June 8, 2015, Schild authorized the issuance of an audit report expressing an unqualified opinion on Perko's financial statements. The audit report was included in the Form S-1/A that Perko filed with the Commission on June 16, 2015.

11. Perko's December 31, 2014 financial statements disclosed a patent, recorded as an intangible asset, that accounted for nearly all of the company's assets. Perko reported no revenues for fiscal year 2014, and sustained an operating loss of about $100,000. As part of its audit, the Firm obtained documentation that the patent was issued to David Perko, Perko's CEO, on March 21, 2006. Schild also spoke with David Perko regarding the patent. The Firm's work papers indicate that David Perko said he contributed the patent to Perko. Respondents failed to corroborate this information during the audit. Perko recorded the value of the patent on its books in the amount of $402,000, less depreciation of $175,875, as of December 31, 2014.

12. Other than obtaining management representations, Respondents failed to test Perko's rights to the patent, or whether Perko properly valued the asset. Respondents failed to obtain sufficient appropriate audit evidence regarding the nature of the arrangement between Perko and David Perko with respect to ownership of the patent. As a result, Respondents failed to exercise due professional care, including professional skepticism, during the audit, and failed to obtain sufficient appropriate evidence to provide a reasonable basis for the opinion issued in connection with Perko's 2014 financial statements.[12]

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[12] See AU § 230; AS 13, ¶ 7; AS 15, ¶¶ 4-6.

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Public Company Accounting Oversight Board

ORDER

D. Respondents Failed to Comply with Auditor Independence Requirements

13. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[13] A registered public accounting firm or associated person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[14]

14. Section 10A(g) of the Exchange Act provides that it shall be unlawful for a registered public accounting firm (and any associated person of that firm, to the extent determined appropriate by the Commission) that performs an audit for an issuer "to provide to that issuer, contemporaneously with the audit, any non-audit service, including . . . [b]ookkeeping or other services related to the accounting records or financial statements of the audit client."

15. Exchange Act Rule 10A-2 states that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the prohibited non-audit services provisions of Commission Regulation S-X. Rule 2-01 of Regulation S-X provides that an accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides certain non-audit services for audit clients, including bookkeeping and financial statement preparation services.[15]

16. With respect to the 2014 Perko audit, Respondents prepared the financial statements that formed the bases of Perko's financial statements that were included in Perko's Form S-1/A filed with the Commission. As a result, Respondents failed to comply with PCAOB rules and standards, the Exchange Act, and Exchange Act rules in connection with the audit.[16]

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[13] See PCAOB Rule 3520; AU § 220.

[14] See PCAOB Rule 3520, Note 1.

[15] See 17 C.F.R. §§ 210.2-01(b), (c)(4)(i).

[16] See Section 10A(g) of the Exchange Act; Exchange Act Rule 10A-2; PCAOB Rule 3520; AU § 220.

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Public Company Accounting Oversight Board

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E. The Firm Violated Auditing Standard No. 7, *Engagement Quality Review*

17. For audits of issuer financial statements for years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[17] AS 7 also provides that, in an audit, a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance of the report.[18]

18. The Firm improperly permitted Perko to use its audit report for Perko's year-end 2014 financial statements, dated June 8, 2015, without first obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.[19]

F. Schild Contributed to the Firm's Violation

19. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that firm of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.

20. Schild, the sole partner of the Firm, was principally responsible for the Perko audit conducted by the Firm. Accordingly, Schild had primary responsibility for the audit, including ensuring that the Firm complied with PCAOB rules and standards.

21. Schild knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violation of AS 7 on the Perko audit set forth above. As a result, he violated PCAOB Rule 3502.

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[17] See AS 7, ¶ 1.

[18] Id., ¶ 13.

[19] Id., ¶ 1.

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22. During the Board's investigation, Respondents provided substantial assistance to the Division of Enforcement and Investigations ("Division") by voluntarily providing information regarding the independence and AS 7 violations in a timely manner.[20] Respondents disclosed to the Division that, during the Perko audit, Respondents prepared Perko's December 31, 2014 financial statements. Respondents also disclosed to the Division that the Firm did not obtain concurring approval of issuance of the June 8, 2015 Perko audit report before it granted Perko permission to use the audit report. The Board took this extraordinary cooperation into account in ordering the sanctions under Section IV of this Order.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Schild & Co., Inc. and David Schild, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one (1) year from the date of the issuance of this Order, David Schild, CPA's role in any "audit," as that terms is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: David Schild, CPA shall not (1) serve as an "engagement partner," as that term is used in the Board's Auditing Standard No. 10, *Supervision of the Audit Engagement* (reorganized as AS 1201); (2) serve as an "engagement quality reviewer," as that term is used in Auditing Standard No. 7, *Engagement Quality Review*, (reorganized as AS 1220); (3) serve in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); or (4) exercise authority either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; and

[20] See Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations, PCAOB Release No. 2013-003 (Apr. 24, 2013).

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C. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Schild & Co., Inc. is suspended for a period of one (1) year.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 12, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of BDO Magyarország Könyvvizsgáló Kft.,* *Respondent.*	PCAOB Release No. 105-2017-024

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring BDO Magyarország Könyvvizsgáló Kft., a/k/a BDO Hungary Audit, Ltd. ("Respondent" or the "Firm"), imposing a $20,000 civil money penalty on the Firm, and requiring the Firm to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with auditor independence requirements. The Board is imposing these sanctions on the basis of its findings that, in connection with the audits of two issuers, the Firm violated (1) PCAOB Rule 3520*, Auditor Independence*, by failing to satisfy applicable independence criteria, including as set out in Securities and Exchange Commission ("Commission") rules; and (2) PCAOB Rule 3526, *Communication with Audit Committees Concerning Independence*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, *Settlement of Disciplinary Proceedings Without a Determination After Hearing*, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

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Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. BDO Magyarország Könyvvizsgáló Kft., a/k/a BDO Hungary Audit, Ltd., is, and at all relevant times was, a limited liability company organized under Hungarian law, and headquartered in Budapest, Hungary. The Firm is licensed by the Hungarian Chamber of Auditors (license no. MKVK 0049). The Firm is a member of BDO International Limited. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns Respondent's violations of PCAOB 3520,[2] which requires a registered public accounting firm to be independent of the firm's issuer audit clients throughout the audit and professional engagement period. Under Rule 3520, a firm's independence requirements include an obligation to satisfy the independence criteria set out in Commission rules and regulations.

3. At the time Respondent commenced field work for the audits of the financial statements of iGlue, Inc. ("iGlue") for the years ending December 31, 2013 and 2014, and Power of the Dream Ventures, Inc. ("PDV") for the year ended December 31, 2014, there were unpaid prior year audit fees that were material in relation to the fee the Firm expected to charge for those audits. Additionally, at the time those audit

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[2] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its rules and auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2016), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

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engagements were commenced, neither iGlue nor PDV had made any definite commitments or arrangements to pay the overdue audit fees. Respondent's commencement of field work under these circumstances was inconsistent with the independence criteria set out in Commission regulations. Accordingly, in connection with the audits of iGlue's December 31, 2013 and 2014 financial statements, and PDV's December 31, 2014 financial statements, Respondent violated PCAOB Rule 3520.

4. This matter also concerns the failure of Respondent to comply with PCAOB Rule 3526. PCAOB Rule 3526 requires, among other things, that a registered firm describe to the audit committee of the audit client, at least annually and in writing, certain relationships that, as of the date of the communication, may reasonably be thought to bear on independence . The Firm failed to make that required communication with respect to unpaid fees for either the 2013 and 2014 iGlue audits or the 2014 PDV audit.

5. Finally, Respondent failed to comply with PCAOB quality control standards at the time of the audits discussed herein, because it had not established policies and procedures to provide the Firm with reasonable assurance that (a) it would maintain independence in all required circumstances;[3] and (b) the policies and procedures the Firm had established relating to independence were suitably designed and were being effectively applied.[4] Respondent was aware that, at the time it commenced field work for the 2013 and 2014 iGlue audits and for the 2014 PDV audit, there were unpaid prior year audit fees and that neither iGlue nor PDV had made any definite commitments or arrangements to pay the overdue fees. Additionally, Respondent was aware that commencing field work under those circumstances was contrary to the Firm's own system of quality control regarding adherence to PCAOB auditor independence requirements. Throughout those audits, however, Respondent repeatedly failed to evaluate appropriately whether it was independent of iGlue and PDV as required by PCAOB rules and standards, including whether it satisfied the independence criteria set out in the Commission's rules.

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[3] QC §§ 20.09–.10, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*; see also QC §§ 30.02–.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[4] QC § 20.20; see also QC §§ 30.02–.03.

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C. Respondent Failed to Maintain the Required Independence from iGlue and PDV

6. PCAOB rules require that, in connection with the preparation or issuance of any audit report, a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards, including independence and ethics standards.[5] In particular, PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[6] A registered public accounting firm's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[7]

7. The Commission has noted that if unpaid fees owed to an accountant for an extended period become material in relation to the fee expected to be charged for the current audit, "there may be a question concerning the accountant's independence . . . because the accountant may appear to have a direct interest in the results of operations of the client."[8] Such an interest would be inconsistent with the Commission's general standard of independence set out in Rule 2-01(b) of Regulation S-X.[9] For that reason, the Commission has noted that, "[g]enerally, prior year audit fees and other unpaid fees should be paid before a current audit engagement is commenced

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*; PCAOB Rule 3500T, *Interim Ethics Standards*; and PCAOB Rule 3600T, *Interim Independence Standards*.

[6] PCAOB Rule 3520; AU § 220, *Independence*.

[7] See PCAOB Rule 3520, Note 1.

[8] Financial Reporting Codification ("Codification") 602.02.b.iv.

[9] Cf. Preliminary Note 2 to Rule 2-01 of Regulation S-X, 17 C.F.R. § 210.01 ("Rule 2-01") (in considering general standard, Commission looks to whether, among other things, the relationship creates a mutual interest between the accountant and the audit client).

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in order for the accountant to be deemed independent."[10] The Commission has also noted, however, that "[n]ormally, a question would not be raised in such situation if, at the time the current audit engagement is commenced, a definite commitment is made by the client to pay the prior year fees before the current audit report is issued" (hereinafter, "Payment Agreement").[11]

8. As described below, there were unpaid audit fees due from iGlue and PDV at the time Respondent commenced field work for the 2013 and 2014 iGlue audits and the 2014 PDV audit. In addition, there was no Payment Agreement with respect to those unpaid fees between Respondent and either iGlue or PDV. As a result, Respondent violated PCAOB rules by failing to meet the Board's and the Commission's independence criteria with respect to those two issuer clients.[12]

Respondent Was Not Independent During its Audits of iGlue, Inc.

9. iGlue, formerly Hardwired Interactive, Inc., is a Nevada corporation with principal executive offices in Budapest, Hungary. iGlue operates through its wholly owned subsidiary In 4, Kft., a Hungarian limited liability company. iGlue's public filings disclose that the company focuses on the development and commercialization of an integrated online content manager and search engine built with social media extensions. iGlue's common stock was registered under Section 12(g) of the Exchange Act and quoted on the Pink Sheets of the National Quotation Bureau ("OTCQB") under the symbol "IGLU." At all relevant times, iGlue was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[10] Codification 602.02.b.iv.

[11] Id.

[12] In addition, in the circumstances presented here, the absence of a definite commitment, as of the commencement of field work, to pay the outstanding fees before Respondent issued the current year's audit report, impaired Respondent's independence. We also note, however, that the presence of such a definite commitment would not, alone, have been sufficient to avoid an impairment, since the Board's independence criteria also provides that independence is impaired if fees for any professional services provided more than one year before the date of the audit report remain unpaid when the audit report on the client's current year is issued. ET §§ 191.103-104. With respect to the 2013 and 2014 iGlue audits and the 2014 PDV audit, such fees remained outstanding when the report was issued.

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10. Respondent was, at all relevant times, iGlue's external auditor and performed the audit of iGlue's financial statements for years ending December 31, 2012, December 31, 2013, and December 31, 2014. Each of the audit reports Respondent issued in connection with those audits included an explanatory paragraph indicating that there was substantial doubt about iGlue's ability to continue as a going concern.

11. For the year ending December 31, 2012, the contracted audit fee for Respondent's performance of the audit of iGlue's financial statements and quarterly review procedures ("2012 iGlue Audit") was approximately $23,100.[13]

12. On April 15, 2013, Respondent issued an audit report on iGlue's financial statements for the 2012 iGlue Audit. That same day, Respondent's audit report and iGlue's financial statements were included in the Form 10-K iGlue filed with the Commission for year ending December 31, 2012. The total unpaid billed and unbilled audit fees for the 2012 iGlue Audit due to Respondent from iGlue, as of the date Respondent issued its report for that audit, were approximately $10,600.

13. Respondent continued to provide audit and review services for iGlue for fiscal year 2013. The contracted audit fee iGlue agreed to pay Respondent to perform the audit and reviews of iGlue's 2013 financial statements was $4,200.

14. At the time Respondent commenced field work for the audit of iGlue's December 31, 2013 financial statements ("2013 iGlue Audit"), approximately $6,100 in billed audit fees for the 2012 iGlue Audit remained outstanding. Those unpaid fees were material in relation to the fee expected to be charged by Respondent for the 2013 iGlue Audit. In addition, there was no Payment Agreement between Respondent and iGlue.

15. On April 14, 2014, Respondent issued an audit report on iGlue's 2013 financial statements, and on the same day, iGlue included that audit report in its 2013 Form 10-K filed with the Commission.

16. Respondent continued to provide audit and review services for iGlue for fiscal year 2014. The contracted audit fee iGlue agreed to pay Respondent to perform the audit and reviews of iGlue's 2014 financial statements was $4,200.

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[13] The dollar amounts and percentages herein are approximate, calculated in United States Dollars and rounded to the nearest whole number, except as otherwise stated. In addition, all stated billed and unbilled audit fees include a 27% value added tax.

PCAOB
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17. At the time Respondent commenced field work for the audit of iGlue's December 31, 2014 financial statements ("2014 iGlue Audit"), approximately $10,300 in billed and unbilled audit fees for the 2012 and 2013 iGlue Audits remained outstanding. Those unpaid fees were material in relation to the fee expected to be charged by Respondent for the 2014 iGlue Audit. In addition, there was no Payment Agreement between Respondent and iGlue.

18. On March 31, 2015, Respondent issued an audit report on iGlue's 2014 financial statements, and on the same day, iGlue included that audit report in its 2014 Form 10-K filed with the Commission

19. As a result of the conduct described above, Respondent violated PCAOB rules by failing to satisfy applicable independence criteria set out in Commission regulations with respect to the 2013 and 2014 iGlue Audits.[14]

Respondent Was Not Independent During its 2014 PDV Audit

20. PDV is a Delaware corporation with principal executive offices in Budapest, Hungary. PDV's public filings disclose that it is a Hungarian-based holding company focused on technology acquisition and development enabling the delivery of revolutionary concepts and ready to market products to the international marketplace. PDV's common stock was registered under Section 12(g) of the Exchange Act and quoted on the OTC Bulletin Board ("OTCBB") under the symbol "PWRV". At all relevant times, PDV was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

21. Respondent was, at all relevant times, PDV's external auditor and performed the audits of PDV's financial statements for 2013 and 2014 ("PDV Audits"). Both of the audit reports Respondent issued in connection with the PDV Audits included an explanatory paragraph indicating that there was substantial doubt about the ability of PDV to continue as a going concern.

22. For the year ending December 31, 2013 ("2013 PDV Audit"), the contracted audit fee agreed to by PDV and Respondent was approximately $37,000.

23. On April 14, 2014, Respondent issued an audit report on PDV's 2013 financial statements that PDV included in its 2013 Form 10-K filed with the Commission. The total unpaid billed ($18,500) and unbilled ($18,500) audit fees due to Respondent

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[14] See PCAOB Rule 3520; Rule 2-01(b); Codification 602.02.b.iv.

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Public Company Accounting Oversight Board

ORDER

from PDV for the 2013 PDV Audit, as of the date Respondent issued its audit report for that audit, were approximately $37,000.

24. Respondent continued to provide audit and review services for PDV for fiscal year 2014. The contracted audit fee PDV agreed to pay Respondent to perform the audit and reviews of PDV's 2014 financial statements was $27,000.

25. At the time Respondent commenced field work for the audit of PDV's December 31, 2014 financial statements ("2014 PDV Audit"), PDV had failed to pay to Respondent any of the contracted audit fee (i.e., $37,000) agreed to by PDV and Respondent for the 2013 PDV Audit. Moreover, the unpaid fees were material in relation to the fee Respondent expected to charge for the 2014 PDV Audit. There was also no Payment Agreement between Respondent and PDV.

26. On April 15, 2015, Respondent issued its audit report on PDV's 2014 financial statements, and PDV included that audit report in its 2014 Form 10-K filed with the Commission.

27. As a result of the conduct described above, Respondent violated PCAOB rules by failing to satisfy applicable independence criteria set out in Commission regulations with respect to the 2014 PDV Audit.[15]

D. Respondent Violated PCAOB Rules Related to Certain Required Communications With the Audit Committees of iGlue and PDV Concerning Independence

28. PCAOB rules require auditors to provide to an issuer's audit committee or equivalent certain independence communications.[16] In particular, PCAOB Rule 3526 requires an auditor to make certain communications, in writing, at least annually with respect to each of its issuer audit clients, including a written communication describing to the audit committee of the audit client, as of the date of the communication, relationships that may reasonably be thought to bear on independence.[17] The Firm failed to make that required communication with respect to the unpaid audit fees associated with the 2013 and 2014 iGlue Audits and the 2014 PDV Audit, in violation of PCAOB Rule 3526.

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15 See PCAOB Rule 3520; Rule 2-01(b); Codification 602.02.b.iv.

16 PCAOB Rule 3526.

17 PCAOB Rule 3526(b)(1).

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E. Respondent Violated PCAOB Rules and Standards Related to Quality Control

29. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[18] which provide that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[19] PCAOB quality control standards further state that policies and procedures should be established to provide the firm with reasonable assurance that "personnel maintain independence . . . in all required circumstances" and "that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[20] Additionally, PCAOB quality control standards provide that policies and procedures for monitoring "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied," and that "its system of quality control is effective."[21]

30. Respondent was aware that, at the time it commenced field work for the 2013 and 2014 iGlue audits and for the 2014 PDV audit, there were unpaid prior year audit fees and that there was no Payment Agreement with respect to those unpaid fees between Respondent and either iGlue or PDV. Additionally, Respondent was aware that commencing field work under those circumstances was contrary to the Firm's own system of quality control regarding adherence to PCAOB auditor independence requirements. However, Respondent failed to suitably design, effectively apply, or appropriately monitor quality control policies and procedures to provide reasonable assurance concerning the Firm's independence. Those failures resulted in, or contributed to, Respondent repeatedly violating PCAOB rules and standards related to independence, including by failing to satisfy applicable Commission independence criteria as described above.

31. As a result, Respondent violated PCAOB quality control standards from 2013 to 2015.

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[18] PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[19] QC § 20.01.

[20] QC §§ 20.09-.10, and 20.17.

[21] QC § 20.20; see also QC § 30.03.

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Public Company Accounting Oversight Board

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training of Firm personnel concerning auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards; and

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3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 12, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2017-025
In the Matter of Thomas W. Klash, CPA,	April 26, 2017
Respondent.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Thomas W. Klash, CPA ("Firm" or "Respondent"), revoking the Firm's registration, and imposing a civil money penalty in the amount of $5,000 on the Firm.[1] The Board is imposing these sanctions on the basis of its findings that, in two audits, Respondent violated PCAOB Rule 3520, *Auditor Independence*, by failing to satisfy applicable independence criteria, including as set out in Securities and Exchange Commission ("Commission") rules and PCAOB standards, through its use of an engagement quality reviewer who was not independent of the issuer audit client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted,

[1] The Firm may reapply for registration after one (1) year from the date of this Order.

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Thomas W. Klash, CPA** is a sole proprietorship organized under the laws of Florida, and headquartered in Hollywood, Florida. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and licensed by the Florida Department of Business & Professional Regulation, Division of Certified Public Accounting (Lic. No. AD69047).

B. Relevant Individuals

2. **Thomas W. Klash, CPA ("Klash")**, 69, of Hollywood, Florida, is a certified public accountant licensed by the Florida Department of Business & Professional Regulation, Division of Certified Public Accounting (Lic. No. AC0003803). At all relevant times, Klash was the sole proprietor of the Firm. Klash was the engagement partner on the Firm's issuer audits discussed below. Klash is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **Norman H. Becker, CPA**, is a certified public accountant licensed by the Florida Department of Business & Professional Regulation, Division of Certified Public Accounting (Lic. No. R000630). Norman Becker was the engagement quality reviewer on the issuer audits discussed below.

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that such sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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4. **David A. Becker, CPA**, is a certified public accountant licensed by the Florida Department of Business & Professional Regulation, Division of Certified Public Accounting (Lic. No. AC0030201). David Becker was in an accounting role at the issuer identified below from 2009 until March 31, 2014. In that role, he prepared the issuer's June 30, 2012 and June 30, 2013 year-end financial statements. David Becker is Norman Becker's son.

C. Summary

5. This matter concerns the Firm's violation of independence requirements. By using an engagement quality reviewer whose son was in an accounting role at the issuer audit client during the periods covered by financial statements that the Firm audited, the Firm failed to satisfy the independence criteria set out in Commission rules, 17 C.F.R. 210.2-01, and in PCAOB auditing standards, AU § 220, *Independence* ("AU § 220"), all in violation of PCAOB Rule 3520.[4]

D. Respondent Failed to Maintain the Required Independence from Its Issuer Audit Client

6. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards.[5] In particular, PCAOB rules require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[6] A registered public accounting firm or an associated person's

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[4] All references to PCAOB standards are to the versions of the standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2016), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

[5] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards* ("PCAOB Rule 3100"); PCAOB Rule 3200T, *Interim Auditing Standards* ("PCAOB Rule 3200T").

[6] See PCAOB Rule 3520; see also AU §§ 220.01-.02.

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independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[7]

7. Rule 2-01 of Commission Regulation S-X[8] ("Rule 2-01") provides that an accountant is not independent in the event of, among other things, certain employment relationships between an audit client and certain relatives of the accountant.[9] As pertinent here, Rule 2-01 provides that independence is impaired if a close family member of an accountant was in an "accounting role" at the audit client "during any period covered by" the audit.[10] Rule 2-01(f)(9) defines "close family members" to include, among others, a nondependent child. Rule 2-01(f)(3)(i) defines "accounting role" as a role in which a person is in a position to or does exercise more than minimal influence over the contents of the accounting records or anyone who prepares them.

8. Norman Becker ("Becker") served as the Firm's engagement quality reviewer on two audits that the Firm conducted for Osler, Inc. ("Osler"), relating to audit reports that the Firm issued on August 27, 2012 and September 10, 2013, and that were included in Osler's annual reports on Form 10-K filed with the Commission on, respectively, September 11, 2012 and September 23, 2013.

9. In the August 27, 2012 audit report, the Firm opined on Osler's balance sheets as of June 30, 2012 and 2011, and the related statements of operations, shareholders' equity (deficit), and cash flows for the years then ended and for the period from July 30, 2004 through June 30, 2012. In the September 10, 2013 audit report, the Firm opined on Osler's balance sheets as of June 30, 2013 and 2012, and the related statements of operations, shareholders' equity (deficit), and cash flows for the years then ended and for the period from July 30, 2004 through June 30, 2013.

10. From 2009 through March 31, 2014, Becker's son was employed by Osler in an accounting role, as defined in Rule 2-01(f)(3)(i).

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[7] See PCAOB Rule 3520, Note 1.

[8] 17 C.F.R. § 210.2-01.

[9] Rule 2-01(c)(2)(ii).

[10] Id.

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11. Because a close family member of Becker was in an accounting role at Osler during the periods covered by the audits on which Becker performed the services of engagement quality reviewer for the Firm, the Firm failed, with respect to those audits, to satisfy applicable independence criteria, including the criteria described above in the Commission's rules and the criteria in AU § 220. By failing to satisfy all applicable independence criteria with respect to the audits of Osler described above, the Firm violated PCAOB Rule 3520.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Respondent is hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1) the registration of Respondent is revoked;

C. After one (1) year from the date of this Order, Respondent may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $5,000 payable by Respondent is imposed. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay this civil money penalty within 30 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter which identifies Respondent as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary,

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Public Company Accounting Oversight Board

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Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 26, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Juan Edgar Mata Castro* *Respondent.*	PCAOB Release No. 105-2017-026 May 24, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring Juan Edgar Mata Castro ("Mata" or "Respondent"); and (2) barring him from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings that Mata: (1) violated PCAOB rules and standards in connection with an audit of the financial statements of an issuer audit client; and (2) failed to cooperate with a Board inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted,

[1] Respondent may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. Juan Edgar Mata Castro, age 41, of Mexico City, Mexico, was a senior manager in the Mexico City, Mexico office of Galaz, Yamazaki, Ruiz Urquiza, S.C. ("Deloitte Mexico" or "Firm") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). The Firm is a member of the Deloitte Touche Tohmatsu Limited global network. Mata served as the senior manager for the audits of Southern Copper Corporation ("SCC" or "Company") for years ending December 31, 2009 through December 31, 2011. In August 2012, Mata took employment elsewhere and left Deloitte Mexico.

B. Issuer

2. SCC is a Delaware corporation headquartered in Phoenix, Arizona. SCC's public filings disclose that SCC is a large integrated copper producer with mining, smelting and refining facilities located in Peru and Mexico. Its common stock is listed on both the New York and Lima Stock Exchanges under the symbol "SCCO." At all relevant times, SCC was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

3. This matter concerns Respondent's violations of PCAOB rules and standards following the Firm's audits of the Company's December 31, 2010 financial

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[2] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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statements and the Company's internal control over financial reporting ("ICFR") as of December 31, 2010 (the "Audit"), as well as his misconduct in connection with a subsequent PCAOB inspection.[4] Respondent had served as the senior manager for the Company's audits since 2009. In that role, Respondent was supervised by the engagement partner on the Audit. Respondent also served as the senior manager on the part of the Audit related to SCC's Mexican subsidiary, Industrial Minera Mexico, S.A. de CV ("IMMSA"). As a senior manager on the IMMSA portion of the Audit, Respondent also was supervised by the IMMSA audit partner.

4. After the documentation completion date for the Audit, Respondent and certain other members of the engagement team improperly altered the documentation for the Audit.[5] Specifically, in advance of a post-audit internal practice review performed by the Firm ("Practice Review"),[6] Respondent and certain other members of the engagement team violated PCAOB Auditing Standard No. 3, *Audit Documentation* ("AS3"), by deleting work papers from and making other alterations to documentation that had previously been assembled for retention for the Audit. In addition, Respondent and certain other members of the engagement team made additions to the previously assembled documentation, without identifying when the additions were made, who made them, and why they were made, as required by AS3.

5. Beginning in March 2012, the staff of the Board's Division of Registration and Inspections ("Inspections") inspected the Audit. In connection with the inspection, the Firm made available to Inspections the Audit work papers Respondent and other members of the engagement team had previously improperly altered, as well as other

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[4] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2016), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

[5] See *Arturo Vargas Arellano, CPC*, PCAOB Rel. No. 105-2016-045 (Dec. 5, 2016); *Miguel Angel Asencio Asencio*, PCAOB Rel. No. 105-2016-046 (Dec. 5, 2016); *Aldo Hidalgo de la Rosa*, PCAOB Rel. No. 105-2016-047 (Dec. 5, 2016).

[6] During the relevant period, the Firm performed annual audit practice reviews. According to the Firm's policies, audit practice reviews serve to provide reasonable assurance that the firm's system of quality control is appropriately designed, relevant, adequate, operating effectively and complied with in practice.

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Public Company Accounting Oversight Board

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misleading information. At no time did Respondent inform Inspections of the improper alterations and other misleading information. As a result, Respondent violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*.

D. Respondent Violated PCAOB Rules and Standards After the Issuance of the Audit Reports

6. The Firm has been the external auditor for SCC since 2009. On February 25, 2011, the Firm issued unqualified opinions in the Audit reports that were included in the Company's Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") on February 28, 2011. The Audit reports stated that, in the Firm's opinion, the Company's financial statements presented fairly, in all material respects, the Company's financial position, and the results of its operations and cash flows in conformity with U.S. Generally Accepted Accounting Principles, and that the Company maintained, in all material respects, effective ICFR as of December 31, 2010. The Audit reports also stated that the Audit was conducted in accordance with PCAOB standards.

7. PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[7]

8. PCAOB audit documentation standards require that the complete and final set of documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its report.[8] After the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date of the addition, the person who prepared the additional documentation, and the reason for adding the documentation.[9]

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[7] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards.*

[8] See AS3 ¶ 15.

[9] See id. ¶ 16.

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Public Company Accounting Oversight Board

ORDER

Respondent Violated the PCAOB Audit Documentation Standard in Anticipation of an Internal Practice Review of the Audit

Improper Alterations to the Audit Work Papers

9. On April 11, 2011, the engagement team assembled for retention the complete and final set of documentation for the Audit (the "April Archive"). On or before July 20, 2011, Respondent was notified that the Audit had been selected for an internal Practice Review. The Practice Review, which was part of the Firm's system of quality control, was scheduled to take place in early August 2011. In connection with the Practice Review, Respondent and other members of the engagement team violated PCAOB standards by improperly altering audit work papers.

10. When Respondent and the engagement team created the April Archive, the work papers did not include certain audit documentation required to support the Audit reports pursuant to PCAOB standards. For example, the April Archive did not contain an engagement completion document,[10] certain tax work papers, and other work papers that were necessary to support the Audit reports but were not timely assembled for retention.

11. Upon learning of the impending Practice Review, in late July 2011, Respondent and certain other members of the engagement team, at the direction of the engagement partner, reviewed the April Archive. Through that process, Respondent and certain other members of the engagement team became aware that the April Archive did not contain numerous work papers that were necessary to support the Audit reports and, in fact, contained work papers that did not even relate to the Audit.

12. In response, Respondent and certain other members of the engagement team reopened the April Archive in late July 2011 ("July Reopening"). The request for the July Reopening was submitted by Respondent and approved by the engagement partner and one other Firm audit partner, in accordance with the Firm's internal policies.

13. During the July Reopening, Respondent and certain other members of the engagement team violated AS3 by improperly deleting 21 work papers from the April Archive, improperly altering 36 existing work papers, and improperly adding 41 work papers.

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[10] PCAOB audit documentation standards require that "[t]he auditor must identify all significant findings or issues in an *engagement completion document*." AS3 ¶ 13. Significant findings or issues are substantive matters that are important to the procedures performed, evidence obtained, or conclusions reached. AS3 ¶ 12.

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14. Among the work papers added was a memorandum that the engagement partner directed the Respondent and other engagement team members to create in order to describe procedures purportedly performed during the Audit to address the journal entry testing requirements of PCAOB standards ("July JET Memorandum").[11] During the July Reopening, engagement team members, including Respondent, created the July JET Memorandum, as the engagement partner directed, improperly backdated it to make it appear that it had been created during the Audit, backdated all electronic sign-offs, including Respondent's, and placed the memorandum in the Firm's documentation archiving system. During the July Reopening, Respondent and certain other members of the engagement team also added other significant work papers to the audit documentation, including an engagement completion document. Respondent submitted a request to close the file which did not indicate the dates the documents were added to the work papers, the names of the persons preparing the additional documentation, and the reason for adding the documentation months after the documentation completion date.

15. During the July Reopening, Respondent and certain other members of the engagement team also improperly backdated multiple review sign-offs on other work papers to make it appear that all of the reviews of work papers had taken place prior to the release date of the Audit reports.

Improper Alterations to the IMMSA-Related Work Papers

16. In late July 2011, Respondent was also directed by the IMMSA audit partner to review the IMMSA-related work papers that had been assembled for retention in June for completeness and to identify work papers that had been omitted.[12] Through that process, Respondent and certain other members of the engagement team became aware of deficiencies in the IMMSA-related work papers for the Audit.

17. In response, Respondent and certain other members of the engagement team accessed the IMMSA-related work papers that had been assembled for retention ("IMMSA Reopening"). The form completed by Respondent and other engagement team members stated that the IMMSA Reopening was necessary to make limited administrative corrections to add a single work paper, and no other changes would be

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[11] See AU §§ 316.58 - .62, *Consideration of Fraud in a Financial Statement Audit*.

[12] The IMMSA-related work papers were assembled for retention in June 2011, the month before Respondent was informed of the Practice Review. However, they had not been assembled for retention by the documentation completion date for the Audit, as required by AS3.

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made to the separate IMMSA file. Respondent thereafter signed and entered into the Firm's archiving system a declaration stating that, during the IMMSA Reopening, only one IMMSA-related work paper would be added to the previously-assembled work papers and no IMMSA-related work papers would be deleted or altered. The IMMSA audit partner signed and entered into the Firm's archiving system a similar declaration and approved the IMMSA Reopening. The Engagement Quality Reviewer for the part of the Audit related to IMMSA approved the IMMSA Reopening based on the information in these declarations.

18. Contrary to Respondent's declaration, during the IMMSA Reopening, Respondent and certain other members of the engagement team violated AS3 by improperly deleting from the separate IMMSA file 26 IMMSA-related work papers that had previously been assembled for retention, improperly altering 90 existing IMMSA-related work papers, and improperly adding 17 IMMSA-related work papers to the separate IMMSA file.

The Firm's Practice Review of the Audit

19. In August 2011, the Firm's Practice Review team commenced its review of the Audit based on the July Archive, and not based on the audit work the team documented in the original April Archive. After reviewing the documentation contained in the July Archive, the Practice Review team made multiple negative observations concerning the work documented. In response, the engagement partner arranged for the July Archive to be reopened in December 2011 for the stated reason of adding work papers that existed prior to the documentation completion date but were not previously included in the Audit archive ("December Reopening").

20. On or about November 22, 2011, Respondent and others on the engagement team prepared a memorandum ("November Memorandum"), for inclusion in the Audit archive, which stated that seven work papers were modified and 39 work papers were added to the July Archive during the December Reopening. The November Memorandum, however, contained multiple errors and did not satisfy the requirements of AS3. Contrary to the text of the November Memorandum, during the December Reopening, four work papers were modified and 43 work papers were added to the July Archive. Once Respondent and certain other members of the engagement team completed the alterations to the July Archive, they closed the Audit archive, thus creating a new Audit archive ("December Archive").

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21. As a result of his improper alteration of audit documentation, including the improper alteration of the work paper that was identified as the justification for the July Reopening, Respondent violated AS3.[13]

Respondent Failed to Cooperate with the Board's Inspection

22. On February 6, 2012, the Board notified the Firm that Inspections would inspect the Audit ("Board's Inspection"). The Act "requires the Board to conduct a 'continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons . . . with [the Act], the rules of the Board, the rules of the Commission, or professional standards.'"[14]

23. PCAOB rules require an associated person of a registered public accounting firm to "cooperate with the Board in the performance of any Board inspection."[15] This cooperation obligation "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes."[16]

Respondent and the Engagement Partner Completed a Misleading Engagement Profile

24. Field work for the Board's Inspection took place during the weeks of March 26 and April 2, 2012. On or before February 23, 2012, Respondent was notified that the Audit would be inspected. Before field work began, Inspections asked the Firm to complete a document entitled Public Company Accounting Oversight Board 2011 Inspection Period International Engagement Profile ("Engagement Profile"). Respondent and certain other members of the engagement team drafted responses to relevant portions of the Engagement Profile. One of the sections in the Engagement Profile was entitled "Documentation completion date." In responding to this section,

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[13] See AS3 ¶ 16.

[14] *Gately & Associates, LLC*, SEC Release No. 34-62656 at 2 (Aug. 5, 2010) (quoting Section 104(a) of the Act).

[15] PCAOB Rule 4006.

[16] *Deloitte Touche Tohmatsu Auditores Independentes*, PCAOB Rel. No. 105-2016-031, ¶ 62 (December 5, 2016); *José Domingos do Prado*, PCAOB Rel. No. 105-2016-032, ¶ 55 (December 5, 2016); *Arturo Vargas Arellano, CPC*, PCAOB Rel. No. 105-2016-045 ¶ 38.

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Respondent and the engagement partner made reference to the April Archive and the December Archive, but failed to reveal the existence of the July Archive.

25. The next section in the Engagement Profile asked: "Have there been any changes made to the audit documentation subsequent to the documentation completion date [?] If yes, please explain the nature of the changes below, and provide a summary log of when the changes were made." In reply to this question, Respondent and the engagement partner checked the box signifying that changes had been made and attached the November Memorandum which described, in part, the alterations made during the December Reopening. Respondent and the engagement partner did not, however, reveal any of the numerous alterations made to the April Archive during the July Reopening.

26. At no point in time did Respondent disclose to Inspections that Respondent and certain other members of the engagement team had, in fact, improperly created, added, backdated, modified and deleted numerous work papers during the July Reopening, months after the documentation completion date, and shortly before the Practice Review. By providing misleading information to Inspections in the Engagement Profile, Respondent violated PCAOB Rule 4006.

Misleading Work Papers Made Available to Inspections

27. During field work for the Board's Inspection, the Firm made the work papers from the December Archive available to Inspections in electronic form. The December Archive included the documents improperly created, added, backdated, and modified from the April Archive, and excluded the documents improperly deleted from the April Archive. During the inspection process, Respondent had numerous conversations with PCAOB inspectors concerning the work he and others had performed during the Audit. At no time, however, did Respondent advise the PCAOB inspectors that any of these documents were improperly altered during the July Reopening even though he understood that Inspections was relying upon the December Archive to perform the inspection. For example, at no time did Respondent disclose to Inspections that the July JET Memorandum was improperly created, backdated and added to the April Archive during the July Reopening.

28. As a result of the conduct described above, Respondent failed to cooperate with the Board's Inspection, in violation of Rule 4006.

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IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Juan Edgar Mata Castro is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Juan Edgar Mata Castro is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[17] and

C. After two (2) years from the date of this Order, Juan Edgar Mata Castro may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 24, 2017

[17] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Respondent. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Kyle L. Tingle, CPA, LLC and Kyle L. Tingle, CPA* *Respondents.*	PCAOB Release No. 105-2017-027 May 24, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Kyle L. Tingle, CPA, LLC (the "Firm") and revoking the Firm's registration;[1] and censuring Kyle L. Tingle, CPA, ("Tingle") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Tingle (collectively, "Respondents") violated PCAOB rules and standards in connection with the Firm's audits of two issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted,

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Tingle may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions (the "Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. **Kyle L. Tingle, CPA, LLC** is a limited liability corporation organized under the laws of Nevada, and headquartered in Las Vegas, Nevada. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. The Firm is licensed to practice public accountancy in Nevada (License No. LLC-0118). At all relevant times, the Firm has had one partner, Kyle L. Tingle, CPA, and no professional staff.

2. **Kyle L. Tingle, CPA,** 54, is a certified public accountant licensed by the State of Nevada (License No. CPA-1629R). Tingle is a resident of Henderson, Nevada. At all relevant times, Tingle was the President and sole employee of the Firm, and served as the engagement partner on the audits discussed below. Tingle is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Firm's issuance of audit reports on the consolidated financial statements of IFAN Financial, Inc. ("IFAN") for the year ended August 31, 2014, and Galenfeha, Inc. ("Galenfeha") for the year ended December 31, 2014 (collectively, the "Audits"). As detailed below, Respondents failed to exercise due

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[3] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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professional care, including professional skepticism, and failed to perform audit procedures to obtain sufficient appropriate audit evidence in connection with the Audits to provide a reasonable basis for the opinions expressed in the Firm's audit reports.

C. Respondents Violated PCAOB Rules and Standards

4. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable Board auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6] Those standards require, among other things, that an auditor plan and perform the audit to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion, in order to meet the objective of obtaining appropriate audit evidence that is sufficient to support the opinion expressed in the auditor's report.[7] PCAOB standards further require that an auditor exercise due professional care and professional skepticism in performing the audit.[8]

5. In addition, PCAOB standards require the auditor to obtain sufficient appropriate audit evidence to provide reasonable assurance that fair value measurements and disclosures are in conformity with Generally Accepted Accounting Principles ("GAAP").[9] The auditor is also required to evaluate whether the fair value

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB standards are to the versions of those standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2016), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

[6] See AU § 508.07, *Reports on Audited Financial Statements*.

[7] See Auditing Standard No. 15 ("AS 15"), *Audit Evidence*, at ¶¶ 3-4.

[8] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; Auditing Standard No. 13 ("AS 13"), *The Auditor's Responses to the Risks of Material Misstatement*, ¶ 7.

[9] See AU § 328, *Auditing Fair Value Measurements and Disclosures,* at ¶ 3.

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measurements and disclosures in the financial statements are in conformity with GAAP.[10]

6. Observation of inventories is a generally accepted auditing procedure.[11] PCAOB standards require that when inventory quantities are determined solely by means of a physical count, and all counts are made as of the balance-sheet date or as of a single date within a reasonable time before or after the balance-sheet date, it is ordinarily necessary for the independent auditor to be present at the time of count and, by suitable observation, tests, and inquiries, satisfy himself respecting the effectiveness of the methods of inventory-taking and the measure of reliance which may be placed upon the client's representations about the quantities and physical condition of the inventories.[12]

7. When the independent auditor has not satisfied himself as to inventories in the possession of the client through such procedures, or other permissible procedures under PCAOB standards, tests of the accounting records alone will not be sufficient for him to become satisfied as to quantities; it will always be necessary for the auditor to make, or observe, some physical counts of the inventory and apply appropriate tests of intervening transactions, coupled with inspection of the records of any client's counts and procedures relating to the physical inventory on which the balance-sheet inventory is based.[13]

8. PCAOB standards further require that the auditor design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[14] For significant risks, the auditor should perform substantive procedures, including tests of details, that are specifically responsive to the assessed risks.[15] In the audit of financial statements, the auditor should perform substantive procedures, including tests

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[10] See id. at ¶ 15.

[11] See AU § 331, *Inventories,* at ¶ 1.

[12] See AU § 331.09.

[13] See id. at ¶ 12.

[14] See AS 13, at ¶ 8.

[15] See id. at ¶ 11.

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of details, that are specifically responsive to the assessed fraud risks.[16] PCAOB standards also require that the auditor evaluate whether the company's selection and application of accounting principles are appropriate for its business, and consistent with the applicable financial reporting framework and accounting principles used in its industry.[17]

9. PCAOB standards require the auditor to evaluate whether the financial statements are presented fairly, in all material respects, in conformity with GAAP when evaluating audit results.[18] As part of the evaluation of the presentation of the financial statements, the auditor should evaluate whether the financial statements contain the information essential for a fair presentation of the financial statements in conformity with the applicable financial reporting framework.[19]

10. When using information produced by the company as audit evidence, PCAOB standards require the auditor to evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to: test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information; and evaluate whether the information is sufficiently precise and detailed for purposes of the audit.[20]

11. As described below, Respondents failed to comply with PCAOB rules and standards in connection with the Audits.

Audit of IFAN's FY2014 Financial Statements

12. IFAN is a Nevada corporation headquartered in San Diego, California. IFAN's public filings disclose that it designs, develops, and distributes software to enable mobile payments, and offers prepaid card programs for businesses and consumers and traditional financial services for merchants. Its common stock is registered under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange

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[16] See id. at ¶ 13.

[17] See Auditing Standard No 12 ("AS 12"), *Identifying and Assessing Risks of Material Misstatement*, at ¶ 12.

[18] See Auditing Standard No. 14 ("AS 14"), *Evaluating Audit Results,* ¶ 30.

[19] See id. at ¶ 31.

[20] See AS 15, at ¶ 10.

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Act"), and is quoted on the OTC Pink Market under the symbol "IFAN." At all relevant times, IFAN was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

13. Tingle, as the engagement partner, authorized the Firm's issuance of an audit report, dated December 2, 2014, expressing an unqualified opinion on IFAN's financial statements for the year ended August 31, 2014 ("FY2014"). The audit report was included in IFAN's Form 10-K filed with the U.S. Securities and Exchange Commission on December 16, 2014.

14. During FY2014, IFAN issued 900,000 shares of convertible stock to two of its officers. The Firm's audit documentation indicated that each preferred share was convertible at any time, at the option of the holder, into 700 shares of the issuer's common stock. The Firm's work papers indicated that there was a discount associated with the preferred shares.

15. IFAN reported in its FY2014 statement of operations the discount, totaling $1.75 million, as a deemed dividend for the beneficial conversion of the preferred shares. The $1.75 million represented 98% of the net loss attributable to common shareholders for the year under audit.

16. Respondents failed to obtain an understanding of the rationale or support for IFAN's accounting treatment sufficient to evaluate whether the company's selection and application of accounting principles were appropriate for its business and consistent with the applicable financial reporting framework and accounting principles used in the industry.[21] In addition, Respondents failed to evaluate whether the accounting for the convertible preferred stock was appropriate under U.S. GAAP.[22]

17. IFAN also disclosed in its FY2014 financial statements that it had entered into a license agreement with an unaffiliated entity for the use and distribution of electronic payment processing technology, and had made cash payments to the unaffiliated entity based on the entity's achievement of certain benchmarks.

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[21] See AS 12, at ¶ 12.

[22] See AS 14, at ¶ 30; see also Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 470, *Debt*.

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18. Under the agreement, IFAN agreed to issue a specified number of shares of its common stock to the entity in exchange for a specified number of shares of the entity's restricted common stock ("restricted shares"). IFAN disclosed that it had received the restricted shares as of year-end, but had not issued shares of IFAN's common stock to the entity. IFAN's financial statements reported an investment for the restricted shares received from the entity, and an intangible asset for the payments made to the entity under the agreement. IFAN reported that the investment and intangible asset represented approximately 59% and 11%, respectively, of its total assets at year-end.

19. Respondents failed to perform procedures to evaluate whether the accounting for the agreement was appropriate under U.S. GAAP.[23] For example, Respondents failed to evaluate: which, if any, of the benchmarks specified in the agreement had actually been achieved by the entity; whether completion of the first contractual benchmark, or the execution of the license agreement itself, met the criteria for capitalization as an intangible asset;[24] or whether the payments should have been expensed. Further, Respondents failed to evaluate whether the provision in the agreement requiring the issuance of shares of IFAN's common stock created an obligation as of year-end that should have been reported by the issuer as a liability. Finally, Respondents also failed to evaluate whether the par value of the entity's shares, which IFAN used to value the restricted shares and record the investment, was an appropriate and reasonable measure of fair value, particularly when Respondents obtained audit evidence of actual stock sales at varying prices.

Audit of Galenfeha's 2014 Financial Statements

20. Galenfeha is a Nevada corporation headquartered in Fort Worth, Texas. Galenfeha's public filings disclose that it provides engineering services and alternative power products to natural gas producers and various industries in Texas and Louisiana; offers contractual engineering services; produces injections pumps; and develops and manufactures products to reduce customer costs associated with energy production, including carbon footprint, hazardous waste, and other non-sustainable aspects of producing energy. Its common stock is registered under Section 12(g) of the Exchange Act, and is quoted on the OTC Pink Market under the symbol "GLFH." At all relevant times, Galenfeha was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[23] See AS 14, at ¶¶ 30-31; AU § 328, at ¶ 3.

[24] See FASB ASC Topic 350, *Intangibles - Goodwill and Other*.

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21. Tingle, as the engagement partner, authorized the Firm's issuance of an audit report, dated April 15, 2015, expressing an unqualified opinion on Galenfeha's financial statements for the year ended December 31, 2014. The audit report was included in Galenfeha's Form 10-K filed with the U.S. Securities and Exchange Commission on April 16, 2015.

22. Galenfeha's year ended December 31, 2014 ("FY2014") financial statements reported inventory of approximately $138,000 at year-end, which represented approximately 23% of its total assets. The financial statements did not, however, include required inventory-related disclosures.[25] Respondents failed to evaluate whether Galenfeha's lack of inventory-related disclosures was appropriate under U.S. GAAP.[26]

23. Additionally, during the FY2014 audit, the Firm identified a fraud risk related to inventory, and assessed inherent risk, control risk, and the risk of material misstatement as moderate. To test inventory, Respondents relied on information prepared by the client, including information concerning parts purchased, parts sold, and parts used in build assemblies.

24. Respondents failed to perform sufficient procedures to test the existence, completeness, and valuation of inventory. In particular, Respondents relied on certain summary inventory schedules produced by the issuer without testing the accuracy and completeness of the information, or testing the controls over the accuracy and completeness of that information.[27]

25. During the year under audit, Galenfeha disclosed in its financial statements that revenue was recognized when products and services were delivered to customers. Respondents identified a fraud risk related to improper revenue recognition and assessed inherent risk, control risk, and the risk of material misstatement as moderate.

26. Respondents failed, however, to perform sufficient procedures to test revenue, and failed to perform adequate substantive procedures that were responsive to the assessed fraud risk.[28] Specifically, Respondents failed to perform sufficient

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[25] See FASB ASC Topic 330, *Inventory*.

[26] See AS 14, at ¶¶ 30-31.

[27] See AS 15, at ¶ 10.

[28] See AS 13, at ¶¶ 13-15.

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procedures to evaluate whether relevant revenue recognition criteria had been met, including whether delivery of services or products had occurred, whether the price was fixed or determinable, and whether revenue had been recognized in the appropriate period based on the terms of the sale.[29]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Kyle L. Tingle, CPA, LLC and Kyle L. Tingle, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Kyle L. Tingle, CPA, LLC is revoked;

C. Pursuant to Rule 5302(a), after two (2) years from the date of the Order, Kyle L. Tingle, CPA, LLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Kyle L. Tingle, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[30] and

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[29] See FASB ASC Topic 605, *Revenue Recognition*.

[30] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Kyle L. Tingle, CPA. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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E. After two (2) years from the date of this Order, Kyle L. Tingle, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 24, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of W.T. Uniack CPA, P.C. and William T. Uniack, CPA*, *Respondents.*	PCAOB Release No. 105-2017-028 May 24, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring W.T. Uniack CPA, P.C. (the "Firm"), revoking the Firm's registration;[1] and censuring William T. Uniack ("Uniack") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Uniack (collectively, "Respondents") violated PCAOB rules and standards in connection with four audits of two issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party,

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Uniack may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

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and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of this Order and Respondents' Offers, the Board finds that:[4]

A. Respondents

1. W.T. Uniack CPA, P.C. is, and at all relevant times was, a corporation organized under the laws of the state of Georgia, and headquartered in Woodstock, Georgia.[5] The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accountancy by the state of Georgia (License No. ACF 005300). At all relevant times, the Firm was the external auditor for the issuers identified below.

2. William T. Uniack, CPA, 64, of Alpharetta, Georgia, is a certified public accountant licensed by the states of Georgia (License No. CPA025408) and Ohio (License No. CPA.13634-OS). At all relevant times, Uniack was the sole partner of the Firm, and served as the engagement partner on the audits discussed below. Uniack is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[5] The Firm filed a PCAOB Form 3 describing a change in its legal name from W.T. Uniack & Co. CPAs P.C. to W.T. Uniack CPA, P.C., effective April 15, 2016.

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B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Firm's audits of the financial statements of Bravo Multinational Incorporated (f/k/a GoldLand Holdings Co.) ("GoldLand")[6] and Silver Falcon Mining, Inc. ("Silver Falcon") for fiscal year ended December 31, 2013. As detailed below, Respondents failed to obtain sufficient appropriate audit evidence and exercise due professional care and professional skepticism in connection with each audit.

4. This matter also concerns the Firm's failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7").[7] In the Firm's audits of GoldLand's and Silver Falcon's financial statements for fiscal years ended December 31, 2012 and December 31, 2013, the Firm failed to obtain an engagement quality review of the audits, even though an engagement quality review was required by AS 7.

5. Additionally, Uniack took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of AS 7, in violation of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

C. Respondents Violated PCAOB Rules and Auditing Standards

6. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[8] An auditor may

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[6] On April 7, 2016, the company filed a Form 8-K reporting that GoldLand Holdings Co. changed its corporate name to Bravo Multinational Incorporated on April 6, 2016.

[7] All references to PCAOB standards are to the versions of those standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre Reorganized Numbering* (January 2016), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

[8] PCAOB Rules 3100, *Compliance with Auditing and Related Professional Standards*, and 3200T, *Interim Auditing Standards*.

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express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[9] Among other things, those standards require that an auditor exercise due professional care and professional skepticism in the performance of the audit and preparation of the report.[10] Those standards require, among other things, that an auditor plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report.[11]

7. PCAOB auditing standards also require that an audit be properly planned, that auditors identify and assess the risks of material misstatement at the financial statement level and the assertion level, and that auditors design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[12] The auditor should develop and document an audit plan that includes a description of, among other things, the planned risk assessment procedures and other planned audit procedures required to be performed so that the engagement complies with PCAOB standards.[13] Additionally, the auditor must evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[14]

8. PCAOB auditing standards state that observation of inventories is a generally accepted auditing procedure.[15] An auditor who issues an audit opinion without

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[9] See AU § 508.07, *Reports on Audited Financial Statements.*

[10] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*.

[11] See Auditing Standard No. 15, *Audit Evidence* ("AS 15") ¶ 4.

[12] See Auditing Standard No. 9, *Audit Planning* ("AS 9"), ¶ 4; Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"), ¶ 59; and Auditing Standard No. 13, *The Auditor's Response to the Risks of Material Misstatement* ("AS 13"), ¶ 8.

[13] See AS 9 ¶ 10.

[14] See Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), ¶ 30.

[15] See AU § 331.01, *Inventories.*

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employing procedures to observe inventories has the burden of justifying the opinion expressed.[16] Moreover, in such circumstances, "tests of the accounting records alone will not be sufficient for [the auditor] to become satisfied as to quantities; it will always be necessary for the auditor to make, or observe, some physical counts of the inventory and apply appropriate tests of intervening transactions."[17]

9. As described below, Respondents failed to comply with PCAOB rules and standards in connection with the Firm's audits of GoldLand's and Silver Falcon's 2013 financial statements.

Audit of GoldLand's 2013 Financial Statements

10. Bravo Multinational Incorporated (f/k/a GoldLand Holdings Co.) is a Delaware corporation headquartered in Ontario, Canada. GoldLand's public filings disclose that it is engaged in the business of leasing mining claims. Its common stock is registered under Section 12(g) of the Securities Exchange Act of 1934 (the "Exchange Act"). At all relevant times, GoldLand was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

11. Uniack, as the engagement partner, authorized the Firm's issuance of an audit report, dated April 11, 2014, expressing an unqualified audit opinion, which included a going concern explanatory paragraph, on GoldLand's financial statements for the year ended December 31, 2013. The audit report was included in GoldLand's Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") on April 15, 2014.

12. In connection with the audit, Respondents failed to exercise due professional care, including professional skepticism, and failed to plan and perform the audit in accordance with PCAOB standards. During audit planning, Respondents failed to develop and document an audit plan that included a description of the planned nature, timing, and extent of risk assessment procedures.[18] Consistent with this planning deficiency, Respondents failed to identify and assess the risks of material misstatement at the financial statement and assertion levels.[19] Respondents also failed to plan and

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16 Id.

17 Id. at .12.

18 See AS 9 ¶ 10.

19 See AS 12 ¶ 59.

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perform any analytical procedures as risk assessment procedures.[20] Respondents also failed to identify any risks with respect to revenue recognition and management override of controls, even though PCAOB standards provide that the auditor should presume that there is a fraud risk involving improper revenue recognition and should include the risk of management override of controls in his identification of fraud risks.[21] Respondents also failed to perform audit procedures in a manner that addressed the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[22]

13. GoldLand's 2013 financial statements reported revenue related to its leasing of mineral rights to Silver Falcon (the Lease Agreement). Under the Lease Agreement, Silver Falcon agreed to pay GoldLand an annual leasing fee of $1 million. This fee represented 100% of GoldLand's revenues for 2013. Respondents failed to evaluate whether GoldLand's revenue recognition was in conformity with U.S. Generally Accepted Accounting Principles ("GAAP").[23]

14. GoldLand's 2013 financial statements also reported a mining properties asset in its December 31, 2013 balance sheet that represented approximately $360,000, or 90% of the company's total assets. Other than obtaining management representations, Respondents failed to perform any other audit procedures to determine whether this material asset was properly valued. [24]

15. Respondents also failed to sufficiently evaluate GoldLand's recording of stock compensation expense and accrued compensation. GoldLand's 2013 financial statements disclosed that it had entered into an equipment purchase agreement with a third-party seller, and that GoldLand agreed to issue common shares of its stock to certain officers, directors, and consultants of the seller as bonuses under related consulting or employment agreements. The financial statements also disclosed that this issuance of stock occurred upon closing of the transaction in March 2014. GoldLand's financial statements reported that it had accrued the value of those shares to be issued

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[20] See AS 12 ¶¶ 46-48.

[21] See AS 12 ¶¶ 68-69.

[22] See AS 13 ¶ 8.

[23] See AS 14 ¶ 30.

[24] See AS 15 ¶¶ 4-6.

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as bonuses as a current liability in the year ending December 31, 2013, rather than in March 2014, when the deal closed. As part of its accounting for this transaction, GoldLand recorded stock compensation expense of approximately $6 million that represented approximately 82% of the company's total net loss for 2013, and recorded accrued compensation of approximately $6 million that represented approximately 86% of its total liabilities. During the audit, Respondents failed to evaluate whether it was appropriate under U.S. GAAP for GoldLand to record the stock compensation expense and accrued compensation in 2013, the year prior to the period in which the equipment purchase transaction closed.[25]

Audit of Silver Falcon's 2013 Financial Statements

16. Silver Falcon Mining, Inc. is a Delaware corporation headquartered in Bradenton, Florida. Silver Falcon's public filings disclose that it specializes in gold and silver properties and has acquired the rights to develop and operate certain mines in Idaho. Its common stock is registered under Section 12(g) of the Exchange Act. At all relevant times, Silver Falcon was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

17. Uniack, as engagement partner, authorized the Firm's issuance of an audit report, dated April 11, 2014, expressing an unqualified audit opinion which included a going concern explanatory paragraph, on Silver Falcon's financial statements for the year ended December 31, 2013. The audit report was included in Silver Falcon's Form 10-K filed with the Commission on April 15, 2014.

18. During audit planning, Respondents also failed to develop and document an audit plan that included a description of the planned nature, timing, and extent of risk assessment procedures.[26] Consistent with this planning deficiency, Respondents failed to identify and assess the risks of material misstatement at the financial statement and assertion levels.[27] Respondents also failed to properly plan and perform any analytical procedures as risk assessment procedures.[28] In addition, Respondents failed to perform

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[25] See AS 14 ¶ 30.

[26] See AS 9 ¶ 10.

[27] See AS 12 ¶ 59.

[28] See AS 12 ¶¶ 46-48.

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audit procedures in a manner that addressed the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[29]

19. Silver Falcon disclosed in its 2013 financial statements that mining inventory represented over 40% of the company's total assets for 2013. Other than obtaining management representations and management's schedule of inventory, Respondents failed to perform any other audit procedures to test whether Silver Falcon's reported inventory existed and was recorded accurately in the 2013 financial statements.[30] Respondents did not conduct any observation procedures with respect to Silver Falcon's mining inventories.[31]

D. The Firm Violated PCAOB Rules and Standards Relating to Engagement Quality Reviews

20. For audits of financial statements for years beginning on or after December 15, 2009, AS 7 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[32] AS 7 also provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance.[33]

21. In connection with the audits of GoldLand's and Silver Falcon's financial statements for 2012 and 2013, the Firm failed to comply with these requirements. For each of these audit engagements, the Firm improperly permitted the issuance of its audit reports which were included in GoldLand's and Silver Falcon's 2012 and 2013 Form 10-K filings with the Commission, without obtaining an engagement quality review and concurring approval of issuance as required by AS 7. As a result, the Firm violated AS 7.

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29 See AS 13 ¶ 8.

30 See AS 15 ¶¶ 4-6.

31 See AU § 331.12.

32 See AS 7 ¶ 1.

33 See id. at ¶ 13.

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E. Uniack Contributed to the Firm's Violations of PCAOB Rules and Standards Relating to Engagement Quality Reviews

22. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."

23. Uniack, the sole owner of the Firm, was the engagement partner for the audits conducted by the Firm and was responsible for them. Accordingly, he had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Uniack knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7, described above. As a result, Uniack violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), W.T. Uniack CPA, P.C., and William T. Uniack, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), William T. Uniack is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[34]

[34] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Uniack. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of

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C. After two (2) years from the date of this Order, William T. Uniack may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of W.T. Uniack CPA, P.C. is revoked; and

E. After two (2) years from the date of the Order, W.T. Uniack CPA, P.C. may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 24, 2017

reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Fulvio & Associates, L.L.P., Kenneth Werner, CPA, Gennaro Fulvio, CPA, and Kevin Clark, CPA,* *Respondents.*	PCAOB Release No. 105-2017-029 June 27, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is (1) censuring Fulvio & Associates, L.L.P. ("Firm"), a registered public accounting firm, revoking the Firm's registration,[1] and imposing a civil money penalty in the amount of $20,000 upon the Firm; (2) censuring Kenneth Werner, CPA ("Werner"), barring him from being an associated person of a registered public accounting firm,[2] and imposing a civil money penalty in the amount of $10,000 upon him; (3) censuring Gennaro Fulvio, CPA ("Fulvio"), and limiting Fulvio's activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for a one year period from the date of this Order, by prohibiting Fulvio from serving in certain capacities in any audit as described in Section IV.F. herein; (4) censuring Kevin Clark, CPA ("Clark") and barring him from being an associated person of a registered public accounting firm.[3] The Board is imposing these sanctions on the basis of its findings that (a) the Firm, Werner, Fulvio, and Clark (collectively, "Respondents") repeatedly violated PCAOB rules and standards in connection with their audit and examination engagement for Vision Financial Markets LLC ("VFM"), a broker-dealer, for fiscal year ending ("FYE") June 30, 2014; and (b) Werner and Clark violated PCAOB rules and standards by improperly altering audit documentation and failing to cooperate with a Board inspection.

[1] The Firm may reapply for registration after one (1) year from the date of this Order.

[2] Werner may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

[3] Clark may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds that:[5]

A. Respondents

1. Fulvio & Associates, L.L.P. is a limited liability partnership organized under the laws of New York, and headquartered in New York, New York. Fulvio registered with the Board on March 4, 2009, pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed as a certified public accountancy partnership in New York (Lic. No. 77 046476). At all relevant times, the Firm was the external auditor for VFM, with Werner serving as the engagement partner, Fulvio serving as the engagement quality reviewer, and Clark serving as the senior manager on the audit engagement. At the time of the FY 2014 audit of VFM, Werner and Fulvio led the Firm's audit practice. The Firm had only two other partners; they were tax professionals who did not perform audit work. Thus,

[4] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5).

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for almost every audit performed by the Firm at this time, Werner served as the engagement partner and Fulvio served as the engagement quality reviewer. For the remaining audits, Werner and Fulvio switched roles. This Order uses the term "Team Respondents" to refer collectively to the respondents responsible for the work of the engagement team on the FY 2014 VFM engagement – i.e., the Firm, Werner, and Clark.

2. Kenneth Werner, CPA, age 60, of New York, New York, is, and at all relevant times was, a partner of the Firm and a certified public accountant licensed by the State of New York (Lic. No. 07 058800). Werner was the engagement partner for the Firm's audit and examination of VFM's FY 2014 financial statements and other required filings. As such, he was responsible for supervising the work of the engagement team. Werner is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. Gennaro Fulvio, CPA, age 60, of New York, New York, is, and at all relevant times was, a partner of the Firm and a certified public accountant licensed by the State of New York (Lic. No. 07 041733). In addition to serving as the engagement quality reviewer for the Firm's audit and examination of VFM's FY 2014 financial statements and other required filings, Fulvio was the founder and Managing Partner of the Firm. He is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

4. Kevin Clark, CPA, age 60, of Staten Island, New York, is, and at all relevant times was, an employee of the Firm and a certified public accountant licensed by the State of New York (Lic. No. 07 052952). Clark was the senior manager for the Firm's audit and examination of VFM's FY 2014 financial statements and other required filings. As such, his role on the FY 2014 VFM engagement included supervising the work of the other members on the engagement team, other than Werner. Clark is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

5. This matter concerns the Team Respondents' violations of PCAOB rules and standards in connection with their audit of the financial statements and accompanying supporting schedules of VFM for FYE June 30, 2014 (the "Audit"). Among other things, the Team Respondents failed to obtain sufficient appropriate audit evidence to support the Firm's audit opinion on VFM's financial statements and supporting schedules.

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6. This matter also concerns the Team Respondents' violations of Attestation Standard No. 1 ("AT 1"), *Examination Engagements Regarding Compliance Reports of Brokers and Dealers*, when performing their examination of the statements made by VFM in its FYE June 30, 2014 compliance report (the "Examination") prepared pursuant to Securities Exchange Act of 1934 ("Exchange Act") Rule 17a-5, 17 C.F.R. § 240.17a-5 ("Rule 17a-5"). In particular, Team Respondents failed to identify and test VFM's key internal controls over compliance with U.S. Securities and Exchange Commission ("Commission") rules for safeguarding certain customer assets held by VFM.

7. Additionally, in connection with the above Audit and Examination, Fulvio violated Auditing Standard No. 7, *Engagement Quality Review* ("AS 7") by providing his concurring approval of issuance without performing the required engagement quality reviews with due professional care.

8. Lastly, Werner and Clark violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, and Auditing Standard No. 3, *Audit Documentation* ("AS 3"). In advance of the Board's 2014 inspection of the Firm, Werner and Clark improperly added audit documentation to the VFM work papers and made that misleading documentation available to PCAOB inspectors in violation of Rule 4006 and AS 3.

C. Team Respondents Violated PCAOB Rules and Standards in Their Audit of VFM's 2014 Financial Statements and Supporting Schedules

9. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] For audits of fiscal years ending on or after June 1, 2014, Rule 17a-5(g) requires that audits of broker-dealers be performed in accordance with PCAOB standards. An auditor may express an

[6] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB standards are to the versions of those standards in effect at the time of the VFM Audit. As of December 31, 2016, the PCAOB reorganized its rules and auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2016), https://pcaobus.org/Standards/Auditing/ Documents/PrintableReference Table.pdf.

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unqualified opinion on financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[7] Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism in performing the audit, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to afford a reasonable basis for an opinion regarding the financial statements.[8]

10. PCAOB standards also require that the auditor properly plan the audit, including performing risk assessment procedures sufficient to provide a reasonable basis for identifying and assessing the risk of material misstatement, whether due to error or fraud.[9] The auditor should identify and assess the risks of material misstatement at the financial statement level and the assertion level, and design and perform audit procedures in a manner that addresses the risks of material misstatement for each relevant assertion of each significant account and disclosure.[10]

11. PCAOB standards provide that, when an auditor uses information produced by the company as audit evidence, the auditor should perform procedures to test the accuracy and completeness of that information, or test the controls over the accuracy and completeness of that information.[11]

12. PCAOB standards also require that, when the auditor is engaged to audit supplemental information accompanying the financial statements of the audit client, the auditor should perform audit procedures to obtain appropriate audit evidence sufficient to support the auditor's opinion regarding whether the supplemental information is fairly

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[7] See AU § 508.07, *Reports on Audited Financial Statements.*

[8] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; and Auditing Standard No. 15, *Audit Evidence* ("AS 15").

[9] See Auditing Standard No. 9, *Audit Planning* ("AS 9"), ¶¶ 4-5; Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"), ¶¶ 4-58.

[10] See AS 12 ¶ 59; Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"), ¶ 8.

[11] See AS 15 ¶ 10.

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stated, in all material respects, in relation to the financial statements as a whole.[12] In doing so, the auditor should perform procedures to test the accuracy and completeness of the information presented in the supplemental information.[13]

13. According to PCAOB standards, if an auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the financial statements as a whole are free of material misstatement, the auditor should express a qualified opinion or a disclaimer of opinion.[14]

14. As described below, Team Respondents failed to comply with PCAOB rules and standards in connection with the Audit.

Audit of VFM's 2014 Financial Statements

15. At all relevant times, VFM was a Delaware limited liability corporation headquartered in Stamford, Connecticut. VFM's public filings disclose that it is registered with the Commission as a broker-dealer operating on a self-clearing basis, and is registered with the Commodity Futures Trading Commission as a futures commission merchant. At all relevant times, VFM was a "broker" and "dealer," as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii). VFM is a "carrying broker-dealer;" that is, it is a broker-dealer that maintains custody of customer funds and securities.

16. On August 29, 2014, VFM filed with the Commission a Form X-17A-5 Part III for FYE June 30, 2014. Included in that filing was the Firm's FY 2014 audit report dated August 26, 2014 ("Audit Report"). Werner authorized the Firm's issuance of the Audit Report, which expressed an unqualified opinion on VFM's financial statements and supporting schedules, and stated, among other things, that the Firm's audit was conducted in accordance with PCAOB standards. Fulvio, as the engagement quality reviewer, provided concurring approval of issuance of the Audit Report.

17. As of FYE June 30, 2014, VFM reported assets of approximately $1.06 billion, revenue of approximately $93.3 million, and net income of approximately $1.6

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[12] See Auditing Standard No. 17, *Auditing Supplemental Information Accompanying Audited Financial Statements* ("AS 17"), ¶¶ 2-3.

[13] Id. ¶ 4(e).

[14] See Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), ¶ 35.

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million. VFM also reported the fair value of its securities owned at approximately $124.5 million, and of its securities sold (not yet purchased) at approximately $257.4 million; those assets and liabilities were material to VFM's financial statements. For the VFM Audit, Team Respondents set planning materiality at $705,981.

18. During audit planning, Team Respondents identified overstatement of investments as a significant risk in the audit area of "Securities/Other Investments," and assessed this risk as high with respect to the valuation of those securities. VFM's Securities/Other Investments included both securities VFM owned and those that it had sold with an obligation to repurchase ("securities sold (not yet purchased)"). With respect to VFM's securities owned, Team Respondents assessed the overall risk of material misstatement as high for the valuation and completeness assertions. For VFM's securities sold (not yet purchased), Team Respondents failed to perform any risk assessment procedures at all, in violation of PCAOB standards.[15]

19. To test the value of VFM's securities owned and its securities sold (not yet purchased), Team Respondents needed to evaluate, among other things, the quantity of the securities VFM held. However, in performing that evaluation during the Audit, Team Respondents relied solely on information produced by VFM without performing any procedures to test either the accuracy and completeness of that information, or VFM's controls over the accuracy and completeness of the information, as required by PCAOB standards.[16] As a result, Team Respondents failed to obtain sufficient appropriate audit evidence concerning the value of both VFM's securities owned and its securities sold (not yet purchased).[17]

Supplemental Information in VFM's Supporting Schedules

20. Additionally, Team Respondents failed to obtain sufficient appropriate audit evidence regarding the supplemental information in the supporting schedules that accompanied VFM's FY 2014 financial statements. Rule 17a-5 required VFM to file

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[15] See AS 9 ¶¶ 4-5; AS 12 ¶ 4.

[16] PCAOB standards provide that, when using information produced by the company as audit evidence, the auditor should "test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information." AS 15 ¶ 10.

[17] See AS 15 ¶¶ 4-6.

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certain supporting schedules that are audited by a PCAOB-registered firm.[18] PCAOB standards provide that the objective of such audit procedures is to obtain appropriate audit evidence that is sufficient to support the auditor's opinion regarding whether the supplemental information is fairly stated, in all material respects, in relation to the financial statements as a whole.[19]

21. One of VFM's supporting schedules reported on its compliance with a Commission rule requiring VFM to, among other things, maintain a reserve of funds or qualified securities in an account at one or more banks for the exclusive benefit of customers (the "Reserve Requirements Rule").[20] Another VFM supporting schedule reported on its compliance with a Commission rule requiring it to, among other things, maintain a sufficient amount of net capital liquidity to satisfy claims promptly ("Net Capital Rule").[21]

22. In these supporting schedules, VFM reported net capital of approximately $36 million, which it reported was about $18 million in excess of its minimum net capital requirement. VFM also reported cash segregated for the exclusive benefit of its customers of approximately $63 million, which it reported was about $3 million in excess of its reserve requirement. As in the securities testing described above, Team Respondents' procedures concerning these supporting schedules relied solely on information produced by VFM without testing that information for accuracy and completeness, or testing the VFM controls over the accuracy and completeness of that information. Consequently, Team Respondents violated PCAOB standards by failing to obtain sufficient appropriate audit evidence that the supplemental information in the supporting schedules was fairly stated, in all material respects, in relation to the financial statements as a whole.[22]

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[18] See Rule 17a-5(d)(1)(i)(A), (C) and (g).

[19] See AS 17 ¶ 3.

[20] See 17 C.F.R. § 240.15c3-3, *Customer Protection – Reserves and Custody of Securities* ("Rule 15c3-3"). Rule 15c3-3, known as the Customer Protection Rule, contains the Reserve Requirements Rule at 15c3-3(e).

[21] See 17 C.F.R. § 240.15c3-1, *Net Capital Requirements for Brokers or Dealers* ("Rule 15c3-1").

[22] See AS 17 ¶¶ 2-4.

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D. Team Respondents Violated PCAOB Attestation Standard No. 1 in Their Examination of VFM's 2014 Compliance Report

Certain Commission Reporting Requirements for VFM

23. Under the Commission's "financial responsibility rules,"[23] VFM had to satisfy certain requirements relating to net capital and the protection of customer assets.[24] Additionally, Rule 17a-5 required VFM to file with the Commission an annual report containing a) a financial report that included financial statements and supporting schedules,[25] b) a compliance report concerning, among other things, the effectiveness of VFM's internal controls over compliance with the financial responsibility rules;[26] and c) a report by a PCAOB-registered firm based on an examination of VFM's financial and compliance reports.[27] Rule 17a-5 also required that the audit of the financial report and the examination of the compliance report be performed in accordance with PCAOB standards.[28]

24. In the compliance report, VFM had to make certain statements ("assertions") about its compliance with the financial responsibility rules, including that: a) its Internal Control Over Compliance[29] ("ICOC") was effective during the most recent

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[23] The term "financial responsibility rules" includes Rule 15c3-1; Rule 15c3-3; 17 C.F.R. § 240.17a-13, *Quarterly Security Counts to be Made by Certain Exchange Members, Brokers, and Dealers*; and any rule of a broker's or dealer's designated examining authority that requires account statements to be sent to the customers of the broker or dealer. The financial responsibility rules are the same as the rules cited in Rule 17a-5(d)(3)(ii).

[24] Although some broker-dealers qualify for exemption from one of the financial responsibility rules, Rule 15c3-3, VFM as a carrying broker-dealer did not qualify for exemption.

[25] See Rule 17a-5(d)(1)(i)(A), (d)(2).

[26] See Rule 17a-5(d)(1)(i)(B)(1), (d)(3).

[27] See Rule 17a-5(d)(1)(i) and (g).

[28] See Rule 17a-5(g).

[29] Rule 17a-5(d)(3)(ii) provides: "The term *Internal Control Over Compliance* means internal controls that have the objective of providing the broker or dealer with

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fiscal year; b) its ICOC was effective as of the end of the most recent fiscal year; and c) it was in compliance with Rule 15c3-1 and Rule 15c3-3(e) as of the end of the most recent fiscal year.[30]

PCAOB Attestation Standard No. 1

25. AT 1 provides that, in performing an examination of the broker-dealer's compliance report, the auditor's objective is to express an opinion regarding whether the assertions in the compliance report are fairly stated, in all material respects.[31] AT 1 also provides that, to express such opinion, the auditor must plan and perform the examination to obtain appropriate evidence that is sufficient to obtain reasonable assurance about whether 1) one or more material weaknesses[32] existed during, or as of the end of, the most recent fiscal year being reported; and 2) one or more instances of non-compliance with the Net Capital Rule or the Reserve Requirements Rule existed as of the end of the most recent fiscal year being reported.[33] As noted in AT 1, the auditor's examination should include an evaluation of the effectiveness of ICOC with each financial responsibility rule during, and as of the end of, the most recent fiscal year.[34]

26. AT 1 also provides that the auditor must exercise due professional care and professional skepticism when planning and performing the examination

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reasonable assurance that non-compliance with §240.15c3-1, §240.15c3-3, §240.17a-13, or any rule of the designated examining authority of the broker or dealer that requires account statements to be sent to the customers of the broker or dealer (an 'Account Statement Rule') will be prevented or detected on a timely basis."

[30] See Rule 17a-5(d)(3)(i)(A).

[31] See AT 1 ¶ 3.

[32] A "material weakness" is one or more deficiencies in ICOC such that there is a reasonable possibility that non-compliance with the Net Capital Rule or Reserve Requirements Rule will not be prevented or detected on a timely basis, or that non-compliance to a material extent with Rule 15c3-3 (except for the Reserve Requirements Rule element), among other things, will not be prevented or detected on a timely basis. See AT 1, Appendix A ¶ A4.

[33] See AT 1 ¶ 4.

[34] Id. ¶ 4, Note.

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engagement, and that the engagement partner is responsible for proper planning and supervision of work for the engagement.[35] Additionally, when planning the examination of the compliance report, the auditor should obtain an understanding of the broker-dealer's processes regarding compliance with the financial responsibility rules, which includes evaluating the design of controls relevant to the examination and determining whether they have been implemented.[36] When performing the examination, the auditor must test the controls that are important to his or her conclusion about whether the broker-dealer has maintained effective ICOC for each financial responsibility rule during the fiscal year and at fiscal year-end, and must obtain evidence that the tested controls are designed effectively and operated effectively during the fiscal year and at fiscal year-end.[37] AT 1 further requires the auditor to conduct tests to determine whether the broker-dealer was in compliance with the Net Capital Rule and Reserve Requirements Rule at fiscal year-end; the auditor does this by, among other things, testing the accuracy and completeness of the information that the broker-dealer used to compute its compliance with those rules at fiscal year-end.[38]

27. As described below, Team Respondents failed to comply with applicable PCAOB rules and standards in connection with their examination of the assertions made by VFM in its FYE June 30, 2014 compliance report (the "Examination").

Team Respondents' Examination of VFM's 2014 Compliance Report

28. On August 29, 2014, VFM filed Form X-17A-5 Part III for FY 2014 with the Commission. Included in that filing was VFM's FY 2014 compliance report dated August 26, 2014 ("Compliance Report"). On August 26, 2014, Werner had authorized the Firm's issuance of its examination report concerning VFM's Compliance Report ("Examination Report"), and Fulvio, as the engagement quality reviewer, provided concurring approval of issuance of the Examination Report. The Examination Report expressed Respondents' opinion that VFM's assertions in the Compliance Report were fairly stated, in all material respects, and the Examination Report stated, among other things, that the Examination was conducted in accordance with PCAOB standards.

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35 Id. ¶¶ 6(d), 7.

36 Id. ¶ 9(b) and Note.

37 Id. ¶ 11.

38 Id. ¶ 21.

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29. Team Respondents failed to plan and perform the Examination to obtain appropriate evidence sufficient to provide reasonable assurance about whether there were material weaknesses in VFM's ICOC, as required by AT 1.[39] In particular, Team Respondents did not comply with the AT 1 requirement to obtain an understanding of VFM's ICOC.[40] In addition, Team Respondents failed to test key ICOC controls and obtain evidence that they were designed effectively and operating effectively, as required by AT 1.[41]

30. Team Respondents also violated AT 1 by failing to perform sufficient tests to determine that VFM was in compliance with the Net Capital Rule at FYE June 30, 2014.[42] Specifically, Team Respondents failed to test the accuracy and completeness of the information that VFM used to compute its compliance with the Net Capital Rule at fiscal year-end.[43]

31. As a result of the above deficiencies, Team Respondents lacked a sufficient basis for their opinion that VFM's assertions in its 2014 Compliance Report were fairly stated, in all material respects. Consequently, Team Respondents violated AT 1.[44]

E. Fulvio Violated PCAOB Rules and Standards in Connection with the Engagement Quality Reviews for the Audit and Examination

32. Auditing Standard No. 7, *Engagement Quality Review*, requires that an engagement quality review be performed on all audits and certain attestation engagements conducted pursuant to PCAOB standards.[45] AS 7 also provides that a firm may grant permission to an audit client to use the firm's audit report or examination

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39 Id. ¶ 4; Appendix A ¶ A4.

40 Id. ¶ 9(b) and Note.

41 See AT 1 ¶¶ 9(b), 11.

42 Id. ¶ 21.

43 Id.

44 Id. ¶¶ 3-4.

45 See AS 7 ¶ 1.

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report only after an engagement quality reviewer provides concurring approval of issuance of the report.[46]

33. Moreover, under AS 7, the engagement quality reviewer may provide concurring approval of issuance for an audit or examination report only if, after performing with due professional care the review required by AS 7, he or she is not aware of a significant engagement deficiency.[47] AS 7 states that a significant engagement deficiency in an audit exists under any of the following four circumstances: "(1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client."[48] A significant engagement deficiency in an attestation engagement exists under any of the final three circumstances described above, or when "the engagement team failed to perform attestation procedures necessary in the circumstances of the engagement."[49]

34. An engagement quality reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[50] In performing an engagement quality review for an audit, the engagement quality reviewer should, among other things, evaluate the engagement team's assessment of, and audit responses to, significant risks, including fraud risks, identified by the engagement team or other significant risks identified by the engagement quality reviewer.[51] The engagement quality reviewer should also evaluate whether the engagement documentation that he or she reviewed indicates that the engagement team responded appropriately to significant risks and whether the engagement documentation that he or she reviewed supports the conclusions reached by the engagement team with respect to

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46 Id. ¶¶ 13, 18C.

47 Id. ¶¶ 12, 18B.

48 Id. ¶ 12, Note.

49 Id. ¶ 18B, Note.

50 Id. ¶¶ 9, 18A.

51 Id. ¶ 10(b).

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matters reviewed.[52] Finally, the engagement quality reviewer should review the engagement completion document and other relevant information.[53]

35. In connection with the Audit, Fulvio failed to appropriately evaluate the significant judgments made, and the related conclusions reached, by the engagement team with respect to significant areas of the Audit, including valuation of securities owned and securities sold (not yet purchased). Fulvio similarly failed to appropriately evaluate the significant judgments made, and the related conclusions reached, by the engagement team with respect to significant areas of the Examination, including the testing of VFM's ICOC and the testing of VFM's compliance with the Net Capital Rule at fiscal year-end.

36. Indeed, Fulvio failed to obtain and evaluate any audit documentation with respect to the significant judgments made, and the related conclusions reached, by the engagement team in either the Audit or the Examination. Tellingly, the sole evidence in the Firm's audit file of any work performed by Fulvio is a Supervision, Review, and Approval Form. This work paper is simply a checklist in which Fulvio checked "Yes" to 17 sets of statements that track requirements in AS 7 and AS 3, with no references to other work papers. Notably, in response to the checklist statement, "I have reviewed the engagement completion document," Fulvio checked "Yes," even though Team Respondents never created an engagement completion document for the Audit or Examination, as required by PCAOB standards.[54]

37. Fulvio provided his concurring approvals of issuance without performing the engagement quality reviews with due professional care, and accordingly violated AS 7.

F. Werner and Clark Improperly Altered Audit Documentation and Failed to Cooperate with a Board Inspection

38. The PCAOB audit documentation standard, AS 3, requires, among other things, that prior to the report release date, the auditor must have completed all

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[52] Id. ¶ 11.

[53] Id. ¶¶ 10(e), 18A.

[54] See AS 3 ¶ 13. Furthermore, as the engagement quality reviewer, Fulvio violated PCAOB standards by failing to review an engagement completion document for the Audit and Examination. See AS 7 ¶¶ 10(e), 18A.

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necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report.[55] Respondents' report release date for the Audit was August 29, 2014.

39. Additionally, AS 3 requires that a complete and final set of audit documentation be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its report.[56] After the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date of the addition, the person who prepared the additional documentation, and the reason for adding the documentation.[57] The documentation completion date for the Audit was October 13, 2014.

40. PCAOB rules require that registered public accounting firms and their associated persons "shall cooperate with the Board in the performance of any Board inspection."[58] This cooperation obligation "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes."[59]

41. As described below, Werner and Clark violated PCAOB Rule 4006 and AS 3.

42. After the report release date, Werner and Clark knew that the engagement team was still attempting to obtain evidence in connection with various aspects of the audit, including evidence for a "Customer Fully Paid Possession Testing" work paper ("Fully Paid Possession" work paper). Werner and Clark also knew that this work paper was created to give the misleading impression that certain audit procedures were performed before the report release date.

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[55] AS 3 ¶ 15; see also id. ¶ 14 (defining report release date).

[56] See id. ¶ 15.

[57] See id. ¶ 16.

[58] See PCAOB Rule 4006.

[59] See *Deloitte Touche Tohmatsu Auditores Independentes,* PCAOB Rel. No. 105-2016-031, ¶ 62 (December 5, 2016); *José Domingos do Prado*, PCAOB Rel. No. 105-2016-032, ¶ 55 (December 5, 2016); *Nathan M. Suddeth, CPA*, PCAOB Rel. No. 105-2013-007, ¶ 4 (September 10, 2013).

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43. On or before November 10, 2014, the Board notified Respondents that the Firm's VFM audit would be reviewed during an inspection, with inspection fieldwork to start the week beginning December 8, 2014. In fact, since being notified in May 2014 that the Board would inspect the Firm at year-end, Respondents had suspected that the VFM audit would be reviewed because VFM was the Firm's only broker-dealer client not exempt from Rule 15c3-3.

44. In anticipation of the inspection, Werner and Clark also created and altered documents and improperly added them to the audit work papers after the documentation completion date without making any disclosures required by AS 3. These documents did not exist at the time of the audit. The misleading documents were then made available to the Board's inspectors in connection with the Firm's inspection, without any disclosure that they had recently been added to the VFM work papers.

45. The misleading documents consisted of several audit work papers. Specifically, a Control Environment work paper was created a few days after Respondents received notification of the Board inspection of the VFM audit, and an Internal Controls Questionnaire work paper also was created after the documentation completion date. Additionally, in an email that Clark sent to a Firm subordinate who was belatedly seeking evidence from VFM for the Fully Paid Possession work paper, Clark advised, "Tell [VFM] that the PCAOB is coming at the end of November to review the files and that we're trying to dot the 'I's' and cross the 't's' in our workpapers." This work paper, too, was improperly added to the audit documentation as described above.

46. By creating and improperly adding documentation to the VFM Audit work papers in anticipation of the PCAOB inspection and making those misleading documents available to the PCAOB inspectors, Werner and Clark violated PCAOB Rule 4006 and AS 3.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Fulvio & Associates, L.L.P., Kenneth Werner, CPA, Gennaro Fulvio, CPA, and Kevin Clark, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Fulvio & Associates, L.L.P. is revoked;

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C. After one (1) year from the date of this Order, Fulvio & Associates, L.L.P. may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Kenneth Werner, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[60]

E. After two (2) years from the date of this Order, Kenneth Werner, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

F. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date of this Order, Gennaro Fulvio's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Gennaro Fulvio shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's Auditing Standard No. 10 or AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's Auditing Standard No. 7 or AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other

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[60] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Werner. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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auditor," or "another auditor," as those terms are used in the Board's Interim Auditing Standard AU Section 543 or AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

G. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Kevin Clark, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[61]

H. After one (1) year from the date of this Order, Kevin Clark, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

I. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon Fulvio & Associates, L.L.P, and a civil money penalty in the amount of $10,000 is imposed upon Kenneth Werner, CPA. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Fulvio & Associates, L.L.P. and Kenneth Werner, CPA shall pay their respective civil money penalties within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the payor as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W.

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[61] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Clark. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

June 27, 2017

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2017-030
In the Matter of Kent M. Bowman, CPA,	July 25, 2017
Respondent.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Kent M. Bowman, CPA ("Bowman," or "Respondent"); (2) barring Bowman from being associated with a registered public accounting firm;[1] (3) if Bowman is permitted to associate once again with a registered public accounting firm, limiting his activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), until two (2) years from the date of this Order, by prohibiting Bowman from serving in certain capacities in any audit as described in Section IV.D. herein; and (4) imposing upon him a civil money penalty in the amount of $25,000. The Board is imposing these sanctions on the basis of its findings that Bowman violated PCAOB rules and standards in connection with two audits for one issuer client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against the Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction

[1] Bowman may petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Kent M. Bowman, 61, of Salt Lake City, Utah, is a certified public accountant licensed by the State of Utah Department of Professional Licensing (License No. 141654-2601). Bowman is a partner in the registered public accounting firm Tanner LLC ("Tanner" or the "Firm"), located in Salt Lake City, Utah, and he served as engagement partner on the audits discussed below. At all relevant times, Bowman was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Bowman's violations of PCAOB rules and standards in connection with the audits of the financial statements of ActiveCare, Inc. ("AC") for the years ended September 30, 2012 and September 30, 2013. As detailed below, Bowman failed to exercise due professional care and professional skepticism, and failed to obtain sufficient appropriate audit evidence in connection with each of these audits (the "AC Audits").

3. Specifically, during the AC Audits, Bowman was aware of red flags and audit evidence that contradicted AC's practice of recognizing revenue immediately upon making bulk shipments of certain health care products to health care plans or intermediaries. The revenue AC recognized on those products constituted

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[2] The findings herein are made pursuant to Respondent's Offer, and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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approximately 46% and 85% of AC's reported revenue in fiscal years ("FY") 2012 and 2013, respectively. Bowman was aware that (1) AC's revenue recognition practices were contrary to the terms of AC's written contracts; (2) in both AC Audits, an AC "customer" indicated that it did not owe, or did not yet owe, amounts that AC had recognized as revenue; and (3) AC had undertaken a significant unusual transaction *after* its fiscal year-end 2013, pursuant to which it purported to transfer products from one customer to another retroactive to *before* its fiscal year-end 2013.

4. Despite his awareness of these red flags and contradictory audit evidence, Bowman abandoned his obligation to exercise due professional care and professional skepticism, failed to perform sufficient procedures to resolve inconsistences and contradictions in the audit evidence, and, as a result, failed to obtain sufficient appropriate audit evidence to support Tanner's audit opinions.

5. In October 2014, AC disclosed that its prior revenue recognition policy—to recognize revenue immediately upon making bulk shipments of products to health care plans or intermediaries—was incorrect. AC restated its FY 2013 financial statements in November 2014, reducing originally reported revenue by $5.5 million, or more than 56%.

C. Respondent Violated PCAOB Rules and Standards

Applicable PCAOB Rules and Standards

6. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable Board auditing and related professional practice standards.[4] An auditor may express an unqualified opinion on an issuer's financial statements only

[4] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB standards are to the versions of those standards in effect at the time of the AC Audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Rel. No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2016), https://pcaobus.org/Standards/Auditing/ Documents/PrintableReferenceTable.pdf.

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when the auditor has formed that opinion on the basis of an audit performed in accordance with PCAOB standards.[5]

7. Those standards require, among other things, that an auditor must plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[6] PCAOB standards also require, if audit evidence obtained from one source is inconsistent with that obtained from another, or if the auditor has doubts about the reliability of information to be used as audit evidence, that the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit.[7]

8. Although management representations "are part of the evidential matter the independent auditor obtains, . . . they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[8] Moreover, if a management representation "is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made."[9]

9. PCAOB standards further require that an auditor exercise due professional care and professional skepticism in performing the audit.[10] Professional

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[5] See AU § 508.07, Reports on Audited Financial Statements; Auditing Standard No. 1, References in Auditors' Reports to the Standards of the Public Company Accounting Oversight Board, ¶ 3.

[6] See Auditing Standard No. 15, *Audit Evidence*, ("AS 15") ¶ 4.

[7] See id. at ¶ 29. PCAOB standards also require the auditor, in forming an opinion on whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework, to take into account all relevant audit evidence, regardless of whether it appears to corroborate or to contradict the assertions in the financial statements. See Auditing Standard No. 14, *Evaluating Audit Results*, ("AS 14") ¶ 3.

[8] AU § 333.02, Management Representations.

[9] Id. at ¶ .04.

[10] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*.

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skepticism, PCAOB standards explain, "is an attitude that includes a questioning mind and a critical assessment of audit evidence."[11]

10. In the case of significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment, PCAOB standards require the auditor to "design and perform procedures to obtain an understanding of the business purpose (or the lack thereof) of each significant unusual transaction that the auditor has identified" and to "evaluate whether the business purpose (or the lack thereof) indicates that the significant unusual transaction may have been entered into to engage in fraudulent financial reporting or conceal misappropriation of assets."[12]

11. As described below, Bowman failed to comply with PCAOB rules and standards in connection with the AC Audits.

2012 AC Audit

12. Bowman was the engagement partner on the Firm's audit of AC's year ended September 30, 2012 financial statements ("2012 Audit"). AC's filings with the Securities and Exchange Commission ("Commission") disclosed that it provided products and services related to chronic illness monitoring and personal emergency response monitoring services. At all relevant times, AC's common stock was registered under Section 12(g) of the Securities Exchange Act of 1934 and was quoted on the OTCQB under the symbol "ACARD." At all relevant times, AC was an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

13. Bowman, as engagement partner, authorized the Firm's issuance of an audit report, dated January 15, 2013, expressing an unqualified audit opinion on AC's financial statements for the year ended September 30, 2012 ("FY 2012"). The report, which included an explanatory paragraph indicating that there was substantial doubt about AC's ability to continue as a going concern, was included in AC's FY 2012 Form 10-K filed with the Commission on January 15, 2013.[13]

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[11] AU § 230.07.

[12] See AU §§ 316.66A, .67, Consideration of Fraud in a Financial Statement Audit.

[13] In connection with a Form 10-K/A filed by AC to correct a transpositional error in the originally filed financial statements, which had resulted in an $8

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Revenue Recognition: CIM Products

14. During the 2012 Audit, Bowman identified improper revenue recognition as a fraud risk. Bowman understood, and AC's public filings disclosed, that AC had acquired during FY 2012 a company specializing in the sale of chronic illness monitoring ("CIM") products, including diabetes testing kits with blood glucose monitors and test strips. Sales of CIM products were one of three primary revenue sources AC reported for FY 2012.[14]

15. AC's Form 10-K disclosed that the Company entered into agreements with self-insured companies with respect to CIM products. The Company further disclosed that it recognized CIM-related revenues "when persuasive evidence of an arrangement with the customer exists, title passes to the customer, prices are fixed or determinable, and collection is reasonably assured."[15]

16. Bowman documented his understanding during the 2012 Audit that, upon signing a contract with a company to provide CIM products, AC would (a) obtain lists of diabetic patients from the company; (b) send letters directly to the company's diabetic patient end-users informing them of the opportunity to receive the product at no cost; then (c) after a brief opt-out period, ship CIM products directly to the identified diabetic end-users. Bowman further documented his understanding that AC recognized revenue upon shipment of the products to the identified end-users.

Health Plan X Transaction

17. During the 2012 Audit, Bowman became aware that, shortly before fiscal year-end ("FYE") 2012, AC recognized a substantial amount of revenue in a manner contrary to his understanding of how the Company had been recognizing CIM revenue. Specifically, just two days before FYE 2012, AC recognized $331,000 in revenue—nearly half of its reported CIM revenue and more than 20 percent of its total reported revenue for FY 2012—immediately upon shipping CIM products in bulk to a health plan entity ("Health Plan X"), rather than directly to Health Plan X's diabetic end-users. Bowman failed to properly evaluate AC's recognition of the Health Plan X revenue and failed to adequately consider contrary audit evidence indicating that the Company's

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misstatement, Bowman also authorized the Firm's issuance of a second unqualified audit report dated January 25, 2013. See AC 2012 Form 10-K/A (Jan. 25, 2013).

[14] See id. at F-7.

[15] Id. at F-15.

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recognition of that revenue may not have been in conformity with U.S. generally accepted accounting principles.

18. As Bowman was aware during the 2012 Audit, AC's recognition of the Health Plan X revenue was not only inconsistent with his understanding of how AC had historically been recognizing CIM revenue, it also appeared to be inconsistent with the terms of the agreement between AC and Health Plan X. Bowman reviewed AC's written service contract with Health Plan X during the 2012 Audit. The contract, executed on September 28, 2012, just prior to FYE 2012, stipulated that Health Plan X would undertake certain implementation steps to identify for AC eligible diabetic patients, all of whom would be provided an opportunity to opt out of receiving CIM products from AC. According to the contract, AC would then distribute CIM products directly to eligible patients who had not opted out ("Covered Patients"), and Health Plan X would "reimburse" AC "for all claims submitted on" Covered Patients.

19. Despite reviewing those terms and despite knowing that AC had neither shipped any CIM Products to Covered Patients nor submitted any claims to Health Plan X on Covered Patients, Bowman failed to adequately question the appropriateness of AC immediately recognizing $331,000 in revenue in connection with the bulk shipment of CIM products to Health Plan X.

20. Bowman also encountered contradictory audit evidence when Health Plan X responded to a confirmation request the engagement team had sent. Health Plan X's confirmation response stated that, although the $331,000 balance was correct based on the amount of CIM products shipped to Health Plan X, "payment [would] be made on a claim incurred basis."

21. Under Bowman's direction, the engagement team called Health Plan X management to address the confirmation response. Based on that call, Bowman understood that Health Plan X expected to deploy CIM products to Covered Patients at a future point. Bowman agreed with AC management's decision to recognize this revenue, but neither Bowman, nor anyone else on the engagement team, documented why the discussion with Health Plan X management supported AC's determination to recognize $331,000 in revenue on the same day it executed the Health Plan X contract.

22. Bowman's failure to appropriately evaluate AC's recognition of the Health Plan X revenue, particularly in light of his awareness of significant contradictory audit evidence, represented a failure to exercise due professional care and professional skepticism, a failure to perform audit procedures necessary to resolve inconsistencies

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and contradictions, and a failure to obtain sufficient appropriate audit evidence to provide a reasonable basis for Tanner's opinion on AC's FY 2012 financial statements.[16]

2013 AC Audit

23. Bowman was the engagement partner on the Firm's audit of AC's year ended September 30, 2013 financial statements ("2013 Audit"), and authorized the Firm's issuance of an audit report, dated January 13, 2014, expressing an unqualified audit opinion on AC's financial statements. The report, which included an explanatory paragraph indicating that there was substantial doubt about AC's ability to continue as a going concern, was included in AC's 2013 Form 10-K filed with the Commission on January 14, 2014.

Revenue Recognition: CIM Products

24. As in the prior year audit, Bowman identified improper revenue recognition as a fraud risk. During the 2013 Audit, Bowman understood that, for the majority of its CIM product sales, AC immediately recognized revenue, as it had in connection with the Health Plan X transaction, upon shipment to its contracting counterparty, rather than upon distribution to Covered Patients. Bowman also knew that AC's reported CIM sales for FY 2013 had increased more than 13-fold, to approximately $9.7 million, which represented more than 85 percent of AC's total reported revenue for FY 2013. Bowman was also aware that AC's receivables outstanding over 30 days had increased substantially in FY 2013, to 90%, from 24% in FY 2012.

25. Despite identifying the risk that AC would recognize revenue improperly, and despite the increasing amount of AC's reported CIM product sales for FY 2013, Bowman again during the 2013 Audit failed to properly evaluate AC's recognition of CIM revenue. More specifically, Bowman again concluded that AC's practice of recognizing CIM revenue immediately upon making bulk shipments to its contracting counterparties was appropriate, notwithstanding (1) his awareness of contract terms that appeared to be squarely inconsistent with AC's revenue recognition practices; and (2) AC's entry into a significant unusual transaction due to an exception in a counterparty's confirmation response.

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[16] See AU § 230.07; AS 14 ¶ 3; AS 15 at ¶¶ 29, 4.

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The Contracts Bowman Reviewed Were Inconsistent with AC's Revenue Recognition Practice

26. As part of the 2013 Audit, Bowman reviewed four service contracts AC executed during FY 2013. Shortly after entering each of those contracts, AC made a bulk shipment of CIM products to its counterparty (or to a third-party warehouse) and immediately recognized revenue for the products shipped. AC recorded revenue of $8.9 million pursuant to those four contracts, representing 91% of total CIM revenue, and 78% of its total reported revenue, for FY 2013.

27. As Bowman was aware, each contract stated that: AC's counterparty would identify Covered Patients; AC would distribute CIM products directly to those Covered Patients; and AC would then make "claims" for "reimbursement" for the products it had distributed. Further, in three of the four contracts, AC agreed to submit those claims for reimbursement, not to its contracting counterparty, but rather to a health care benefits provider that was not a party to the contract. Thus, under the written terms of those three contracts, AC's counterparty appeared to have no payment obligations.

28. Despite reviewing those contracts during the 2013 Audit, Bowman failed to obtain any acceptable explanation from management that reconciled the contracts' written terms with AC's revenue recognition approach. Further, Bowman failed to obtain sufficient appropriate audit evidence concerning the amount of CIM products, if any, that had been deployed to Covered Patients under the contracts, or the status of any claims for reimbursement that AC had made.

Bowman Failed to Appropriately Evaluate a Significant Unusual Transaction AC Undertook in Response to an Exception to a Confirmation Response

29. One of the four service contracts Bowman reviewed during the 2013 Audit was executed by AC and a "disease management provider" ("DMP") in March 2013. The DMP contract was one of those in which AC agreed not only to distribute CIM products directly to Covered Patients, but also to submit claims for reimbursement to a health care benefits provider that was not a party to the contract.

30. Bowman understood that AC originally recognized revenue for a "sale" of CIM products to DMP on March 29, 2013, for approximately $3.7 million, or approximately 32% of AC's overall reported revenue for the year. Bowman understood that the sale to DMP was a significant transaction, and understood that AC had shipped CIM products to a third party warehouse rather than to Covered Patients.

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31. During the 2013 Audit, the engagement team sent a confirmation request to DMP that listed an accounts receivable balance for CIM products of approximately $2.1 million.[17] DMP responded to the confirmation request by stating: "The above balance is not correct. [DMP] does not have any balance due to ActiveCare." The response was received on November 19, 2013, after FYE 2013.

32. After the Tanner engagement team contacted DMP and asked it to elaborate on its initial response, DMP's CFO provided the following supplemental response, dated December 10, 2013: "I was asked to expand upon my first comment. [DMP] has a relationship with ActiveCare, where [DMP] never takes title to any equipment, but upon the successful implementation [DMP] is then due a commission. The only balance sheet entry [DMP] has recorded is a Commission Receivable."

33. Upon receiving DMP's supplemental response, Bowman discussed the response with AC management, which maintained that the transaction with DMP was legally enforceable and that the associated revenue had been appropriately recognized.

34. Notwithstanding AC's contention that the DMP shipment was an enforceable sale, the engagement team's work papers document that, on or about December 30, 2013 (three months after FYE 2013), AC entered into an agreement that purported: (1) to transfer the CIM products originally "sold" to DMP to another entity; and (2) to make the "transfer" retroactive to September 27, 2013, three days prior to FYE 2013. After reviewing that "transfer agreement" and discussing the issue with AC's management, Bowman documented his conclusion "concur[ring] with the client's assertion that revenue [originally associated with DMP] should be recorded for the year-ended 9-30-13, and the receivable exists and remains appropriate."

35. Bowman failed to obtain sufficient appropriate audit evidence to support that conclusion. In particular, he failed to exercise due professional care and skepticism in evaluating: (a) the significance of DMP's exception in the confirmation response; and (b) the retroactive "transfer" of CIM products. Moreover, he failed to perform adequate audit procedures to resolve inconsistences and contradictions in the audit evidence.[18]

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[17] During the 2013 Audit, Bowman learned that DMP had returned a portion of the original $3.7 million of CIM product to AC at some point in FY 2013, so that the outstanding receivable balance recorded for DMP was approximately $2.1 million as of FYE 2013.

[18] See AS 14 at ¶ 3; AS 15 at ¶¶ 4, 29; AU § 230.07.

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36. PCAOB standards provide that, in evaluating the results of confirmation procedures, an auditor should, among other things, consider "the nature of any exceptions, including the implications, both quantitative and qualitative, of those exceptions."[19] Bowman failed to sufficiently undertake those steps after receiving the exception in the confirmation response from DMP. Although Bowman and his team followed up on that exception, DMP management explained that, consistent with the contract Bowman had reviewed, DMP did not owe AC any amounts and, in fact, DMP was itself due a commission upon "successful implementation" of the contract. That response should have caused Bowman to question not only AC's recognition of CIM revenue under the DMP contract, but also its recognition of CIM revenue under the other contracts he had reviewed, all of which had similar terms.

37. With respect to the December 2013 "transfer" of CIM products from DMP to another entity, that purported transfer was a significant unusual transaction that Bowman should have evaluated in considering whether AC's FY 2013 financial statements were materially misstated due to fraud. Among other things, he needed to consider "[w]hether management [wa]s placing more emphasis on the need for a particular accounting treatment than on the underlying economics of the transaction."[20]

38. Bowman agreed with AC management's contention that the "transferred" DMP shipment was appropriately recognized as revenue during FY 2013, but failed to make the required evaluation of the transaction. Among other things, he failed, to appropriately consider that: (1) the agreement that purported to transfer the CIM products from DMP to the other entity as of FYE 2013 was not executed until several months after FYE 2013; and (2) DMP, the purported owner of the CIM products, was not even a party to the transfer agreement. Bowman also failed to consider that the transfer agreement contained no payment schedule, or date certain by which the transferee was required to pay AC, or date by which the transferee was required to deploy the products to Covered Patients.

39. As a result of the failures described above, Bowman did not obtain sufficient appropriate audit evidence to provide a reasonable basis for Tanner's opinion on AC's FY 2013 financial statements.[21]

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[19] AU § 330.33, The Confirmation Process.

[20] AU § 316.67.

[21] See id.

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Restatement

40. On October 3, 2014, AC filed a Form 8-K with the Commission, disclosing that its financial statements for FY 2013 included accounting errors, and could no longer be relied upon. Specifically, AC disclosed that its prior revenue recognition policy—to immediately recognize revenue on certain diabetes products upon shipment to "distributors"—was incorrect, and that it was "better practice to defer revenue recognition until the products are shipped to the end users as opposed to the distributors."

41. On November 10, 2014, AC filed with the Commission an amended Form 10-K containing restated FY 2013 financial statements. Bowman authorized the issuance of an audit report expressing an unqualified opinion on those restated financial statements, and AC included that audit report its amended Form 10-K. AC's restated financial statements reduced originally stated FY 2013 revenue by $5.5 million, or more than 56%.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Kent M. Bowman is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Kent M. Bowman is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[22]

[22] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Bowman. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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C. After one (1) year from the date of this Order, Kent M. Bowman may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

D. If Kent M. Bowman is permitted to associate once again with a registered public accounting firm, pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(3), for a period of two (2) years from the date of this Order, his role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Bowman shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's Auditing Standard No. 10 or AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's Auditing Standard No. 7 or AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to, but differently denominated from, engagement partner (such as "lead partner" or "practitioner-in-charge") or engagement quality reviewer (such as "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's Interim Auditing Standard AU Section 543 or AS 1205, *Part of the Audit Performed by Other Independent Auditors*; or (6) serve, or supervise the work of another individual serving as a professional practice director; and

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 payable by Kent M. Bowman is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Kent M. Bowman shall pay this civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter which identifies Kent M.

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Bowman as the Respondent in these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 25, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2017-031
In the Matter of Crowe Horwath (HK) CPA Limited,	July 25, 2017
Respondent.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring the registered public accounting firm Crowe Horwath (HK) CPA Limited, a partnership located in the Hong Kong Special Administrative Region of the People's Republic of China (hereinafter, "Respondent" or "the Firm") and revoking the Firm's registration.[1] The Board is imposing these sanctions on the basis of its findings concerning Respondent's noncooperation with a Board investigation, by failing to comply with an Accounting Board Demand requiring the production of documents, including audit work papers.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(3) against the Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Respondent admits the facts, findings, and violations set forth below, and consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[2]

[1] The Firm may reapply for registration after three (3) years from the date of this Order.

[2] The findings herein are made pursuant to the Respondent's Offer, and are not binding on any other person or entity in this or any other proceeding.

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Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer in this matter, the Board finds[3] that:

A. Respondent

1. Respondent is, and at all relevant times was, a partnership headquartered in the Hong Kong Special Administrative Region of the People's Republic of China, and is a member of the Crowe Horwath International network. The Firm is a member of the Hong Kong Institute of Certified Public Accountants ("HKICPA") (License No. M338). The Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules since April 2010.

2. From its registration with the Board through 2016, Respondent issued 50 audit reports for 22 different issuers (publicly traded companies that are required to file audited financial statements with the U.S. Securities and Exchange Commission (the "Commission")). All but two of those issuers reported having operations in Mainland China. Because of the position taken by authorities in Mainland China with respect to audit documentation concerning such operations, the Board has not had access to the information that is necessary to be able to inspect Respondent's issuer audit work as required by the Act and PCAOB Rules.[4]

3. On October 3, 2016, Respondent filed a Form 1-WD requesting leave to withdraw from registration with the Board. Subsequently, the Board determined that permitting Respondent's withdrawal during the pendency of an investigation would be inconsistent with the Board's responsibilities under the Act, and accordingly, pursuant to PCAOB Rule 2107(d), delayed a decision on Respondent's withdrawal request pending the investigation by the Board's Division of Enforcement and Investigations (the "Division").

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[3] The sanctions that the Board is imposing on Respondent in this Order are imposed pursuant to Section 105(b)(3) of the Act, 15 U.S.C. § 7215(b)(3), and PCAOB Rule 5300(b).

[4] In the absence of that obstacle to access, the Board, in the normal course, would have inspected Respondent (including a selection of its audits and a review of its system of quality control) at least twice in the period from 2011 to 2016. Since October 2010, the Board has considered this obstacle to access when evaluating new registration applications from firms in Hong Kong (among other jurisdictions) and has not approved any new applications from Hong Kong firms in that time.

ORDER

B. Respondent Failed to Cooperate with a PCAOB Investigation

4. Pursuant to Section 105(b) of the Act and PCAOB Rules, the Board conducts investigations into acts or practices of registered public accounting firms and their associated persons that may violate any provision of the Act, the Rules of the Board, the provisions of securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards. Section 105(b)(3)(A) of the Act authorizes the Board to sanction a registered public accounting firm for refusing to produce documents in connection with a Board investigation. Board rules include procedures for implementing that authority.[5] Noncooperation with a Board investigation includes failing to comply with an Accounting Board Demand ("ABD").[6]

5. As described below, Respondent failed to cooperate with the Board's investigation in this matter by failing to comply with an ABD, issued to Respondent pursuant to PCAOB Rule 5103, requiring the Firm to produce audit work papers and other documents.

Background

6. Respondent audited the financial statements of a People's Republic of China ("PRC")-based issuer ("Issuer A"). At all relevant times, Issuer A was an issuer.

7. On March 1, 2016, the Board issued an Order of Formal Investigation regarding Respondent's audits and reviews of the financial statements of Issuer A. The investigation arose from the Division's review of Issuer A's filings with the Commission.

Respondent's Failure to Produce Documents

8. Pursuant to the Board's Order of Formal Investigation, on March 10, 2016, the Division issued an ABD requiring Respondent to produce to the Division audit work papers and other documents related to the Firm's audits of Issuer A.

9. Respondent, through counsel, informed the Division in late April 2016 that the Firm would not comply with the ABD requesting audit work papers and other documents relating specifically to the Firm's audits of Issuer A.

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[5] See PCAOB Rules 5110 and 5200(a)(3).

[6] See PCAOB Rule 5110(a)(1).

ORDER

10. Respondent maintains that it sought guidance from the PRC Ministry of Finance ("MOF") about how it may respond to the Division's ABD. According to Respondent, consistent with advice provided by Respondent's PRC-based counsel, the MOF, in effect, directed it not to produce audit work papers maintained within the PRC in the absence of a request by the Division for assistance under a memorandum of understanding between the Board, the China Securities Regulatory Commission ("CSRC") and the MOF (collectively the "parties"), which Respondent believed to be the May 2013 Memorandum of Understanding on Enforcement Cooperation between the parties ("2013 MOU"). The Division informed Respondent, through counsel, that, notwithstanding the MOF's communications, any alleged obstacles created by foreign law were not a valid basis for Respondent's refusal to produce the information called for by the ABD. The Division explained that non-U.S. legal obstacles do not create an exception to a registered firm's obligations to provide documents and other information to the Board, and are not a defense to Board disciplinary action for noncooperation.

11. Respondent's reliance on the 2013 MOU is not a valid justification for refusing to provide documents in a Board investigation. The 2013 MOU "sets forth the [parties'] intent with regard to mutual assistance and the exchange of information for the purpose of enforcing and securing compliance with the respective Laws and Regulations of [the parties'] jurisdictions...."[7] At the same time, the 2013 MOU states that it is "not intended to create legally binding obligations or ... supersede domestic laws" of the parties.[8] By its unequivocal terms, the 2013 MOU affords Respondent no legal rights. Rather, the 2013 MOU is strictly a non-binding agreement between the signing parties.

12. The Division's personnel informed Respondent that its asserted grounds for refusing to provide documents were not valid, including through a letter from the Division pursuant to PCAOB Rule 5109(d), notifying Respondent of the Division's intention to recommend a disciplinary proceeding in the event of a continued refusal to provide documents. Respondent continued to assert that it was unable to provide audit work papers and other documents for the reasons stated above. Respondent's failure to provide the required documents impeded the Board's ability to determine if Respondent's audits were performed in accordance with PCAOB rules and standards, and whether violations occurred that justified sanctions.

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[7] See MOU at 1.

[8] Id.

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ORDER

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(iii) of the Act and PCAOB Rule 5300(b)(1), Crowe Horwath (HK) CPA Limited is hereby censured;

B. Pursuant to Section 105(b)(3)(A)(ii) of the Act and PCAOB Rule 5300(b)(1), the registration of Crowe Horwath (HK) CPA Limited is revoked; and

C. After three (3) years from the date of this Order, Crowe Horwath (HK) CPA Limited may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 25, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of PricewaterhouseCoopers LLP,* *Respondent.*	PCAOB Release No. 105-2017-032 August 2, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring PricewaterhouseCoopers LLP ("PwC" or "Respondent"), a registered public accounting firm, and imposing on PwC a civil money penalty in the amount of $1,000,000. The Board is imposing these sanctions on the basis of its findings that PwC violated PCAOB rules and standards in connection with its 2014 audit and examination engagements for Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill"), a broker-dealer registered with the United States Securities and Exchange Commission ("Commission").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted,

PCAOB
Public Company Accounting Oversight Board

ORDER

Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. PricewaterhouseCoopers LLP is a limited liability partnership organized under the laws of Delaware, and headquartered in New York, New York. PwC registered with the Board on October 20, 2003, pursuant to Section 102 of the Act and PCAOB rules. Since fiscal year ("FY") 2009, PwC has been the external auditor for Merrill.

B. Broker-Dealer[2]

2. At all relevant times, Merrill was a Delaware corporation headquartered in New York, New York. Merrill's public filings disclose that it is registered with the Commission as a broker-dealer and investment adviser, and is registered with the U.S. Commodity Futures Trading Commission as a futures commission merchant. Merrill is a wholly-owned indirect subsidiary of Bank of America Corporation. At all relevant times, Merrill was a "broker" and "dealer," as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii). Merrill is a "carrying broker-dealer" (i.e., a broker-dealer that maintains custody of customer funds and securities).

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[2] On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, 124 Stat. 1376 (July 21, 2010)) amended various provisions of the Sarbanes-Oxley Act ("the Dodd-Frank amendments"). Among other things, the amendments provide the Board with authority to carry out the same oversight responsibilities it has carried out with respect to issuer audits – standards-setting, inspections, and investigations and disciplinary proceedings – in connection with registered public accounting firms' audits of brokers and dealers that are registered with the Commission.

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ORDER

C. Summary

3. In 2014, Merrill held tens of billions of dollars of its customers' securities in certain accounts with third-party institutions that were subject to liens by the third parties,[3] in violation of Commission Rule 15c3-3, 17 C.F.R. § 240.15c3-3, also known as the "Customer Protection Rule."[4] Among other things, the Customer Protection Rule required broker-dealers like Merrill[5] to hold certain customer securities in a segregated account free of liens (the "no-lien" requirement). The purpose of this requirement was to protect customer securities from claims by a failed broker-dealer's creditors. As Merrill's auditor, PwC was required to obtain sufficient appropriate evidence to support its opinion about (a) whether Merrill's internal controls over compliance with the Customer Protection Rule were effective during the period of June 1, 2014 to December 31, 2014 and at the end of FY 2014,[6] and (b) whether supplemental information in certain filings by Merrill concerning its compliance with the Customer Protection Rule were fairly stated in all material respects, in relation to Merrill's financial statements as a whole. However, PwC failed to obtain sufficient evidence in each of these categories.

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[3] See *Merrill Lynch, Pierce, Fenner & Smith Inc. and Merrill Lynch Professional Clearing Corp.*, SEC Rel. No. 34-78141, at 3 (June 23, 2016).

[4] Adopted in 1972, the "Customer Protection Rule" is Rule 15c3-3 issued by the Commission under the Securities Exchange Act of 1934 ("Exchange Act").

[5] Although some broker-dealers qualify for exemption from the Customer Protection Rule, Merrill was a carrying broker-dealer and did not qualify for exemption under Rule 15c3-3(k).

[6] During the transition period for the below-mentioned amendments to Exchange Act Rule 17a-5, 17 C.F.R. § 240.17a-5 ("Rule 17a-5"), the Commission's Division of Trading and Markets provided guidance that the staff will not object if a broker-dealer whose 2014 or 2015 fiscal year begins prior to June 1, 2014 submits statements in its compliance report that do not cover the period of the fiscal year that is prior to June 1, 2014. See Division of Trading and Markets of the U.S. Securities and Exchange Commission, *Frequently Asked Questions Concerning the July 30, 2013 Amendments to the Broker-Dealer Financial Reporting Rule* (April 4, 2014), Question/Answer No. 1, https://www.sec.gov/divisions/marketreg/amendments-to-broker-dealer-reporting-rule-faq.htm. Accordingly, Merrill's assertions in its compliance report for FY 2014 covered only the period from June 1, 2014 to December 31, 2014.

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4. As a result, PwC violated PCAOB rules and standards, including Attestation Standard No. 1, *Examination Engagements Regarding Compliance Reports of Brokers and Dealers* ("AT 1"), when performing its examination of the statements made by Merrill in its FY ended December 31, 2014 compliance report (the "Examination") prepared pursuant to Rule 17a-5. In particular, PwC failed to adequately test Merrill's key internal controls over compliance with the "no-lien" requirement of the Customer Protection Rule.

5. Additionally, PwC violated PCAOB rules and standards, including Auditing Standard No. 17, *Auditing Supplemental Information Accompanying Audited Financial Statements* ("AS 17"), in connection with its performance of audit procedures and opining on supplemental information accompanying the financial statements of Merrill for FY ended December 31, 2014 (the "Audit"). In particular, PwC failed to obtain sufficient appropriate audit evidence to support its conclusion on one of Merrill's supporting schedules relating to its compliance with the Customer Protection Rule.

6. On February 26, 2016, Merrill restated its FY 2014 compliance report to disclose a material weakness in its internal control over compliance related to maintenance of custodial accounts in designated good control locations. That same day, PwC revised its FY 2014 examination report to reflect that Merrill did not maintain effective internal control over compliance because this material weakness existed during the period June 1 to December 31, 2014, and as of December 31, 2014.

D. Respondent Violated PCAOB Attestation Standard No. 1 in its Examination of Merrill's 2014 Compliance Report

Certain Commission Reporting Requirements for Merrill

7. The Customer Protection Rule required Merrill to promptly obtain and thereafter maintain physical possession or control over its customers' fully-paid securities and excess margin securities.[7] Under the control requirement described in Rule 15c3-3(c), control generally means that the broker-dealer must hold these securities in one of several locations specified in the Rule and that they be held free of liens or any other interest that could be exercised by a third-party to secure an obligation of the broker-dealer.

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[7] See 17 C.F.R. § 240.15c3-3(b). For a definition of "fully paid securities" and "excess margin securities," see Rule 15c3-3(a)(3), (5), 17 CFR 240.15c3-3(a) (3), (5).

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8. As applicable to Merrill, Rule 15c3-3(c) provided that, if Merrill held customers' fully-paid and excess margin securities at a U.S. Bank, those securities would be deemed to be in Merrill's control if, among other things, "the bank . . . *acknowledged in writing* that the securities in its custody or control are not subject to any right, charge, security interest, lien or claim of any kind in favor of the bank or any person claiming through the bank."[8] The Commission imposed a similar "no-lien" requirement for customer fully-paid or excess margin securities that Merrill held at a foreign depository or foreign custodian bank.[9] The "no-lien" requirement of Rule 15c3-3(c) was in effect when PwC began its work on the Merrill engagement in 2009, and it remains in effect today.

9. Effective June 1, 2014, amendments to Rule 17a-5 required Merrill to file with the Commission an annual report containing (a) a financial report that included financial statements and supporting schedules,[10] (b) a compliance report concerning the effectiveness of Merrill's internal controls over compliance with, among other things, the "no-lien" requirement;[11] and (c) a report by a PCAOB-registered firm based on an examination of Merrill's financial and compliance reports.[12] The amendments to Rule 17a-5 also required that the auditor's examinations of the financial report and compliance report be performed in accordance with PCAOB standards.[13]

10. In the compliance report, Merrill had to make certain statements ("assertions") about its compliance with, among other things, the Customer Protection Rule, including that (a) Merrill's internal control over compliance[14] was effective during

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[8] See 17 C.F.R. § 240.15c3-3(c)(5) (emphasis added). This Order uses the term "U.S. Bank" to mean a bank as defined in section (3)(a)(6) of the Exchange Act.

[9] See Rule 15c3-3(c)(4); Exchange Act Release 34-10429, *Guidelines for Control Locations for Foreign Securities Pursuant to Subparagraphs (c)(4) and (c)(7) of Rule 15c3-3 Under the Securities Exchange Act of 1934* (Oct. 12, 1973).

[10] See Rule 17a-5(d)(1)(i)(A), (d)(2).

[11] See Rule 17a-5(d)(1)(i)(B)(1), (d)(3).

[12] See Rule 17a-5(d)(1)(i)(C), (g).

[13] See Rule 17a-5(g).

[14] Rule 17a-5(d)(3)(ii) provides: "The term *Internal Control Over Compliance* means internal controls that have the objective of providing the broker or dealer with reasonable assurance that non-compliance with [Exchange Act Rules 15c3-1, 15c3-3,

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the most recent fiscal year; and (b) its internal control over compliance was effective as of the end of the most recent fiscal year.[15]

PCAOB Attestation Standard No. 1

11. In connection with the preparation or issuance of an examination report for a broker-dealer, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards, including attestation standards.[16]

12. AT 1 became effective for audits of fiscal years ending on or after June 1, 2014, and established requirements aligned with the auditor's responsibilities under the amended Rule 17a-5. AT 1 provides that, in performing an examination of the assertions made by a broker or dealer in a compliance report (an "examination engagement"), the auditor's objective is to express an opinion regarding whether the assertions made by the broker or dealer in the compliance report are fairly stated, in all material respects.[17] AT 1 also provides that, to express such opinion, the auditor must plan and perform the examination engagement to obtain appropriate evidence that is sufficient to obtain reasonable assurance about whether, among other things, one or more material

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17a-13], or any rule of the designated examining authority of the broker or dealer that requires account statements to be sent to the customers of the broker or dealer (an 'Account Statement Rule') will be prevented or detected on a timely basis."

[15] See Rule 17a-5(d)(3)(i)(A).

[16] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB standards are to the versions of those standards in effect at the time of the Merrill Audit. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2016), https://pcaobus.org/Standards/Auditing/Documents/ PrintableReference Table.pdf.

[17] See AT 1 ¶ 3.

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weaknesses[18] existed during the most recent fiscal year being reported.[19] As noted in AT 1, the auditor's examination should include an evaluation of the effectiveness of internal control over compliance with the Customer Protection Rule during, and as of the end of, the most recent fiscal year.[20]

13. AT 1 also provides that the auditor must exercise due professional care, which includes application of professional skepticism, in planning and performing the examination engagement.[21] Additionally, when planning the examination engagement, the auditor should obtain an understanding of the broker-dealer's processes regarding compliance with, among other things, the Customer Protection Rule, which includes evaluating the design of controls that are relevant to the examination and determining whether they have been implemented.[22] When performing the examination engagement, the auditor must test the controls that are important to the auditor's conclusion about whether the broker-dealer has maintained effective internal control over compliance for, among other things, the Customer Protection Rule during the fiscal year and at fiscal year end, and must obtain evidence that the tested controls are designed effectively and operated effectively during the fiscal year and at fiscal year end.[23]

14. If controls selected for testing in the current year were tested in past examination engagements, and if the auditor plans to use evidence about the effectiveness of those controls that was obtained in prior years, the auditor should take

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[18] A "material weakness" is a deficiency, or a combination of deficiencies, in internal control over compliance such that there is a reasonable possibility that non-compliance to a material extent with Rule 15c3-3(c), among other things, will not be prevented or detected on a timely basis. See AT 1, Appendix A ¶ A4.

[19] See AT 1 ¶ 4.

[20] See id. ¶ 4, Note.

[21] See id. ¶ 6(d).

[22] See id. ¶ 9(b) and Note.

[23] See id. ¶ 11. The auditor should test the design effectiveness of the selected controls by determining, among other things, whether the control can effectively prevent or detect instances of non-compliance with the Customer Protection Rule on a timely basis. See id. ¶ 14. Additionally, the auditor should test the operating effectiveness of the selected controls by determining whether each is operating as designed, among other things. See id. ¶ 16.

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into account numerous factors to determine the evidence needed during the current fiscal year examination, including (a) the nature, timing, and extent of procedures performed in previous examination engagements; (b) the results of the previous years' testing of the controls; and (c) any changes in the controls or the process in which the control operates since the previous examination engagement.[24] Additionally, when an auditor uses information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information.[25]

15. As provided in AT 1, the auditor should evaluate whether he or she has obtained sufficient appropriate evidence to support the conclusions to be presented in the examination report, taking into account the risks associated with controls and non-compliance, the results of the examination procedures performed, and the appropriateness (i.e., the relevance and reliability) of the evidence obtained.[26] If the auditor is unable to obtain sufficient appropriate evidence about an assertion, the auditor should express a disclaimer of opinion.[27]

16. As described below, Respondent failed to comply with applicable PCAOB rules and standards in connection with its Examination of the assertions made by Merrill in its FY ended December 31, 2014 compliance report.

Respondent's Examination of Merrill's 2014 Compliance Report

17. On March 2, 2015, Merrill filed its Form X-17A-5 Part III for FY 2014 with the Commission. In connection with that filing, Merrill filed its FY 2014 compliance report dated February 27, 2015 ("Compliance Report"). The Compliance Report's assertions included that Merrill's internal control over compliance with the Customer Protection Rule was effective during the period from June 1, 2014 to December 31, 2014, and also as of

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[24] See id. ¶ 19.

[25] See Auditing Standard No. 15, *Audit Evidence* ("AS 15"), ¶ 10.

[26] See AT 1 ¶ 27.

[27] See id. ¶ 29.

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December 31, 2014.[28] PwC issued its examination report, dated February 27, 2015, concerning Merrill's Compliance Report ("Examination Report"). PwC's Examination Report expressed its unqualified opinion that Merrill's assertions in the Compliance Report were fairly stated, in all material respects, and the Examination Report stated, among other things, that the Examination was conducted in accordance with PCAOB standards.

18. During the Examination, PwC was aware that Merrill maintained some of its customers' fully-paid securities and excess margin securities in Merrill's own physical possession, and held the rest – amounting to billions of dollars in customer securities – in accounts at various third-party institutions. PwC understood that Merrill designated all of these accounts as "good control locations" (i.e., compliant with the Customer Protection Rule's requirements to keep customers' fully-paid securities and excess margin securities either in Merrill's possession, or in Merrill's control if the securities were held at a third-party institution). The third-party accounts were at different types of custodians, such as U.S. Banks and foreign depositories. All of the accounts at third-party institutions were governed by custodial agreements between Merrill and the institutions.

19. PwC was aware of the magnitude of customer fully-paid and excess margin securities that Merrill held in accounts at third-party institutions in 2014, and was aware of the risks to Merrill's customers if those accounts were subject to liens. Nevertheless, PwC failed to plan and perform its Examination to obtain sufficient evidence concerning Merrill's compliance with the "no-lien" requirement of the Customer Protection Rule. In particular, PwC failed to obtain an adequate understanding of Merrill's internal control over compliance with the "no-lien" requirement of the Customer Protection Rule.[29] Specifically, PwC failed to adequately test both the design effectiveness and operating effectiveness of the controls that were important to its conclusion about whether Merrill maintained effective internal control over compliance with the "no-lien" requirement of the Customer Protection Rule.[30] PwC therefore failed to obtain appropriate evidence sufficient to provide reasonable assurance about whether

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[28] As noted above, Merrill's Compliance Report assertion about effectiveness of internal control over compliance during the most recent fiscal year only covered the period June 1, 2014 to December 31, 2014.

[29] See AT 1 ¶ 9(b) and Note.

[30] See id. ¶¶ 11, 14, 16.

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there were material weaknesses in Merrill's internal control over compliance, as required by AT 1.[31]

PwC's Inadequate Control Testing

20. During the Examination, PwC identified Merrill's key control relevant to its compliance with Rule 15c3-3(c) when designating accounts as good control locations (the "Key Control"). As explained below, in its Examination, PwC failed to obtain reasonable assurance about whether one or more material weaknesses existed in Merrill's internal control over compliance with Rule 15c3-3(c) during June – December 2014 and at year end 2014.

Inadequate Testing of Design Effectiveness

21. PwC performed a walkthrough of the Key Control to test its design effectiveness. The work paper documenting the walkthrough noted that Merrill produced a daily Production Report. The Production Report identified when Merrill had designated a new account as a good control location, or had changed the designation of an existing account to a good control location (collectively, "newly-designated" accounts). Although the walkthrough work paper stated that Merrill "reviews & validates" the custodial agreements for the newly-designated accounts appearing on the Production Report to determine whether Merrill properly designated them as good control locations, PwC did not obtain an understanding of what specific criteria the Key Control required Merrill to use in making such determinations. In fact, neither PwC's walkthrough procedures, nor any other testing of the Key Control, indicated whether Merrill considered the "no-lien" requirement of the Customer Protection Rule when designating good control locations. Consequently, PwC did not obtain sufficient appropriate evidence from the walkthrough that the Key Control was designed such that it could effectively prevent or detect instances of non-compliance with the Customer Protection Rule on a timely basis, as required by PCAOB standards.[32]

Inadequate Testing of Operating Effectiveness

22. To test the operating effectiveness of the Key Control, PwC selected a sample of days during June – December 2014 and obtained and reviewed the Production Report for each day selected. These reports identified five newly-designated

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[31] See id. ¶ 4; Appendix A ¶ A4.

[32] See AT 1 ¶¶ 11, 14.

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good control locations, two of which were accounts held at third-party institutions to which the "no-lien" requirement applied. PwC obtained from Merrill the custody agreements for these two accounts, and concluded that the Key Control operated effectively during June – December 2014 and at year end 2014.

23. However, this testing did not provide PwC with evidence that the Key Control operated effectively in 2014. First, the two custody agreements that PwC obtained for the third-party institutions did not contain evidence that the accounts were free of liens and other encumbrances, as required by Rule 15c3-3(c). Second, PwC did not obtain evidence that Merrill personnel actually "review[ed] & validate[d]" the account documents of good control locations, in accordance with the design of the Key Control. In fact, PwC's evidence of two custodial agreements without "no-lien" provisions should have raised questions as to whether Merrill custodial agreements complied with the "no-lien" requirements, and whether Merrill's personnel were adequately reviewing the custody agreements for "no-lien" provisions. As a result, PwC violated PCAOB standards by failing to obtain sufficient evidence that the Key Control operated effectively during June – December 2014 and at year end 2014.[33]

Failure to Obtain Reasonable Assurance About Material Weaknesses in Internal Control Over Compliance

24. Even if PwC had obtained evidence that the Key Control was designed effectively and operated effectively during June – December 2014 and at year end 2014, that evidence would not have been sufficient to provide reasonable assurance about whether one or more material weaknesses existed in Merrill's internal control over compliance with Rule 15c3-3(c) in 2014.[34] By design, the Key Control was to operate in 2014 to address compliance only with respect to the good control locations that were newly-designated *in 2014*. Thus, for the rest of Merrill's good control locations that had been designated in previous years but still existed in 2014, as PwC knew, Merrill was relying on the premise that its internal controls had operated effectively in previous years to prevent or detect non-compliance with the "no-lien" requirement in those years.[35]

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[33] See id. ¶¶ 11, 16.

[34] See id. ¶¶ 3-4.

[35] For 2009 to 2013, PwC's testing for compliance with Rule 15c3-3(c) was performed under the standards in place before AT 1 became effective, and was different from its testing in 2014. In those previous years, PwC did not use a Merrill Production Report in its testing. Instead, PwC obtained from Merrill a list of all Merrill-designated

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25. Accordingly, approximately 32 newly-designated good control locations were subject to the Key Control in 2014, out of a total of approximately 775 existing "good control locations" at Merrill as of year end 2014. For the approximately 743 previously-designated good control locations still existing as of year end 2014, PwC used the results of its testing in previous years to conclude that Merrill's internal controls over compliance had operated effectively in the previous years when those accounts had been designated.[36] Those results, however, did not provide sufficient appropriate evidence of the effectiveness of Merrill's internal control over compliance with the "no-lien" requirement for those previous years.

Merrill-designated Good Control Locations	
All existing accounts designated as good control locations by Merrill as of YE 2014	775
All accounts newly-designated as good control locations by Merrill in 2014	32
Newly-designated good control locations selected for FY 2014 testing by PwC	5

26. For example, in its testing for each of the previous years, PwC never obtained any evidence, such as custodial agreements with "no-lien" provisions, that accounts at U.S. Banks that Merrill had designated as good control locations satisfied

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good control locations as of the end of the year under audit and compared that list to a list of all Merrill-designated good control locations as of the end of the prior year. PwC then identified which accounts were newly-designated in the year under audit, and selected test sample items from that group of accounts. PwC used the information in those Merrill-produced lists as audit evidence, but never performed sufficient procedures to test the accuracy and completeness of that information, or test the controls over the accuracy and completeness of that information. Consequently, under PCAOB standards, PwC could not use that information as audit evidence for the 2014 Examination and Audit. See AS 15 ¶ 10.

[36] For FY 2014, PwC could not rely on evidence obtained in its previous years' control testing without taking into account the results of that testing. See AT 1 ¶ 19.

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the "no-lien" requirement of Rule 15c3-3(c). Even though PwC selected such accounts as sample items in its testing for each of the previous years, it failed to obtain evidence that Merrill personnel had validated that the accounts were protected by "no-lien" provisions.

27. Additionally, with respect to foreign depositories that Merrill had designated as good control locations, PwC selected certain accounts from those depositories for testing in prior years, but failed to consistently obtain sufficient evidence that the accounts selected satisfied the "no-lien" requirement of Rule 15c3-3(c), and failed to obtain evidence that Merrill personnel had validated that the selected accounts were protected by "no-lien" provisions.

28. Consequently, for purposes of compliance with the "no-lien" requirement, PwC failed to obtain sufficient appropriate evidence that Merrill's internal controls had operated effectively with respect to the previously-designated good control locations still existing in 2014.

29. As noted above, from 2009 to 2014, Merrill exposed tens of billions of dollars of its customers' fully-paid securities and excess margin securities to potential liens by some of the third-party institutions at which Merrill had held those assets. Merrill held a majority of those exposed securities in one of the U.S. Bank accounts that it erroneously designated as a good control location – the account had market values ranging from about $60 billion at year end 2009 to about $30 billion at year end 2014.[37] With respect to certain third-party foreign depositories that Merrill had designated as good control locations, at year end 2014, billions of dollars in customers' securities were held in six accounts subject to a lien, and in 48 more accounts for which Merrill could not locate contemporaneous documentation establishing that the accounts satisfied the "no-lien" requirement of Rule 15c3-3(c). The deficiencies in Merrill's internal control over compliance that failed to prevent or detect the existence of such liens created a reasonable possibility of Merrill's non-compliance to a material extent with the Customer Protection Rule – i.e., a material weakness.[38]

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[37] This account did not comply with Rule 15c3-3(c) because the account was subject to a general lien by the U.S. Bank.

[38] See AT 1, Appendix A, ¶ A4.

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30. As a result of the above deficiencies, Respondent lacked a reasonable basis for its opinion that Merrill's assertions in its 2014 Compliance Report were fairly stated, in all material respects. Therefore, Respondent violated AT 1.[39]

E. Respondent Violated PCAOB Rules and Standards in Its Audit of One of Merrill's 2014 Supporting Schedules

31. Rule 17a-5 required that Merrill file certain supplemental information in supporting schedules accompanying its 2014 financial statements, and that the schedules be audited by a PCAOB-registered firm.[40]

32. In connection with the preparation or issuance of an audit report on such supplemental information, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[41] Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism in performing the audit.[42]

33. PCAOB standards also require that, when the auditor is engaged to audit supplemental information accompanying the financial statements, the auditor should perform audit procedures to obtain appropriate audit evidence sufficient to support the auditor's opinion regarding whether the supplemental information is fairly stated, in all material respects, in relation to the financial statements as a whole.[43] In doing so, the auditor should, among other things, obtain an understanding of the criteria that management used to prepare the supplemental information, including relevant regulatory requirements.[44] The auditor also should perform procedures to test the completeness and accuracy of the information presented in the supplemental information, and should

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[39] See id. ¶¶ 3-4.

[40] See Rule 17a-5(d)(1)(i)(A), (d)(1)(i)(C), (d)(2), and (g).

[41] See PCAOB Rule 3100 and PCAOB Rule 3200T.

[42] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*.

[43] See AS 17 ¶¶ 2-3.

[44] See id. ¶ 4(a).

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evaluate whether the supplemental information complies with relevant regulatory requirements.[45]

34. According to PCAOB standards, if an auditor is unable to obtain sufficient appropriate audit evidence to support an opinion on the supplemental information, the auditor should disclaim an opinion on the supplemental information.[46]

35. As described below, Respondent failed to comply with PCAOB rules and standards in connection with the audit procedures it performed on the supplemental information in a supporting schedule accompanying Merrill's 2014 financial statements.

Inadequate Audit Procedures on Supplemental Information in Merrill's Supporting Schedule

36. On March 2, 2015, Merrill filed Form X-17A-5 Part III for FY 2014 with the Commission. Included in that filing was PwC's FY 2014 audit report dated February 27, 2015. The audit report expressed an unqualified opinion on Merrill's financial statements and accompanying supporting schedules, and stated that PwC's audit was conducted in accordance with PCAOB standards. The audit report also stated that the supplemental information in an accompanying supporting schedule – Schedule IV, *Unconsolidated Information Relating to the Possession or Control Requirements for Brokers and Dealers Pursuant to Rule 15c3-3 under the Securities and Exchange Act of 1934* – was subjected to audit procedures in connection with PwC's audit of Merrill's financial statements. In particular, PwC represented that it had performed procedures to test the completeness and accuracy of the information presented in the supplemental information.[47]

37. Rule 17a-5 required Merrill to file the Schedule IV to report on issues relating to Merrill's compliance with the possession or control requirements of the

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[45] See id. ¶ 4(e) – (f).

[46] See id. ¶ 15.

[47] According to PCAOB standards, "[t]he auditor should take into account relevant evidence from . . . the attestation engagement[] . . . in planning and performing audit procedures related to the supplemental information and in evaluating the results of the audit procedures to form an opinion on the supplemental information." AS 17 ¶ 3(c), Note.

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Customer Protection Rule.[48] Merrill's Schedule IV as of December 31, 2014 reported, among other things, that there were no "[c]ustomers' fully paid securities and excess margin securities for which instructions to reduce to possession or control had not been issued as of the report date, excluding items arising from temporary lags . . . , as permitted under Rule 15c3-3." In part, Merrill's supplemental information represented that, with respect to customers' fully paid and excess margin securities that it held in accounts at U.S. Banks and foreign depositories, Merrill had issued instructions (whether through custodial agreements or otherwise) to maintain the securities in compliance with the "no-lien" requirement. PwC opined in its audit report that the Schedule IV was fairly stated, in all material respects, in relation to Merrill's financial statements as a whole.

38. But PwC had not obtained sufficient appropriate audit evidence to support its opinion. The only procedures that PwC performed relating to Merrill's compliance with the "no-lien" requirement were the above-mentioned testing of the Key Control and of the previous years' compliance with Rule 15c3-3(c). As described above, this testing was deficient, and PwC failed to obtain sufficient appropriate evidence of compliance with the "no-lien" requirement with respect to the Merrill-designated good control locations existing at year end 2014. PwC consequently failed to perform appropriate procedures to test the completeness and accuracy of the supplemental information presented in Merrill's Schedule IV for 2014, and failed to adequately evaluate whether that supplemental information complied with relevant regulatory requirements in Rule 15c3-3(c).[49]

39. Respondent therefore violated PCAOB standards by failing to obtain sufficient appropriate audit evidence that the supplemental information in Merrill's supporting Schedule IV was fairly stated, in all material respects, in relation to the financial statements as a whole.[50]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

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[48] See Rule 17a-5(d)(1)(i)(A), (d)(2)(ii).

[49] See AS 17 ¶ 4(e) – (f).

[50] See id. ¶¶ 2-4.

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A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), PricewaterhouseCoopers LLP is hereby censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000,000 is imposed upon PricewaterhouseCoopers LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. PricewaterhouseCoopers LLP shall pay the civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the payor as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 2, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Enterprise CPAs, Ltd. and David (Xiaobo) Liu,* *Respondents.*	PCAOB Release No. 105-2017-033 August 2, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring the registered public accounting firm Enterprise CPAs, Ltd. ("Enterprise" or the "Firm"); (2) imposing upon the Firm a civil money penalty in the amount of $10,000; (3) prohibiting the Firm from accepting any new issuer audit clients for a period of one (1) year from the date of this Order; (4) requiring the firm to undertake certain remedial measures, including establishing policies and procedures, directed toward ensuring compliance with the engagement quality review requirements applicable to audits and reviews of issuers; and (5) censuring David (Xiaobo) Liu, CPA ("Liu"). The Board is imposing these sanctions on the basis of its findings that the Firm and Liu (collectively, "Respondents") violated PCAOB rules and standards in connection with the Firm's audits of two issuer audit clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Respondents admit the facts, findings, and violations

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set forth below, and consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. Enterprise CPAs, Ltd. is, and at all relevant times was, a limited liability partnership organized under the laws of the state of Illinois and headquartered in Chicago, Illinois. Enterprise is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Enterprise is licensed to practice public accountancy by the Illinois State Board of Accountancy (license no. 066003832). At all relevant times, the Firm was the external auditor for the issuer identified below.

2. David (Xiaobo) Liu, CPA, 54, of Chicago, Illinois is a certified public accountant licensed by the Illinois Board of Accountancy (license no. 065025331). At all relevant times, Liu was the sole owner of the Firm and was the Firm's sole partner. At all relevant times, he was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns the Firm's failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to two issuer clients.[3] In the

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[1] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5), 15 U.S.C. § 7215(c)(5) which provides that certain sanctions may be imposed in the event of (i) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (ii) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a

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audits of each client, the Firm failed to obtain an engagement quality review of each audit before issuing an audit opinion even though an engagement quality review was required under AS 7.

4. This matter also concerns Liu's failure to comply with PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, with respect to the Firm's audits of two clients. Liu took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of PCAOB standards.

C. Respondents Violated PCAOB Rules and Standards

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[4]

6. AS 7 requires that an engagement quality review be performed on audits, interim reviews, and certain attestation engagements conducted pursuant to PCAOB standards.[5] AS 7 also provides that, in an audit, a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance of the report.[6]

7. In addition, PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that firm of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the

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single, integrated numbering system. See Reorganization of PCAOB Auditing standards and Related Amendments to PCAOB Standards and Rules, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also PCAOB Auditing Standards Reorganized and Pre Reorganized Numbering (Jan. 2016) https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf

[4] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[5] See AS 7 ¶ 1.

[6] Id. at ¶ 13.

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obligations and liabilities of accountants with respect thereto, including the rules of the U.S. Securities and Exchange Commission ("Commission") issued under the Act, or professional standards.

8. As described below, the Firm failed to obtain an engagement quality review for each of the audits described below even though an engagement quality review was required to be performed and Liu directly and substantially contributed to those violations.

The Firm Failed to Obtain Engagement Quality Reviews Even After the PCAOB's Inspection Staff Informed The Firm of Possible AS 7 Violations

9. In connection with an April 2013 inspection of the Firm, the PCAOB Inspections staff found apparent failures by the Firm to comply with AS 7 for all audits and interim reviews performed by the Firm. The Firm responded, in part, by representing that it had implemented a revised process for compliance with AS 7 requirements. Liu was responsible for the Firm's adherence to the revised AS 7 compliance process.

10. Despite the Firm's representations that it had put into place a revised AS 7 compliance process, the Firm failed to comply with AS 7 requirements in connection with subsequent audits of two issuer clients.

Audit of Liberated Energy's Financial Statements

11. Liberated Energy Inc. ("Liberated") is a Nevada corporation headquartered in Chester, New York. Public filings disclose that it was in the business of developing new alternative energy products and bringing them to the market place. At all relevant times, Liberated was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

12. The Firm was engaged as Liberated's external auditor for fiscal year ended September 30, 2015. On February 12, 2016, Liberated filed a Form 10-K/A for fiscal year ended September 30, 2015 with the Commission. The Firm improperly permitted issuance of its engagement report dated February 12, 2016, which was included in Liberated's Form 10-K filing, without first obtaining an engagement quality review and concurring approval of issuance. Although the Firm retained an Engagement Quality Reviewer ("EQR") prior to the Firm's issuance of its engagement report, the EQR did not provide a concurring approval of issuance of the report until after the Firm issued its engagement report. As a result, the Firm violated AS 7.

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13. Liu knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7 when he caused the Firm to grant permission to the client to use the engagement report without first obtaining an engagement quality review and concurring approval of issuance. As a result, Liu violated PCAOB Rule 3502.

Audit of Flurida's Financial Statements

14. Flurida Group Inc. ("Flurida") is a Nevada corporation headquartered in El Paso, Texas. Public filings disclosed that it was engaged in sourcing, distribution and marketing of appliance components and assemblies in Asia, Europe, Australia, North and South America. At all relevant times, Flurida was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

15. The Firm was engaged as Flurida's external auditor for fiscal year ended December 31, 2016. On March 30, 2016, Flurida filed a Form 10-K for fiscal year ended December 31, 2015 with the Commission. The Firm improperly permitted issuance of its engagement report dated March 28, 2016, which was included in Flurida's Form 10-K filing, without first obtaining an engagement quality review and concurring approval of issuance. Although the Firm retained an EQR prior to the Firm's issuance of its engagement report, the EQR did not provide a concurring approval of issuance of the report until after the Firm issued its engagement report. As a result, the Firm violated AS 7.

16. Liu knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7 when he caused the Firm to grant permission to the client to use the engagement report without first obtaining an engagement quality review and concurring approval of issuance. As a result, Liu violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Enterprise CPAs, Ltd. and David (Xiaobo) Liu, CPA are hereby censured;

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B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Enterprise CPAs, Ltd. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Enterprise CPAs, Ltd. shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Enterprise CPAs, Ltd. as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

C. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), the Firm is prohibited from accepting any new issuer audit clients for one (1) year from the date of this Order and;

D. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required: within ninety (90) days from the date of this Order, to establish policies and procedures, or review and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with Auditing Standard No. 7, *Engagement Quality Review*;

1. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent basis, concerning Auditing Standard No. 7, of any Firm audit personnel who participate in any way in the planning or performing of any audit services (as defined in PCAOB Rule 1001(a)(vii));

2. within ninety (90) days from the date of this Order, and before the Firm's commencement of any audit services, to ensure training pursuant to the policy described in paragraph D(2) above on at least one occasion;

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3. to provide a copy of this Order—

   a. within (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order;

   b. within (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform audit services;

   c. before the commencement of any audit services, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such audit services; and

to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs D(1) through D(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm shall also certify that for all audits and interim reviews performed by the Firm within one (1) year of this Order, the Firm has met all AS 7 requirements. Such certification shall occur within (30) thirty days of the completion of any audit or interim review performed in that time frame.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 2, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the matter of L&L CPAs, PA, and Weixuan Luo, CPA (a/k/a Tracy Luo),* *Respondents.*	PCAOB Release No. 105-2017-034 August 2, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring L&L CPAs, PA ("Firm"), a registered public accounting firm, imposing a civil money penalty in the amount of $5,000 upon the Firm, and requiring the Firm to undertake certain remedial measures, including to establish policies and procedures directed toward ensuring compliance with the Board's engagement quality review requirements; and censuring Weixuan Luo, CPA ("Luo"). The Board is imposing these sanctions on the basis of its findings that the Firm and Luo (collectively "Respondents") violated PCAOB rules and standards in connection with the Firm's audits of two issuer audit clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Respondents admit the facts, findings and violations

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set forth below, and consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[1]

III.

On the basis of Respondents' Offers, the Board finds that:

A. Respondents

1. L&L CPAs, PA (f/k/a L&L Associates, CPA, PA, f/k/a Bongiovanni & Associates, PA) is, and at all relevant times was, an accounting firm organized under Florida law, and headquartered in Cornelius, North Carolina. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and is licensed under the laws of the states of Florida (license no. AD68932), Georgia (license no. ACF006317), Montana (license no. PAC-FIRM-LIC-19628), and North Carolina (license no. 33440). At all relevant times, the Firm was the external auditor for the issuers identified below.

2. Weixuan Luo, CPA (a/k/a Tracy Luo), age 44, is a certified public accountant licensed by the states of Florida (license no. AC44726) and North Carolina (license no. 39714). At all relevant times, Luo was the Firm's President and majority owner. Luo is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"),[2] with respect to two issuer audit clients. Luo served as the engagement quality reviewer on the Firm's audits of the

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[1] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2] All references to PCAOB standards are to the versions of those standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre Reorganized Numbering* (Jan. 2016), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

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issuers' 2014 year-end financial statements, immediately after serving as the engagement partner on the audits of the issuers' 2013 year-end financial statements, without satisfying the mandatory two-year "cooling off" period for former engagement partners.[3]

C. Respondents Violated PCAOB Auditing Standards

4. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[4]

5. AS 7 requires that an engagement quality review be performed for each audit engagement and for each engagement to review interim financial information conducted pursuant to PCAOB standards.[5] AS 7 also provides that: "[t]he person who served as the engagement partner during either of the two audits preceding the audit subject to the engagement quality review may not be the engagement quality reviewer."[6]

6. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the [Securities and Exchange] Commission issued under the Act, or professional standards."[7]

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[3] See AS7 ¶ 8; see also PCAOB Release 2009-004, *Auditing Standard No. 7 – Engagement Quality Review and Conforming Amendment to the Board's Interim Quality Control Standards.* At all relevant times, the Firm had five or more issuer clients and did not qualify for AS 7 ¶ 8's small firm exemption.

[4] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[5] See AS 7 ¶ 1.

[6] Id. at ¶ 8.

[7] See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

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7. As described below, Respondents failed to comply with PCAOB rules and standards.

Audit of Worlds Inc.'s Financial Statements

8. At all relevant times, Worlds Inc. was a Delaware corporation headquartered in Brookline, Massachusetts. The company's public filings disclose that its business was to hold and acquire patents that it intended to "more aggressively enforce against alleged infringers." At all relevant times, Worlds Inc. was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. The Firm audited Worlds Inc.'s December 31, 2013 year-end financial statements, which were filed with the U.S. Securities and Exchange Commission ("Commission"), and issued an audit report expressing an unqualified opinion on the financial statements. Luo served as the engagement partner for the audit of Worlds Inc.'s year-end 2013 financial statements.

10. The Firm also audited Worlds Inc.'s December 31, 2014 year-end financial statements, which were filed with the Commission, and issued an audit report expressing an unqualified opinion on the financial statements. After serving as the engagement partner on the 2013 audit, Luo immediately served as the engagement quality reviewer on the 2014 audit, violating AS 7's two-year "cooling-off" period for former engagement partners.

Audit of Omega Commercial Finance Corp.'s Financial Statements

11. At all relevant times, Omega Commercial Finance Corp. ("Omega") was a Wyoming corporation headquartered in Miami Beach, Florida. The company's public filings disclose that its business primarily consisted of "offering financing to the real estate markets in the United States." At all relevant times, Omega was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

12. The Firm audited Omega's December 31, 2013 year-end financial statements, which were filed with the Commission, and issued an audit report expressing an unqualified opinion on the financial statements. Luo served as the engagement partner for the audit of Omega's year-end 2013 financial statements.

13. The Firm also audited Omega's December 31, 2014 year-end financial statements, which were filed with the Commission, and issued an audit report expressing an unqualified opinion on the financial statements. After serving as the engagement partner on the 2013 audit, Luo immediately served as the engagement

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quality reviewer on the 2014 audit, violating AS 7's two-year "cooling-off" period for former engagement partners.

Luo Contributed to the Firm's Violations of PCAOB Rules and Standards

14. Luo served as the President of the Firm. She determined who served as the engagement quality reviewer on the 2014 audits of Worlds Inc. and Omega.

15. Luo knew, or was reckless in not knowing, that she was directly and substantially contributing to the Firm's violations when she improperly served as the engagement quality reviewer on the 2014 audits, violating AS 7's two-year "cooling-off" period for former engagement partners. As a result, Luo violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), L&L CPAs, PA, and Weixuan Luo, CPA, are hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $5,000 is imposed upon L&L CPAs, PA. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. L&L CPAs, PA, shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies L&L CPAs, PA, as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public

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Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), L&L CPAs, PA, is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or review and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with Auditing Standard No. 7, *Engagement Quality Review*;

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent basis, concerning Auditing Standard No. 7, of any Firm audit personnel who participate in any way in the planning or performing of any audit services (as defined in PCAOB Rule 1001(a)(vii));

3. within ninety (90) days from the date of this Order, and before the Firm's commencement of any audit services, to ensure training pursuant to the policy described in paragraph C(2) above on at least one occasion;

4. to provide a copy of this Order—

a. within (30) days from the date of this Order, to all audit personnel employed by, or associated with (as defined in PCAOB Rule 1001(p)(i)), the Firm as of the date of this Order;

b. within (30) days from the date of this Order, to any client of the Firm as of the date of this Order for which the Firm has performed or has been engaged to perform audit services;

c. before the commencement of any audit services, to any future client for which the Firm is engaged within three (3) years of the date of this Order to perform such audit services; and

5. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(4)(b) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate

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compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 2, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of William T. McCallum CPA, P.C. and William T. McCallum, CPA,* *Respondents.*	PCAOB Release No. 105-2017-035 August 2, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring William T. McCallum CPA, P.C. ("Firm"), a registered public accounting firm, and imposing a civil money penalty in the amount of $5,000 upon the Firm; and censuring William T. McCallum, CPA ("McCallum"). The Board is imposing these sanctions on the basis of its findings that the Firm and McCallum (collectively, "Respondents") violated PCAOB rules and standards in connection with the Firm's audits of two broker-dealer audit clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Respondents admit the facts, findings and violations set forth below, and consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[1]

[1] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

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III.

On the basis of Respondents' Offers, the Board finds[2] that:

A. Respondents

1. William T. McCallum CPA, P.C. is, and at all relevant times was, an accounting firm organized under New York law, and headquartered in New York, New York. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and is licensed by the New York State Board of Accountancy (license no. 16018). At all relevant times, the Firm was the external auditor for the broker-dealers identified below.

2. William T. McCallum, CPA, age 69, is, and at all relevant times was, a certified public accountant licensed by the New York State Board of Accountancy (license no. 037228-1). At all relevant times, McCallum was the sole owner of the Firm and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns the Firm's failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"),[3] with respect to two broker-dealer audit clients. In the case of each client, the Firm failed to obtain an engagement quality review of each audit even though it was required to be performed.

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[2] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. §7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards in effect for the audit described herein. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules, PCAOB Release No. 2015-002* (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and PreReorganized Numbering* (January 2016); https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

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4. This matter also concerns McCallum's direct and substantial contribution to the Firm's violations of PCAOB rules and standards with respect to the two audit engagements. McCallum took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of PCAOB rules and standards.

C. Respondents Violated PCAOB Rules and Standards

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[4]

6. For audits, interim reviews, and attestations of broker-dealers for fiscal years ending on or after June 1, 2014, AS 7 requires that an engagement quality review be performed on audits, interim reviews, and attestation engagements conducted pursuant to PCAOB standards.[5] AS 7 also provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance.[6]

7. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the [Securities and Exchange] Commission [("Commission")] issued under the Act, or professional standards."[7]

8. As described below, Respondents failed to comply with PCAOB rules and standards.

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[4] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[5] See AS 7 ¶ 1.

[6] Id. at ¶¶ 13, 18, and 18C.

[7] See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

ORDER

Audit of Cross Border Private Capital, L.L.C.'s Financial Statements

9. At all relevant times, Cross Border Private Capital, L.L.C. ("Cross Border") was a broker-dealer located in New York and was a "broker" and "dealer," as defined in Section 110(3) and 110(4) of the Act and PCAOB Rule 1001(b)(iii) and 1001(d)(iii).

10. The Firm served as the auditor of Cross Border's financial statements for the year ended December 31, 2014. The Firm issued an audit report and review report, both dated February 25, 2015, which were included in Cross Border's Form X-17A-5 Part III ("Form X-17A-5") filed with the Commission on March 2, 2015. The Firm improperly permitted the issuance of those reports, which were included in Cross Border's Form X-17A-5 filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.[8]

Audit of CDK Financial Services, LLC's Financial Statements

11. At all relevant times, CDK Financial Services, LLC ("CDK") was a broker-dealer located in New York and was a "broker" and "dealer," as defined in Section 110(3) and 110(4) of the Act and PCAOB Rule 1001(b)(iii) and 1001(d)(iii).

12. The Firm served as the auditor of CDK's financial statements for the year ended December 31, 2014. The Firm issued an audit report and review report, both dated February 27, 2015, which were included in CDK's Form X-17A-5 filed with the Commission on March 2, 2015. The Firm improperly permitted the issuance of those reports, which were included in CDK's Form X-17A-5 filing, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.[9]

McCallum Contributed to the Firm's Violations of PCAOB Rules and Standards

13. McCallum, the sole owner of the Firm, was the engagement partner for the 2014 audits of Cross Border and CDK conducted by the Firm. Accordingly, McCallum had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. McCallum knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7, as described above. As a result, he violated PCAOB Rule 3502.

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[8] See AS 7 ¶¶ 13 and 18C.

[9] Id.

PCAOB
Public Company Accounting Oversight Board

ORDER

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), William T. McCallum CPA, P.C. and William T. McCallum, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $5,000 is imposed upon William T. McCallum CPA, P.C. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. William T. McCallum CPA, P.C. shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies William T. McCallum CPA, P.C. as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

August 2, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Jerome Rosenberg CPA, P.C. and Jerome Rosenberg, CPA,* *Respondents.*	PCAOB Release No. 105-2017-036 August 2, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Jerome Rosenberg CPA, P.C. (the "Firm"), revoking the Firm's registration,[1] and imposing a civil money penalty in the amount of $10,000 upon the Firm; and censuring Jerome Rosenberg, CPA ("Rosenberg") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Rosenberg (collectively "Respondents") violated PCAOB rules and standards in connection with the Firm's audits of an issuer audit client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the

[1] The Firm may reapply for registration after one (1) year from the date of this Order.

[2] Rosenberg may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

ORDER

Board has determined to accept. Respondents admit the facts, findings, and violations set forth below, and consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. Jerome Rosenberg CPA, P.C. is, and at all relevant times was, an accounting firm organized under New York law, and headquartered in Melville, New York. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and is licensed by the New York State Board of Accountancy (license no. 026799). At all relevant times, the Firm was the external auditor for the issuer identified below.

2. Jerome Rosenberg, CPA, age 74, is, and at all relevant times was, a certified public accountant licensed by the New York State Board of Accountancy (license no. 027100). At all relevant times, Rosenberg was the managing partner and sole owner of the Firm. Rosenberg is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns the Respondents' failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to one issuer client. In the case of the Firm's audits of the issuer's 2013 through 2016 year-end financial statements, the Firm failed to have an engagement quality review performed with objectivity. As described below, in each of these years, the engagement quality reviewer

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[3] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

performed some of the audit procedures and thereby assumed part of the responsibilities of the engagement team.

4. This matter also concerns the Firm's violations of PCAOB rules and quality control standards by failing to establish quality control policies and procedures sufficient to provide the Firm with reasonable assurance that its personnel would comply with applicable professional standards and the Firm's standards of quality.

C. Respondents violated PCAOB Rules and Standards

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5]

6. AS 7 requires an engagement quality review and concurring approval of issuance for each audit engagement.[6] In addition, AS 7 requires that the engagement quality reviewer perform the review with integrity, and maintain objectivity in performing the review.[7] To maintain objectivity, the engagement quality reviewer should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team.[8] The engagement partner remains responsible for the engagement and its performance, notwithstanding the involvement of the engagement quality reviewer.[9]

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[5] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards;* PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB standards are to the versions of those standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2016), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

[6] See AS 7 ¶ 1.

[7] Id. at ¶ 6.

[8] Id. at ¶ 7.

[9] Id.

ORDER

7. As described below, Respondents failed to comply with PCAOB rules and standards.

Audits of IEH's Financial Statements

8. At all relevant times, IEH Corp. ("IEH") was a New York State corporation headquartered in Brooklyn, New York. The company's public filings disclose that it designs, develops and manufactures printed circuit connectors for high performance applications. At all relevant times, IEH was an "issuer" as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. The Firm was engaged to audit the financial statements of IEH for the years ended March 29, 2013, March 28, 2014, March 27, 2015 and March 26, 2016 (collectively the "IEH Audits"). The Firm issued audit reports for each of the IEH Audits, which were included in IEH's Forms 10-K filed with the Securities and Exchange Commission ("Commission" or "SEC").

10. Throughout the IEH Audits, the engagement quality reviewer assumed responsibilities of the engagement team by performing audit procedures on revenue recognition, assets and inventory in IEH's financial statements. As a result, the Firm failed to obtain concurring approvals of issuance from an engagement quality reviewer who maintained objectivity while performing the review of IEH Audits.[10]

11. Rosenberg served as the head of the assurance practice at the Firm at all relevant times, and he also served as the engagement quality reviewer on the 2013, 2014 and 2016 IEH Audits. While serving as the engagement quality reviewer for those years, Rosenberg assumed responsibilities of the engagement team by performing audit procedures on revenue recognition, assets and inventory in IEH's financial statements. As a result, Rosenberg failed to maintain objectivity in his role as engagement quality reviewer, and thus violated AS 7.[11]

12. In addition, Rosenberg served as the engagement partner on the Firm's 2015 audit of IEH's financial statements. Rosenberg was aware that another member of the Firm, who was serving as the engagement quality reviewer for the 2015 audit, performed audit procedures on revenue recognition, assets and inventory in IEH's 2015 financial statements. As a result, Rosenberg, as the engagement partner on the 2015 audit, improperly permitted the engagement quality reviewer to assume responsibilities

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[10] See AS 7 ¶ 6.

[11] Id. at ¶ ¶ 6 and 7.

of the engagement team, and thus Rosenberg violated Auditing Standard No. 10, *Supervision of the Audit Engagement*.[12]

D. Respondents violated PCAOB Rules and Standards Related to Quality Control

13. PCAOB rules require that a registered public accounting firm and their associated persons comply with the Board's quality control standards.[13] PCAOB quality control standards require that a registered public accounting firm establish policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[14]

14. Throughout the relevant time period, the Firm failed to implement and maintain a system of quality control that would provide it with reasonable assurance that the work performed by the engagement personnel would comply with applicable professional standards. As described above, the Firm failed to establish and implement quality control policies and procedures to provide reasonable assurance that engagement quality reviews were obtained by reviewers who maintained objectivity in performing the review.

15. Rosenberg, as head of the Firm's assurance practice, had responsibility for the development, maintenance, communication, and monitoring of the Firm's quality control policies and procedures. In connection with that role, Rosenberg took, or omitted to take, actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of PCAOB quality control standards, in contravention of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit

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[12] See AS 10 ¶ 3.

[13] PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[14] QC § 20.17.

ORDER

reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Jerome Rosenberg CPA, P.C., and Jerome Rosenberg, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jerome Rosenberg, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[15]

C. After one (1) year from the date of this Order, Jerome Rosenberg, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Jerome Rosenberg CPA, P.C. is revoked;

E. After one (1) year from the date of the Order, Jerome Rosenberg CPA, P.C. may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Jerome Rosenberg CPA, P.C. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Jerome Rosenberg CPA, P.C. shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified

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[15] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Rosenberg. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies Jerome Rosenberg CPA, P.C. as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 2, 2017

PCAOB
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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Pitcher Partners (Sydney, Australia),* *Respondent.*	PCAOB Release No. 105-2017-037 September 14, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Pitcher Partners[1] (the "Firm," "Respondent," or "Pitcher Sydney") and revoking its registration. The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and standards by failing to timely file an annual report for the 2011 through 2016 reporting periods, and failing to timely pay an annual fee for the 2012 through 2016 reporting periods.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and

[1] This order refers to Pitcher Partners, located in Sydney, Australia and not PCAOB registrant Pitcher Partners of Melbourne, Australia. Both firms are part of an Australian association of independent firms, "Pitcher Partners," but each firm operates as a separate independent business.

ORDER

without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of this Order and Respondent's Offer, the Board finds that:[3]

A. Respondent

1. Pitcher Sydney is a partnership located in Sydney, Australia. The Firm registered with the Board on August 27, 2004, pursuant to Section 102 of the Act and Board rules. Pitcher Sydney is licensed by the Institute of Chartered Accountants in Australia. A search of public records indicates that the Firm has not issued any audit reports or broker-dealer certifications, or played a substantial role in the preparation or furnishing of any audit or broker-dealer audit report since registering with the Board.

B. Violations

2. Pursuant to Section 102(d) of the Act, PCAOB Rule 2200, *Annual Report*, provides that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 . . . ." PCAOB Rule 2201, *Time for Filing of Annual Report,* sets forth that the deadline for filing the annual report is June 30 of each year. In violation of Section 102(d) of the Act and Rule 2200, Pitcher Sydney failed to timely file an annual report for 2011, 2012, 2013, 2014, 2015, and 2016. On January 26th and 27th, 2017, the Firm belatedly filed its annual reports for the 2011 through 2015 reporting periods. The Firm has not filed its 2016 annual report.

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

3. In addition, pursuant to Section 102(f) of the Act, PCAOB Rule 2202, *Annual Fee*, provides that "[e]ach registered public accounting firm must pay an annual fee to the Board on or before July 31 . . . ." In violation of Rule 2202, Pitcher Sydney failed to timely pay its annual fee for 2012, 2013, 2014, 2015, and 2016. On February 1, 2017, the Firm belatedly paid its annual fees for the 2012 through 2016 reporting periods.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Pitcher Partners is hereby censured; and

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Pitcher Partners is revoked.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 14, 2017

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Seale and Beers CPAs, LLC, and Charlie B. Roy, CPA,* Respondents.	PCAOB Release No. 105-2017-038 September 14, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is (1) censuring Seale and Beers CPAs, LLC (the "Firm"); (2) revoking the Firm's registration;[1] (3) imposing upon the Firm a civil money penalty in the amount of $20,000; (4) censuring Charlie B. Roy, CPA ("Roy"); (5) suspending Roy from being an associated person of a registered public accounting firm for a period of one year from the date of this Order; (6) limiting Roy's activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for an additional period of one year following the expiration of his suspension; and (7) imposing upon Roy a civil money penalty in the amount of $10,000. The Board is imposing these sanctions on the basis of its findings that: (a) Roy and the Firm (collectively "Respondents") violated PCAOB rules and auditing standards in connection with the Firm's audit of Capstone Financial Group, Inc.'s ("Capstone") financial statements for the fiscal year ("FY") ended December 31, 2013 ("FY 2013 Audit"); (b) the Firm violated Section 10A of the Securities Exchange Act of 1934 ("Exchange Act"), and Roy directly and substantially contributed to the Firm's violation of the Exchange Act, in connection with the FY 2013 Audit; (c) Respondents violated PCAOB rules and auditing standards in connection with the Firm's review of Capstone's financial statements for the quarter ended March 31, 2014 ("Q1 2014 Review"); and (d) the Firm violated PCAOB quality control standards and Roy directly and substantially contributed to the Firm's violation of PCAOB quality control standards.

I.

On December 13, 2016, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against the Respondents. These

[1] The Firm may reapply for registration after one (1) year from the date of this Order.

ORDER

proceedings were not public pursuant to Section 105(c)(2) of the Act and PCAOB Rule 5203. The Board determined, under Section 105(c)(2) of the Act and PCAOB Rule 5203, that good cause was shown to make the hearing in this proceeding public, and the Division of Enforcement and Investigations consented to making the hearing public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, Respondents did not consent to make the hearing in this proceeding public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondents' Offers, the Board finds that:[3]

A. Respondents

1. Seale and Beers, CPAs, LLC, is a limited liability company organized under the laws of the State of Nevada and headquartered in Las Vegas, Nevada. It is licensed by the Nevada State Board of Accountancy (License # LLC-0207) and registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm was retained by Capstone in November 2013, and acted as Capstone's external auditor for the review of Capstone's financial statements for the quarter ended

[2] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[3] The Board finds that the conduct of Respondents described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

September 30, 2013, the FY 2013 Audit, and the Q1 2014 Review. The Firm resigned as Capstone's auditor on July 31, 2014, prior to performing a review of Capstone's financial statements for the quarter ended June 30, 2014.

2. Charlie B. Roy, CPA, 36, of Las Vegas, Nevada, is a certified public accountant licensed by the Nevada State Board of Accountancy (License # CPA-5287). At all relevant times, he was the managing partner of the Firm and served as the engagement partner on the Firm's audit and reviews of Capstone's financial statements. Public records disclose that, since the institution of these proceedings, Roy has continued to serve as an engagement partner for audits of the Firm's issuer clients, as well as for issuer clients of a second registered public accounting firm where he is the managing partner. Roy is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Other Relevant Individual

3. Bojan Stokic, CPA ("Stokic"), 39, of Las Vegas, Nevada, is a certified public accountant licensed by the Nevada State Board of Accountancy (License # CPA-5331). At all relevant times, Stokic was an audit partner with the Firm, and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Stokic served as the engagement quality reviewer on the Firm's audit and reviews of Capstone's financial statements.[4]

C. Summary

4. This matter concerns Respondents' repeated and numerous failures to comply with PCAOB rules and standards in connection with the FY 2013 Audit and Q1 2014 Review.[5] The Firm was retained as Capstone's external auditor, and Roy served as the engagement partner, for these engagements.

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[4] See *Bojan Stokic*, PCAOB Rel. No. 105-2016-048 (December 13, 2016) (censuring Stokic and suspending him from being an associated person of a registered public accounting firm for a period of one year in connection with his work on the Capstone engagements).

[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audit or review. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing*

ORDER

5. During the FY 2013 Audit, Respondents failed to properly plan the audit, including failing to assess the risks of material misstatement and to identify any significant risk at the financial statement and assertion level. Respondents also failed to obtain, or ensure that the engagement team obtained, sufficient appropriate audit evidence for significant items reported in the financial statements, including related party transactions and expenses. Further, Roy failed to exercise due professional care and professional skepticism in conducting and supervising the FY 2013 Audit, and caused the Firm to violate applicable quality control standards with respect to the FY 2013 Audit, as well as other issuer audits.

6. During the Q1 2014 Review, Roy was aware of significant matters impacting a line of credit receivable constituting over 92 percent of Capstone's total reported assets, but Respondents failed to perform sufficient procedures in response to that information.

D. Applicable PCAOB Rules, Auditing Standards, Quality Control Standards, And Statutory Provisions

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[7] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[8]

Standards and Related Amendments to PCAOB Standards and Rules, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

[6] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[7] See AU § 508.07, *Reports on Audited Financial Statements*.

[8] See AU § 150.02, *Generally Accepted Auditing Standards*; AU §§ 230.01, .07, *Due Professional Care in the Performance of Work*; Auditing Standard No. 15, *Audit Evidence* ("AS 15").

ORDER

8. PCAOB standards state that, in planning an audit, an auditor should, among other things, establish an overall audit strategy for the engagement and develop an audit plan.[9] The auditor should also identify and assess the risks of material misstatement at the financial statement level and the assertion level, and design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[10] Relevant factors in determining whether a risk is a significant risk include whether the risk involves significant transactions with related parties.[11] The assessment of risk should continue throughout the audit and, when the auditor obtains audit evidence that contradicts audit evidence on which the original risk assessment was made, "the auditor should revise the risk assessment and modify planned audit procedures or perform additional procedures in response to the revised risk assessments."[12]

9. In accordance with PCAOB standards, after identifying related party transactions, an auditor should undertake procedures to "obtain satisfaction concerning the purpose, nature, and extent of these transactions and their effect on the financial statements."[13] These procedures should extend beyond inquiry of management, and, among other things, involve obtaining an understanding of the business purpose of the related party transaction.[14] An auditor cannot complete the audit until he or she "understands the business sense of material transactions."[15]

10. PCAOB standards state that the auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud.[16] PCAOB standards further require that an auditor gain an understanding of the business

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[9] See Auditing Standard No. 9, *Audit Planning* ("AS 9"), ¶¶ 4-5.

[10] See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"), ¶ 59; Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"), ¶¶ 3, 8; AS 15 ¶¶ 4-6.

[11] See AS 12 ¶ 71.

[12] Id. at ¶ 74.

[13] AU § 334.09, *Related Parties*.

[14] See id.

[15] Id. at § 334.09, fn 6.

[16] See AU § 110.02, *Responsibilities and Functions of the Independent Auditor*.

ORDER

rationale for any significant unusual transactions[17] and, when an auditor becomes aware of information concerning a possible illegal act, to perform additional procedures to obtain an understanding of the nature of the act, the circumstances in which it occurred, and sufficient other information to evaluate the effect on the financial statements.[18]

11. PCAOB standards also require that an auditor, when performing audit sampling, ensure that "all items in the population…have an opportunity to be selected."[19]

12. PCAOB standards further require that an auditor evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[20] The "auditor should take into account all relevant audit evidence, regardless of whether it appears to corroborate or to contradict the assertions in the financial statements."[21] PCAOB standards require that if audit evidence obtained from one source is inconsistent with that obtained from another, the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit.[22] PCAOB standards also require that, if an auditor has not obtained sufficient appropriate audit evidence about a relevant assertion, the auditor should perform procedures to obtain further audit evidence to address the matter.[23]

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17 See AU § 316.66, *Consideration of Fraud in a Financial Statement Audit.*

18 See AU §§ 317.07, .10, *Illegal Acts by Clients*.

19 AU § 350.24, *Audit Sampling*.

20 See Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), ¶ 2.

21 Id. at ¶ 3.

22 See AS No. 15 ¶ 29; see also AU § 333.04, *Management Representations* ("If a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made. Based on the circumstances, the auditor should consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified.").

23 See AS No. 14 ¶ 35.

ORDER

13. PCAOB standards require that an audit engagement be supervised.[24] The engagement partner is responsible for proper supervision of the work of engagement team members and for compliance with PCAOB standards.[25] Supervising an audit engagement includes reviewing the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work support the conclusions reached.[26]

14. In performing a review of interim financial information, if an accountant becomes aware of information that leads him or her to believe that the interim financial information may not be in conformity with generally accepted accounting principles in all material respects, the accountant should make additional inquiries or perform other procedures to provide a basis for communicating whether he or she is aware of any material modifications that should be made to the interim financial information.[27]

15. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[28] PCAOB quality control standards require, among other things, that a firm have procedures to provide it with reasonable assurance that: (1) the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality;[29] and, (2) the policies and procedures established by the firm for the elements of quality control were suitably designed and were being effectively applied.[30]

16. PCAOB rules also prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a

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[24] See Auditing Standard No. 10, *Supervision of the Audit Engagement* ("AS 10").

[25] See id. at ¶ 3.

[26] See id. at ¶ 5.

[27] See AU § 722.22, *Interim Financial Information*.

[28] See PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards.*

[29] See Quality Control Section 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC 20"), §§ 20.17-.19.

[30] See id. at § 20.20.

ORDER

violation of Board standards or the provisions of the securities laws relating to the preparation and issuance of audit reports by that firm.[31]

17. Section 10A(a) of the Exchange Act requires that each audit of the financial statements of an issuer by a registered public accounting firm include "procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts."[32]

E. Background

18. Capstone was incorporated in Nevada on July 10, 2012, under the name Creative App Solutions, Inc., as a development stage company engaged in the design and sale of mobile applications. On August 26, 2013, the name of the company was changed from Creative App Solutions, Inc. to Capstone Financial Group, Inc. and a new chief executive officer ("CEO") was appointed. Capstone underwent a change of control on September 6, 2013, when nearly 80 percent of the then issued and outstanding common stock was acquired by the newly-appointed CEO.

19. Capstone entered into a revolving line of credit payable with Capstone Affluent Strategies, Inc. ("Affluent"), an entity owned and controlled by the individual who became Capstone's new CEO. According to documents contained in the Firm's FY 2013 Audit work papers, this contract was executed on August 8, 2013. The work papers for the FY 2013 Audit also contain documents indicating that Capstone entered into a revolving line of credit receivable with Affluent on September 13, 2013. Both lines of credit initially had similar terms, including $500,000 in available credit, an interest rate of two percent per annum, and the principal and interest due two years from the date of execution. On October 7, 2013, Capstone and Affluent amended the line of credit receivable to increase, from $500,000 to $2,000,000, the amount of credit available to Affluent and to extend the maturity to two years from the date of the amendment.

20. On December 13, 2013, Capstone filed a Form 8-K announcing that it had entered into an Acquisition Agreement and Plan of Merger ("Merger Agreement") by and among itself, a wholly owned subsidiary of Capstone, and Affluent. As a condition of the merger, Affluent was required to provide Capstone with audited financial

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[31] See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

[32] 15 U.S.C. § 78j-1(a)(1).

ORDER

statements for the fiscal years ended December 31, 2012 and 2013 within 74 days of the merger closing. The merger was set to close on January 15, 2014.

21. On April 15, 2014, Capstone filed its FY 2013 Form 10-K with the U.S. Securities and Exchange Commission ("Commission"). On November 13, 2014, however, Capstone filed a Form 8-K announcing non-reliance on its financial statements for FY 2013 and the first two quarters of 2014.

22. Ultimately, Capstone filed a Form 10-K/A on February 18, 2015, which restated its FY 2013 financial statements to reflect an additional $581,826 in operating expenses, a 188% increase from what was originally reported.[33] Almost all of the increase in operating expenses was reflected in the restated financial statements as owed to Affluent under the revolving line of credit payable.

23. Capstone's FY 2013 Form 10-K/A also disclosed that Affluent had been dissolved in April 2014, and that, in a series of transactions that transpired in October 2014, the cross lines of credit between Capstone and Affluent were cancelled. Capstone's FY 2014 Form 10-K, filed on April 30, 2015, disclosed that, in connection with the these transactions, Capstone recorded a loss of $1,089,617 from the forgiveness of debt related to the lines of credit.

F. Respondents Violated Federal Securities Laws and PCAOB Rules and Standards During the FY 2013 Audit

24. The Firm issued an audit report, dated April 15, 2014, that was included in Capstone's FY 2013 Form 10-K filed with the Commission on the same day. The report stated that the audit of Capstone's FY 2013 financial statements had been conducted in accordance with PCAOB standards, and expressed an unqualified opinion concerning those financial statements. Roy served as the engagement partner and authorized the issuance of the audit report. The engagement team consisted of Roy and an audit senior, with Stokic serving as the engagement quality reviewer.

Risk Assessment

25. As part of a 2013 inspection of the Firm by the PCAOB Division of Registration and Inspections, PCAOB inspectors found that Respondents utilized an internally-developed risk assessment form within its planning memorandum that did not provide for the identification and assessment of the risks of material misstatement at the

[33] The Firm resigned on July 31, 2014, and was not involved in auditing Capstone's restatement.

ORDER

financial statement level and the assertion level. This deficiency was identified in a PCAOB inspection comment form issued to the Firm on July 25, 2013, which noted that the Firm had failed to perform an appropriate risk assessment in all five issuer audits inspected. Roy signed and acknowledged the PCAOB inspection comment form on behalf of the Firm on August 12, 2013.

26. Despite being aware that utilizing the Firm's internally-developed risk assessment form resulted in an assessment that did not comply with PCAOB standards, Roy and the Firm continued to use this risk assessment form and failed to otherwise assess and document risks of material misstatement at the financial statement level and the assertion level for the FY 2013 Audit.

27. Instead, the engagement team's assessment of risk was limited to assessing inherent risk, control risk, detection risk, and audit risk, and the risks of material misstatement were not properly assessed. In addition, the risk assessment for the FY 2013 Audit aggregated financial statement items, such as all assets or all liabilities. As a consequence, Respondents failed to identify significant accounts and disclosures and their relevant assertions, and failed to properly evaluate, and design and perform audit procedures that addressed, the risks of material misstatement for such items.[34] Roy, as the engagement partner, reviewed and signed off on the planning memorandum containing his engagement team's risk assessment.

28. Because Respondents failed to properly assess the risks of material misstatement and failed to identify significant risks at the financial statement level and the assertion level, Respondents also failed to properly establish an overall strategy for the engagement and develop an audit plan that included planned risk assessment procedures and planned responses to the risks of material misstatement. In addition, Respondents failed to perform sufficient audit procedures that addressed the risks of material misstatement.[35]

Related Party Transactions

29. During the third quarter of 2013, Capstone entered into both a revolving line of credit payable and a revolving line of credit receivable with Affluent. In its FY 2013 financial statements, Capstone reported that the revolving line of credit receivable from Affluent was $1,472,136, which accounted for 92.6 percent of Capstone's total reported assets as of December 31, 2013. Capstone reported that the revolving line of

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[34] See AS 12 ¶ 59; AS 13 ¶ 8.

[35] See AS 9 ¶¶ 4-5; AS 12 ¶ 59; AS 13 ¶¶ 3, 8; AS 15 ¶¶ 4-6.

ORDER

credit payable to Affluent was $320,240 as of December 31, 2013, which accounted for 96.9 percent of Capstone's total reported liabilities.

30. As the engagement partner, Roy was aware of the related party transactions between Capstone and Affluent, their terms, and their significance to Capstone's financial statements. In accordance with PCAOB standards, after identifying related party transactions, an auditor should undertake procedures to "obtain satisfaction concerning the purpose, nature, and extent of these transactions and their effect on the financial statements."[36] Despite the significance of these lines of credit to Capstone's financial statements, Respondents failed to obtain or document an understanding of the business purpose for having both a line of credit receivable and a line of credit payable with similar terms between the same counterparties.[37]

31. This failure to understand the business purpose of the arrangements also extended to individual transactions. Capstone's bank activity statements included in the FY 2013 Audit work papers reflect that, during the third and fourth quarters of 2013, Capstone repeatedly made cash withdrawals from its bank accounts shortly after receiving funds from either stock sales or revenue transactions. Each of these cash withdrawals were recorded by Capstone as advances to Affluent under the line of credit receivable. During the same time period, Capstone recorded numerous increases to the line of credit payable with Affluent, purportedly to reflect payment of expenses by Affluent that were made on Capstone's behalf. Respondents failed to obtain sufficient appropriate audit evidence in order to ascertain where the funds withdrawn by Capstone actually went and failed to inquire of management or obtain other sufficient appropriate audit evidence as to the business rationale of these transactions, including obtaining an understanding as to why Capstone was purportedly giving all its cash to Affluent.

32. Respondents also failed to follow up on red flags surrounding the related party transactions. With respect to the line of credit payable, Roy was aware of facts that called into question whether documentation underlying the transaction had been backdated and, as a result, whether the line of credit was properly authorized. This included copies of a board consent authorizing the line of credit payable and the contract establishing the line of credit payable in the Firm's work papers that purported to be from August 8, 2013, but which used the company's new name weeks before that name was approved by a different board consent. These purported August 8, 2013 documents were also signed by individuals who were not appointed to the titles used in them until August 26, 2013.

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[36] AU § 334.09.

[37] See AU §§ 316.66-.67.

ORDER

33. Roy failed to evaluate, with due professional care and professional skepticism, the audit evidence obtained regarding the authorization and dating of the line of credit payable, and Respondents failed to perform procedures to obtain further evidence to address these inconsistencies.[38]

34. In addition, bank account statements attributed to Affluent in the work papers, and used by the Firm for testing during the audit, were in the name of Capstone's CEO in his individual capacity and bore his home address. Roy initialed the bank account statements and related work papers tracing deposits into that bank account, as part of his review of his engagement team's work. Roy was aware at the time of the audit that personal loans to officers were prohibited.[39] Despite the red flags suggesting that funds from certain of the related party transactions were going into the personal bank account of Capstone's CEO, the Firm failed to design procedures to provide reasonable assurance of detecting illegal acts and Roy directly and substantially contributed to that violation.[40] Moreover, Roy failed to consider whether any of the money that was purportedly borrowed by Affluent was really an illegal personal loan to Capstone's CEO.[41]

Valuation of Related Party Lines of Credit

35. Respondents also failed to obtain sufficient appropriate audit evidence relating to the valuation of the line of credit receivable from Affluent and the line of credit payable to Affluent.[42] The engagement team obtained, and Roy reviewed and initialed, confirmations for each line of credit from Capstone's CEO, who signed the confirmations on behalf of both Affluent and Capstone.

36. Respondents placed substantial reliance on the line of credit payable confirmation even though the day before the FY 2013 Form 10-K was filed, Capstone

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[38] See AS 14 ¶¶ 3, 32-35; AS 15 ¶¶ 4-6, 9, 29; AU § 110.02; AU § 316.13; AU § 334.09.

[39] See Section 402 of the Act ("It shall be unlawful for any issuer … directly or indirectly, including through any subsidiary, to extend or maintain credit, to arrange for the extension of credit, or to renew an extension of credit, in the form of a personal loan to or for any director or executive officer (or equivalent thereof) of that issuer.")

[40] See Section 10A(a) of the Exchange Act; PCAOB Rule 3502. See also AS 15 ¶¶ 4-6; AS 14 ¶¶ 3, 34; AU § 316.13; AU §§ 317.07, .09-.11.

[41] See AS 15 ¶¶ 4-6, 29; AU §§ 317.07, .09-.11.

[42] See AS 14 ¶¶ 3, 32-35; AS 15 ¶¶ 4-6, 8, 17; AU §§ 334.09-.10.

ORDER

found additional expenses that had purportedly been paid by Affluent on its behalf. Respondents were aware that these expenses had been found, but failed to perform any testing on the additional expenses and the related impact to the line of credit payable balance, other than to obtain an updated confirmation from Capstone's CEO, which was signed and returned by email six minutes after it was requested. As a result, the only evidence obtained with respect to the majority of the line of credit payable balance was from management representations.

37. Roy and the Firm also failed to adequately assess the collectibility of the line of credit receivable with Affluent.[43] The Firm's work papers conclude Capstone's CEO "is also the CEO of Capstone Affluent Strategies, Inc. As such, we believe that the Notes Receivable will be collectible" even though the line of credit receivable confirmation in the Firm's work papers makes clear that Capstone's CEO had not personally guaranteed the line of credit with Affluent. Respondents failed to perform any procedures to test the collectibility of the line of credit receivable. In addition, Respondents obtained Affluent's general ledger during the audit, which showed that Affluent had no assets, including no cash, and liabilities of over $3 million as of December 31, 2013. Other than obtaining a management representation, Respondents failed to consider whether Affluent had substance apart from Capstone or the financial capability to be able to repay the line of credit receivable.[44] As noted above, Capstone eventually recorded a $1,089,617 loss for the forgiveness of debt related to the cross lines of credit.

Expenses

38. Capstone reported $309,691 in total operating expenses and a net loss of $143,575 in its FY 2013 financial statements. In planning the FY 2013 Audit, the engagement team identified as a "primary concern[]…that liabilities (and hence, expenses) are understated due to fraud and/or error." To address this risk, Respondents intended to "analyze expenses that should recur to ensure that they actually do." Further, the planning memorandum also indicates that the engagement team intended to select a portion of Capstone's expenses and test them for timing, classification, and amount.

39. As an initial matter, Respondents failed to subject the entire population of Capstone's operating expenses to sampling.[45] Respondents tested operating expenses

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43 Id.

44 See AU § 316.67; AU § 333.04.

45 See AU § 350.24; AS 15 ¶ 28.

ORDER

by performing "MUS sampling" (monetary unit sampling) and selecting ten expense items totaling $90,649, or 29 percent of total operating expenses, for testing. While subsequently preparing its FY 2013 financial statements, however, Capstone identified approximately $69,000 of additional operating expenses, which increased Capstone's operating expenses by over 28 percent. Despite the significance of these expenses to the FY 2013 financial statements, Respondents did not include these additional expenses as part of the population subjected to sampling and did not otherwise test the additional expenses.

40. Respondents also failed to obtain sufficient appropriate audit evidence relating to the nature and occurrence of expenses recorded by Capstone.[46] According to the Firm's work papers, for each item selected, Respondents obtained a copy of the relevant invoice and traced the amount to payment in Capstone's bank statements. Several of the items selected for expense testing purportedly related to expenses that Capstone incurred for consulting services. Although the engagement team obtained copies of invoices for these consulting services, the invoices did not contain dates indicating when the services were provided or otherwise contain any details about the consulting services. Roy, as engagement partner, reviewed and initialed each of the invoices used for expense testing. Roy knew or should have known that the information on the face of the invoices was insufficient to provide sufficient appropriate audit evidence concerning the nature of the expense and whether the expenses tested were recorded in the proper period.

41. Furthermore, evidence in the Firm's work papers reflect that Capstone paid expenses on behalf of Affluent which were then recorded by Capstone as increases to the line of credit receivable from Affluent. Respondents failed to obtain sufficient appropriate audit evidence to determine whether all expenses paid by Capstone on Affluent's behalf were properly recorded and disclosed in Capstone's FY 2013 financial statements.

42. Finally, Respondents failed to obtain sufficient appropriate audit evidence relating to the completeness of expenses recorded by Capstone.[47] Respondents were aware that Affluent was paying expenses on Capstone's behalf, which were then recorded by Capstone as increases to the line of credit payable to Affluent. However, other than obtaining a confirmation from Capstone's CEO of the balance outstanding on the line of credit payable to Affluent, the engagement team did not perform any testing to ensure that all expenses paid by Affluent on Capstone's behalf were properly

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[46] See AS 15 ¶¶ 4-6.

[47] See id.

ORDER

recorded by Capstone.

Supervision of the Engagement Team

43. As the engagement partner, Roy was responsible for the Capstone engagement and its performance.[48] Accordingly, Roy was responsible for proper supervision of the work of engagement team members and for compliance with PCAOB standards.[49] Roy was required to review the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[50] As discussed above, Roy and the engagement team failed to adequately plan the audit, including failing to properly assess the risks of material misstatement, and failed to obtain sufficient appropriate audit evidence in several audit areas. For each of these areas, Roy signed off as having reviewed the relevant work papers, but failed to recognize that not all planned work had been performed, and that the procedures performed, including those concerning related party transactions and expense testing, did not achieve the objectives of those procedures or support the conclusions reached.

G. Respondents Violated PCAOB Rules and Standards During the Q1 2014 Review

44. During the Q1 2014 Review, Respondents failed to perform sufficient procedures relating to the line of credit receivable from Affluent.[51] The engagement team consisted of Roy and an audit senior, with Stokic again serving as the engagement quality reviewer.

45. Capstone previously announced that it had entered into the Merger Agreement with Affluent, whereby Affluent would become a wholly-owned subsidiary of Capstone, and that the merger had closed in January 2014. Capstone's Q1 2014 Form 10-Q, however, indicated that its merger with Affluent had been rescinded because Affluent was unable to provide audited financial statements as required by the Merger Agreement. The Form 10-Q also provided that the line of credit receivable with Affluent had increased by over $430,000 to $1,902,670 during the quarter, which represented

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48 See AS 10 ¶ 3.

49 See id.

50 See id. at ¶ 5.

51 See AU §§ 722.03, .18, .22.

ORDER

92.9 percent of Capstone's total reported assets. During the FY 2013 Audit, Respondents obtained a copy of Affluent's general ledger that was dated less than two weeks before the end of Q1 2014 and indicated that Affluent had no cash or other assets, and liabilities of $3.1 million.

46. Despite the red flags raised by the rescinded merger, the lack of assets reflected in Affluent's general ledger, and Affluent's inability to provide audited financial statements, Respondents failed to make additional inquiries or perform other procedures in order to determine how these events might impact the collectibility of the line of credit receivable from Affluent.

H. Respondents Violated PCAOB Rules and Standards Related to Quality Control

47. The Firm did not have policies and procedures that provided it with reasonable assurance that the work performed by engagement personnel met applicable professional standards, regulatory requirements, or the Firm's standards of quality.[52] The Firm also did not have policies and procedures that provided it with reasonable assurance that its quality control system was suitably designed and being effectively applied.[53]

48. Roy knowingly caused the Firm to violate PCAOB standards by continuing to utilize an internally-developed risk assessment form after acknowledging to PCAOB inspectors that the form did not provide for an assessment that complied with PCAOB standards.[54] Roy used this risk assessment form for the FY 2013 Audit, as well as for several other issuer audits where he was the audit partner during this same time period, without otherwise assessing risks of material misstatement at the financial statement level and the assertion level.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

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[52] See QC §§ 20.17-.19.

[53] See id. at §§ 20.20.

[54] See PCAOB Rule 3502.

ORDER

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Seale and Beers CPAs, LLC is hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Seale and Beers CPAs, LLC is revoked;

C. After one (1) year from the date of the Order, Seale and Beers CPAs, LLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 payable by Seale and Beers CPAs, LLC is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Seale and Beers CPAs, LLC shall pay the $20,000 civil money penalty within 10 days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies the payor as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

E. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Charlie B. Roy is hereby censured;

F. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Charlie B. Roy is suspended for one (1) year from the date of this Order from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[55]

[55] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Roy. Section 105(c)(7)(B) of the Act

ORDER

G. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for one (1) year following the termination of the suspension ordered in paragraph F, Charlie B. Roy's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Roy shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's Auditing Standard No. 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's Auditing Standard No. 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); or (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; and

H. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 payable by Charlie B. Roy is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Charlie B. Roy shall pay the $10,000 civil money penalty within 10 days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies the payor as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or

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provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 14, 2017

PCAOB
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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of BDO Auditores, S.L.P., Santiago Sañé Figueras, and José Ignacio Algás Fernández

Respondents.

PCAOB Release No. 105-2017-039

September 26, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring BDO Auditores, S.L.P. ("BDO Spain" or "Firm"), Santiago Sañé Figueras ("Sañé"), and José Ignacio Algás Fernández ("Algás") (collectively, "Respondents"); (2) imposing a civil money penalty in the amount of $40,000 on BDO Spain and $7,500 on Sañé; (3) requiring the Firm to undertake certain remedial measures, including to establish policies and procedures, directed toward the quality control deficiencies identified in this Order; (4) requiring the Firm to provide additional professional education and training to its associated persons; (5) barring Sañé from being an associated person of a registered public accounting firm;[1] and (6) barring Algás from being an associated person of a registered public accounting firm.[2]

The Board is imposing these sanctions on the basis of its findings that: (a) the Respondents violated PCAOB rules and standards in connection with the audits of the December 31, 2011 and December 31, 2012 financial statements of Private Media Group, Inc. ("PMG" or the "Company"); and (b) BDO Spain violated PCAOB rules and standards by failing to effectively implement and monitor policies and procedures to provide it with reasonable assurance that it only accepted engagements governed by PCAOB rules and standards that it could reasonably expect to be completed with professional competence, and that its engagement personnel were appropriately assigned, qualified and adequately trained to perform audits in accordance with PCAOB rules and standards.

[1] Sañé may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

[2] Algás may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

ORDER

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents each consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **BDO Auditores, S.L.P.** is a limited liability partnership organized under the laws of Spain, and is headquartered in Madrid, Spain. The Firm is licensed in Spain by the Official Register of Auditors (R.O.A.C.) (license no. S1273). The Firm is a foreign

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[3] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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registered public accounting firm as that term is defined in PCAOB Rule 1001(f)(ii). The Firm registered with the PCAOB on May 17, 2004, pursuant to Section 102 of the Act and PCAOB rules. The Firm is a member of BDO International Limited and forms part of the international BDO network of independent member firms. The Firm currently does not serve as the principal auditor[5] for any issuer audit clients[6] and does not currently play a substantial role in any issuer audits.[7] The Firm has approximately 23 partners and 346 employees.

2. **Santiago Sañé Figueras**, age 48, of Barcelona, Spain, is a registered public accountant who is licensed under the laws of Spain (license no. 18614). At all relevant times, Sañé was a partner in the Barcelona, Spain office of BDO Spain and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Sañé served as the engagement partner for the audits of PMG for the years ending December 31, 2010 through December 31, 2012.

3. **José Ignacio Algás Fernández**, age 43, of Barcelona, Spain, is a registered public accountant who is licensed under the laws of Spain (license no. 21841). At all relevant times, Algás was a partner in the Barcelona, Spain office of BDO Spain and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Algás served as the engagement quality reviewer for the audits of PMG for the years ending December 31, 2011 and December 31, 2012.

B. Issuer

4. **Private Media Group, Inc.** is a Nevada corporation headquartered in Barcelona, Spain. At all relevant times, PMG was a holding company with subsidiaries engaged in the acquisition, refinement and distribution of branded adult media in digital and physical formats. The Company's stock was previously quoted on OTC Link, under

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[5] See AU § 543, *Part of Audit Performed by Other Independent Auditors* (describing role of the principal auditor).

[6] See Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii) (defining "issuer").

[7] See PCAOB Rule 1001(p)(ii) (containing definition of "play a substantial role in the preparation or furnishing of an audit report").

the symbol "PRVT." At all relevant times, PMG was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).[8]

C. Summary

5. This matter concerns Respondents' repeated violations of PCAOB rules and standards during the course of the Firm's audits of the Company's December 31, 2011 and December 31, 2012 financial statements (the "Audits"), as well as the Firm's violations of PCAOB quality control standards. During the Audits, the Firm and Sañé failed to exercise due professional care and professional skepticism and failed to: (1) perform procedures to test journal entries for the existence of fraud; (2) address appropriately a departure from U.S. generally accepted accounting principles ("GAAP") related to the extinguishment of certain liabilities during 2012; (3) perform sufficient procedures to evaluate the reporting of certain stock transactions during 2012; (4) perform procedures to test the valuation of the Company's library of photographs and videos at year end 2012; (5) perform sufficient procedures to evaluate the appropriateness of reporting certain costs as assets at year end 2012; (6) perform sufficient procedures to test the occurrence and valuation of revenue; and (7) timely assemble for retention all audit documentation for the Audits and document all changes to the audit documentation after the documentation completion date. Further, Sañé failed to adequately supervise and document his supervision of the engagement teams for the Audits.

6. In connection with the Audits, Algás also violated PCAOB rules and standards by failing to perform an appropriate engagement quality review. The Firm also violated PCAOB rules and quality control standards by failing to effectively implement policies and procedures from 2011 through 2013 to provide it with reasonable assurance that (1) it only accepted engagements governed by PCAOB rules and standards that it could reasonably expect to be completed with professional competence, (2) its auditors were sufficiently familiar with and trained in PCAOB rules and standards, U.S. GAAP, and applicable SEC reporting requirements at the time they were assigned to PCAOB audits, and (3) its engagement teams would perform their

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[8] The Company was delinquent in its periodic filings with the U.S. Securities and Exchange Commission ("Commission" or "SEC"), having not filed any periodic reports since it filed a Form 10-Q for the period ended June 30, 2013. The June 30, 2013 Form 10-Q reported a net loss of over $1.38 million for the prior six months. On July 25, 2016, three years after the last audit by BDO Spain, pursuant to Section 12(j) of the Securities Exchange Act of 1934, the Commission revoked the registration of each class of registered securities of PMG.

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PCAOB audits in accordance with PCAOB rules and standards. Finally, the Firm failed to appropriately monitor its quality control system from 2011 through 2013.

D. The Firm and Sañé Violated PCAOB Rules and Standards in Connection with the Audits

7. The Firm was the external auditor for PMG since 2002. On May 21, 2013, the Firm issued an unqualified opinion on PMG's December 31, 2011 financial statements in an audit report that was included in the Company's Form 10-K filed with the Commission on May 23, 2013. On June 25, 2013, the Firm issued an unqualified opinion on PMG's December 31, 2012 financial statements in an audit report that was included in the Company's Form 10-K filed with the Commission on June 28, 2013. The Audit reports stated that, in the Firm's opinion, the Company's financial statements presented fairly, in all material respects, the Company's financial position, and the results of its operations and cash flows in conformity with GAAP. Both Audit reports included an explanatory paragraph expressing substantial doubt as to the Company's ability to continue as a going concern. The Audit reports also stated that the Audits were conducted in accordance with PCAOB standards. Sañé, the engagement partner for the Audits, had served as the engagement partner for the Company's audits since 2010. Sañé had overall responsibility for the Audits, including overall responsibility for supervising the engagement team members for the Audits.

8. In connection with the preparation or issuance of an audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with applicable PCAOB auditing and related professional practice standards.[9] Among other things, those standards require that an auditor express an unqualified opinion on an issuer's financial statements only when the auditor has performed the audit in compliance with PCAOB standards.[10]

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[9] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards;* PCAOB Rule 3200T*, Interim Auditing Standards.* All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the Audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Rel. No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2016), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

[10] See AU § 508.07, *Reports on Audited Financial Statements.*

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9. PCAOB standards require that auditors exercise due professional care and professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the audit opinion.[11]

10. PCAOB standards provide that the engagement partner is responsible for planning the audit[12] and properly supervising the work to be performed in the audit.[13] They also provide that the engagement partner and, as applicable, other engagement team members performing supervisory activities, should, among other things, review the work of engagement team members to evaluate whether: (1) the work was performed and documented; (2) the objectives of the procedures were achieved; and (3) the results of the work support the conclusions reached.[14]

11. PCAOB standards provide that, "[w]hen using information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to:

- Test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information; and
- Evaluate whether the information is sufficiently precise and detailed for purposes of the audit."[15]

12. PCAOB standards provide that the auditor must evaluate whether the financial statements are presented fairly in all material respects, and contain the

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[11] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work;* see also Auditing Standard No. 15 ¶ 4, *Audit Evidence* ("AS15").

[12] See Auditing Standard No. 9 ¶ 3, *Audit Planning* ("AS9").

[13] See Auditing Standard No. 10 ¶ 3, *Supervision of the Audit Engagement* ("AS10").

[14] Id. at ¶ 5.

[15] AS15 ¶ 10.

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information essential for a fair presentation of the financial statements in conformity with the applicable financial reporting framework.[16]

13. PCAOB standards provide that "[t]o obtain reasonable assurance about whether the financial statements are free of material misstatement, the auditor should plan and perform audit procedures to detect misstatements that, individually or in combination with other misstatements, would result in material misstatement of the financial statements."[17] Performing substantive procedures at an interim date without performing procedures at a later date increases the risk that a material misstatement could exist in the year-end financial statements that would not be detected by the auditor."[18]

14. PCAOB standards provide that "the auditor is responsible for evaluating the reasonableness of accounting estimates made by management in the context of the financial statements taken as a whole. . . . Accordingly, when planning and performing the procedures to evaluate accounting estimates, the auditor should consider, with an attitude of professional skepticism, both the subjective and objective factors."[19]

15. PCAOB standards also provide that "[s]ample items should be selected in such a way that the sample can be expected to be representative of the population. Therefore, all items in the population should have an opportunity to be selected."[20] "Auditing procedures that are appropriate to the particular audit objective should be applied to each sample item."[21]

16. PCAOB standards also provide that the auditor must prepare audit documentation in connection with each engagement conducted pursuant to the

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[16] See Auditing Standard No. 14 ¶¶ 30, 31, *Evaluating Audit Results* ("AS14").

[17] Auditing Standard No. 11 ¶ 3, *Consideration of Materiality in Planning and Performing an Audit* ("AS11").

[18] Auditing Standard No. 13 ¶ 43, *The Auditor's Responses to the Risk of Material Misstatement* ("AS13").

[19] AU § 342.04, *Auditing Accounting Estimates*.

[20] AU § 350.24, *Audit Sampling.*

[21] AU § 350.25.

standards of the PCAOB.[22] The auditor must document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[23] This documentation requirement applies to the work of all those who participate in the engagement.[24]

17. As described below, Respondents failed to comply with PCAOB rules and standards in connection with the 2011 and 2012 audits of PMG.

The Firm and Sañé Failed to Test Journal Entries During the Audits

18. PCAOB standards provide that "[t]he auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud."[25] The auditor should identify and address the risks of material misstatement due to fraud, including the risk of management override of controls.[26] Specifically, the auditor should examine journal entries and other adjustments for evidence of possible material misstatement due to fraud.[27]

19. During planning for the Audits, the Firm and Sañé identified the recording of journal entries as a fraud risk factor related to potential management override of controls. However, the Firm and Sañé failed to plan and perform sufficient procedures to respond to the fraud risk they had identified and, in fact, did not perform any journal entry testing.[28] Specifically, the Firm failed to (a) obtain an understanding of the entity's controls over journal entries and other adjustments; (b) identify and select journal entries and other adjustments for testing; and (c) determine the timing of the testing. As a result, during both Audits, the Firm and Sañé violated PCAOB standards by failing to

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[22] See Auditing Standard No. 3, *Audit Documentation,* ¶ 4 ("AS3").

[23] Id. at ¶ 6.

[24] Id.

[25] AU § 110.02, *Responsibilities and Functions of the Independent Auditor*; AU § 316.01, *Consideration of Fraud in a Financial Statement Audit*.

[26] See AU § 316.57.

[27] See AU §§ 316.58 - .62.

[28] Id.

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exercise due professional care and professional skepticism, failing to obtain reasonable assurance that PMG's 2011 and 2012 financial statements were free of material misstatement, whether caused by error or fraud, failing to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion, and failing to plan to test, or test, journal entries for possible misstatements due to fraud.[29]

The Firm and Sañé Failed to Appropriately Address a Departure from GAAP During 2012

20. According to the Firm's work papers for the 2012 audit, in February 2013, external lawyers for the Company forgave certain legal fees owed by the Company. Although the legal fees were not forgiven until 2013, the Company recorded the extinguishment of this liability in its December 31, 2012 financial statements. The Firm's work papers for the 2012 audit reflect that PMG accounted for the forgiven legal fees as a reduction in accounts payable and a corresponding reduction in general and administrative expenses, which had the effect of reducing the Company's reported net loss by approximately eight percent.

21. Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Subtopic 405-20-40, *Extinguishments of Liabilities,* requires that a liability be derecognized only if it has been extinguished by meeting either of the following conditions: (1) the debtor pays the creditor and is relieved from its obligation for the liability, or (2) the debtor is legally released from being the primary obligor under the liability, either judicially or by the creditor. Because neither of these conditions was met until after December 31, 2012, it was inappropriate for the Company to derecognize the liability in 2012.

22. The Firm and Sañé initially concluded that the accounting treatment for these legal fees was not in conformity with GAAP. A partner responsible for performing the cross-border regulatory review of the 2012 audit, which was required by PCAOB quality control standards, reached the same conclusion.[30] Nonetheless, the Firm and

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[29] See AU § 230.02, .05 - .09; AU § 316.57, .58, .61, AS9 ¶ 5; AS15 ¶ 4.

[30] The Firm obtained the review pursuant to policies and procedures intended to be consistent with Appendix K of the American Institute of Certified Public Accountants' former SEC Practice Section Reference Manual. See SECPS 1000.45, *Appendix K—SECPS Member Firms With Foreign Associated Firms That Audit SEC Registrants.* Appendix K is incorporated in PCAOB quality control standards through PCAOB Rule 3400T(b), *Interim Quality Control Standards*. Appendix K is meant to enhance the quality of SEC filings for companies whose financial statements are audited by international affiliates of U.S. firms. Appendix K provides that financial

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Sañé ultimately did not object to PMG's derecognizing the forgiven legal fees in its December 31, 2012 financial statements and, as explained above, issued an unqualified opinion on those financial statements.

23. The Firm and Sañé violated PCAOB standards by failing, with respect to PMG's derecognition of the forgiven legal fees, to exercise due professional care and professional skepticism.[31] In addition, they violated PCAOB standards by failing to appropriately address PMG's apparent departure from GAAP,[32] including (a) by failing to document any evaluation of the effects of that departure on PMG's financial statements as a whole,[33] and (b) by failing to evaluate whether they should have expressed a qualified or adverse audit opinion and, if practicable, provided information in the report indicating that the Company had not met the conditions for derecognizing the legal fees in its 2012 financial statements.[34]

The Firm and Sañé Failed to Evaluate PMG's Reporting of Certain Stock Transactions and a Potential Change in Control During 2012

24. In its 2012 financial statements, PMG disclosed that it issued 800,000 shares of convertible preferred stock to a related entity to settle an outstanding debt to that entity. The shares came with the right to vote on all matters, including the election of directors on an "as converted" basis, which gave the related entity the ability to elect

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statement filings of audits performed by a foreign associated firm should be reviewed by a person knowledgeable in accounting, auditing, and independence standards generally accepted in the U.S.

[31] See AU § 150.02, AU § 230.

[32] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Commission has considered or made any determination concerning the issuer's compliance with GAAP.

[33] See AS3 ¶ 4.

[34] See AS14 ¶ 31.

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a majority of the members of the Company's board of directors. PMG's work papers included an unexecuted copy of the preferred share agreement with the related party for the issuance of the preferred stock that included various additional elements that, if they were included in the executed agreement, would appear to have resulted in the related entity holding greater than 50 percent of the aggregate voting power of the issuer's capital stock and having the ability to elect a majority of the members of the issuer's board of directors. This would have resulted in a change in control of the issuer, with related consequences for the financial statements. The Firm and Sañé failed to appropriately evaluate whether the unexecuted copy of the agreement reflected the final terms of the transaction.

25. Accordingly, the Firm and Sañé failed to gather sufficient appropriate evidence to evaluate the presentation and disclosure in PMG's 2012 financial statements of the issuance of the preferred shares and whether the issuance of the preferred stock, and the preferred share agreement as executed, resulted in a change in control of the Company.[35] The Firm's and Sañé's conduct violated PCAOB standards requiring them to exercise due professional care and professional skepticism and to obtain sufficient appropriate audit evidence to provide a reasonable basis for their audit opinion.[36]

The Firm and Sañé Failed to Test the Valuation of Certain Assets at December 31, 2012

26. The Company reported that its library of photographs and videos represented approximately 40 percent of its total assets at year end 2012, and was reported at the lower of amortized cost or net realizable value. In the 2012 audit, the Firm identified a fraud risk with respect to the valuation of the library of photographs and videos, which was a significant accounting estimate. Nonetheless, during the 2012 audit, the Firm and Sañé failed to evaluate the reasonableness of the Company's valuation of the library of photographs and videos.[37] As a result of this conduct, during the 2012 audit, the Firm and Sañé violated PCAOB standards requiring them to exercise due professional care and professional skepticism, appropriately respond to

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[35] See AS14 ¶¶ 30 - 31. See also ASC 505-10-50, *Equity Disclosure* (describing the disclosure requirements associated with the separate accounts comprising shareholders' equity and the specific outstanding securities issued by an entity).

[36] See AU § 150.02; AU § 230; AS14 ¶¶ 32 - 33; AS 15 ¶ 4.

[37] See AU § 342.04.

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identified fraud risks, and obtain sufficient appropriate audit evidence to provide a reasonable basis for their audit opinion.[38]

The Firm and Sañé Failed to Evaluate PMG's Reporting of Certain Costs as of Year End 2012

27. In its 2012 financial statements, PMG reported certain estimated costs within a non-current asset identified as "Library of photographs and videos." Those estimated costs substantially exceeded planning materiality and equaled approximately 20 percent of PMG's reported net loss for 2012. The Firm and Sañé failed to appropriately evaluate whether the costs related to the library of photographs and videos and, if so, whether the estimate was reasonable.[39] These failures constituted violations of PCAOB standards requiring the Firm and Sañé to exercise due professional care and professional skepticism and to obtain sufficient appropriate audit evidence to provide a reasonable basis for their audit opinion.[40]

The Firm and Sañé Failed to Perform Sufficient Procedures to Test PMG's Revenue During the Audits

28. PMG was a provider of branded adult media across a wide range of digital platforms and physical formats. During 2011 and 2012, the Company had three primary sources of revenue: (a) physical products at Peach Entertainment Distribution AB ("Peach"); (b) broadcasting at Fraserside Holdings Ltd. ("Fraserside") and Peach; and (c) internet services at Coldfair Holdings Limited ("Coldfair"), Fraserside, and Peach.

29. During the Audits, the engagement teams identified improper revenue recognition as a fraud risk and documented specific risks related to: (a) revenues from hard copy content sold to national distributors with rights of return; (b) monthly estimates concerning Internet Protocol Television ("IPTV") broadcasting revenues and revenues from mobile content; and (c) revenues from subscriptions to the Company's internet website.

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[38] See AU § 150.02; AU § 230; AU §§ 316.01, .13; AS14 ¶¶ 32 - 33; AS 15 ¶ 4.

[39] See AU § 342.10; AS14 ¶¶ 30 - 31.

[40] See AU § 150.02; AU § 230; AS 15 ¶ 4.

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30. The Firm and Sañé did not test the accuracy and completeness of the Company's revenue information, as well as the appropriateness of the Company's revenue recognition practices. As described below, during both Audits, the Firm and Sañé failed to: (a) perform any testing on certain significant revenue sources; and (b) perform sufficient or appropriate procedures on other significant revenue sources.

The Firm and Sañé failed to properly test PMG's broadcasting revenue during the Audits

31. Peach, a consolidated subsidiary of PMG, generated total revenues of approximately €5.4 million and €4.6 million for the years ended December 31, 2011 and 2012, respectively. These amounts represented 68 percent of PMG's total revenue for each year. Peach's broadcasting revenue was approximately €2.8 million and €2.2 million for the years ended December 31, 2011 and 2012, respectively. These amounts represented 36 percent and 33 percent of PMG's total revenue for the years ended December 31, 2011 and 2012, respectively. Fraserside, another consolidated subsidiary of PMG, generated total broadcasting revenues of approximately €442,000 and €310,000 for the years ended December 31, 2011 and 2012, respectively. These amounts represented 6 and 5 percent of PMG's total revenue for those years.

32. During the Audits, the Firm and Sañé tested PMG's broadcasting revenue by selecting and testing transactions from sales reports provided by PMG. They used those sales reports to make their selections despite not having tested the accuracy and completeness of the reports or any controls over the accuracy and completeness of the reports, as required by PCAOB standards.[41]

33. The Firm's and Sañé's testing of broadcasting revenue during the Audits failed to comply with PCAOB standards in other ways as well. For example, during the 2011 audit, the Firm and Sañé tested PMG's broadcasting revenue by selecting and performing certain procedures with respect to a total of 25 items recorded by Peach and Fraserside during the first nine months of the year. The 25 items selected for testing represented approximately €890,000 and resulted in only subjecting 35 percent of the population to testing. Because the Firm and Sañé limited their selections to the first nine months of the year, they failed to select their sample in a way that could be expected to be representative of the entire population of PMG's broadcasting revenue transactions for 2011.[42] As a result of the flawed sample selection process, the Firm's

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41 AS15 ¶ 10.

42 AU § 350.24.

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and Sañé's testing did not provide any audit evidence for approximately 65 percent of PMG's broadcasting revenue for 2011.

34. The Firm and Sañé failed to appropriately test the broadcasting revenue during the 2012 audit as well. For 2012, they selected a sample of 31 broadcasting revenue items for testing, 24 Peach items and 7 Fraserside items. Those 31 items represented approximately €737,000, or 39 percent of PMG's 2012 broadcasting revenue. The 31 items consisted of transactions involving fixed fees and management estimates of material sales generated by affiliates. With respect to the items involving estimated sales, the Firm and Sañé limited their testing to agreeing the estimates to an email provided by PMG management. In doing so, they failed to exercise due professional care and professional skepticism and failed to comply with PCAOB standards for evaluating the reasonableness of the Company's accounting estimates.[43]

The Firm and Sañé failed to properly test PMG's revenue from internet sales during the Audits

35. PMG disclosed in its 2011 and 2012 financial statements that its internet revenue was generated primarily through subscriptions purchased by customers. Coldfair, a consolidated subsidiary of PMG, generated internet subscription revenues of approximately €1.4 million during both 2011 and 2012. Peach reported approximately €2 million and €250,000 of internet subscription revenues during 2011 and 2012, respectively. These combined internet subscription amounts represented approximately 44 percent and 23 percent of PMG's total revenue for 2011 and 2012, respectively.

36. The Firm's and Sañé testing of PMG's internet subscription revenue suffered from many of the same flaws as its broadcasting revenue testing, as well as from additional problems. First, as they had done in testing broadcasting revenue, the Firm and Sañé selected items for testing based on sales reports, which had been provided by PMG but which had not been tested for accuracy and completeness, as required by PCAOB standards.[44]

37. Second, during both Audits, the Firm and Sañé again selected items for testing in an unrepresentative manner, so that the results of their testing could not be extrapolated to the entire population of internet subscription revenue.[45] For example, in

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[43] AU § 342.10.

[44] AS15 ¶ 10.

[45] AU § 350.24 - .25.

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the 2011 audit, the Firm and Sañé only considered items from nine months of the year, and in the 2012 audit, they selected items from only one subsidiary that generated internet subscription revenue, Coldfair, but not the two other subsidiaries that did, Fraserside and Peach. As a result, the Firm and Sañé failed to subject 37 percent and 48 percent of PMG's internet subscription revenue to any testing in 2011 and 2012 respectively.

38. Finally, during the 2012 audit, for the items selected for testing, the Firm and Sañé failed to obtain sufficient appropriate evidence to support management's conclusions that revenue was appropriately recognized. In fact, they failed to examine documentation reflecting any actual payment information. Instead, they only obtained an untested PMG report concerning revenue account movement and agreed it to another untested PMG report that listed purported sales.[46]

39. As a result of this conduct, the Firm and Sañé failed to exercise due professional care and professional skepticism and failed to obtain sufficient appropriate audit evidence as to the occurrence and valuation of the Company's reported revenue for 2011 and 2012, in violation of PCAOB standards.[47]

The Firm and Sañé Failed to Timely Assemble Audit Documentation and Sañé Improperly Added Work Papers After the Documentation Completion Date

40. PCAOB standards provide that "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[48]

41. PCAOB standards also provide that "[c]ircumstances may require additions to audit documentation after the report release date. Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[49]

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[46] AS15 ¶ 10.

[47] See AS15 ¶ 10; AU § 230.

[48] AS3 ¶ 15.

[49] AS3 ¶ 16.

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42. For the 2012 PMG audit, the Firm and Sañé never assembled for retention the following required documents: (a) an evaluation of uncorrected misstatements;[50] (b) a written communication addressed to the audit committee concerning independence, as required by PCAOB Rule 3526, *Communication with Audit Committees Concerning Independence*; and (c) communications with the audit committee concerning the conduct of the audit, as required by AU § 380, *Communication With Audit Committees*. As a result of this conduct, the Firm and Sañé violated AS3[51] and AU § 380, and the Firm violated PCAOB Rule 3526.

43. In addition, after the documentation completion date for the 2012 PMG audit, Sañé and the engagement team added several work papers to the audit file without identifying when the additions were made, who made them, and why they were made, as required by AS3. As a result of this conduct, Sañé violated AS3.[52]

Sañé Failed to Adequately Supervise and Document His Supervision of the Audits

44. Sañé, as engagement partner, was responsible for proper supervision of the work of the engagement team members and for compliance with PCAOB standards. Sañé was required to review the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[53]

45. PCAOB standards provide that the audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of any review he performed.[54]

46. As evidenced by the numerous omitted or insufficient procedures identified above, Sañé failed to adequately review the work performed by other engagement team members on the Audits. In addition, the work paper files for the

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50 See AS3 ¶ 12.

51 Id.

52 AS3 ¶ 16.

53 See AS10 ¶¶ 2, 3 and 5.

54 See AS3 ¶ 6.

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Audits did not contain evidence of which work papers Sañé reviewed and the date of such review. As a result of this conduct, Sañé violated PCAOB standards requiring appropriate supervision of audit engagements,[55] as well as PCAOB audit documentation standards.[56]

E. Algás Failed to Perform Appropriate Engagement Quality Reviews on the Audits in Violation of Auditing Standard No. 7

47. PCAOB standards provide that an engagement quality review and concurring approval of issuance are required for each audit engagement and for each engagement to review interim financial information, among other types of engagements, conducted pursuant to the standards of the PCAOB.[57]

48. As the engagement quality reviewer, Algás was assigned by the Firm to "perform an evaluation of the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement, and in preparing the engagement report . . . in order to determine whether to provide concurring approval of issuance."[58] Algás failed to identify multiple violations of PCAOB rules and standards in the engagement teams' work on the Audits, as described above. An engagement quality review performed with due care in compliance with AS7 should have detected, and resulted in the Firm addressing, each of the significant engagement deficiencies described above.[59] In addition, Algás did not evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement, or bring to the attention of the engagement team the absence of documentation necessary for Algás to perform that evaluation.[60] Thus, Algás failed to conduct appropriate engagement quality reviews in violation of AS7 in connection with both Audits.

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55 See AS10 ¶¶ 2, 3 and 5.

56 See AS3 ¶ 6.

57 Auditing Standard No. 7 ¶ 1, *Engagement Quality Review* ("AS7").

58 AS 7 ¶ 2.

59 See AS 7 ¶ 10.a - d, h and i.

60 AS 7 ¶¶ 2 and 9 - 12.

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F. From 2011 Through 2013 the Firm Violated PCAOB Quality Control Standards

49. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[61] PCAOB quality control standards, in turn, require that a registered firm "shall have a system of quality control for its accounting and auditing practice."[62] "The quality control policies and procedures applicable to a firm's accounting and auditing practice should encompass the following elements: (a) Independence, Integrity, and Objectivity; (b) Personnel Management; (c) Acceptance and Continuance of Clients and Engagements; (d) Engagement Performance; and (e) Monitoring."[63]

Acceptance and Continuance of Clients and Engagements

50. At the time that the Firm and its partners determined to accept the PMG audit engagements, the Firm's policies and procedures did not provide reasonable assurance that it undertook only engagements that it could reasonably expect to be completed with professional competence.[64] When it accepted the PMG engagement, the Firm was aware that it lacked sufficient professional staff with training or experience in conducting public company audits pursuant to PCAOB rules and standards, and applicable SEC reporting requirements. In addition, the Firm failed to provide sufficient relevant training to the staff it planned to assign to those audits. As a result, the Firm violated PCAOB quality control standards.[65]

Personnel Management

51. A firm's system of quality control should include policies and procedures to provide the firm with reasonable assurance that, among other things: (a) work is assigned to personnel having the degree of technical training and proficiency required in the circumstances; and (b) personnel participate in general and industry-specific

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[61] PCAOB Rule 3400T.

[62] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[63] QC § 20.07.

[64] QC § 20.15(a).

[65] Id.

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continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of the AICPA and regulatory agencies.[66]

52. From 2011 through 2013, the Firm did not effectively implement policies and procedures to provide it with reasonable assurance that its PCAOB audits were assigned to supervisory personnel having the requisite knowledge to perform PCAOB audits. Although the quality control policies and procedures that the Firm submitted to the Board in connection with its registration application stated that the Firm was "committed to developing and maintaining the highest possible standards of technical competence" and described continuing professional education as "the keystone of that effort," the Firm failed to fulfill that commitment. Specifically, the Firm did not have a system in place to ensure that individuals assigned to issuer audit work periodically received technical training related to GAAP, PCAOB rules and standards, and SEC reporting requirements, rules, and regulations.

53. When the Firm assigned Sañé to the 2011 PMG audit, it failed to sufficiently evaluate whether, prior to assuming the role of the engagement partner on the audit, Sañé had ever worked on an audit governed by PCAOB rules and standards, and applicable SEC reporting requirements, or whether he otherwise had sufficient professional education or experience to perform his role as engagement partner on the audit in accordance with PCAOB rules and standards.

54. When the Firm assigned Algás to the 2011 PMG audit, it failed to sufficiently evaluate whether, prior to assuming the role of engagement quality reviewer on the audit, Algás had also ever worked on an audit governed by PCAOB rules and standards, and applicable SEC reporting requirements, or whether he otherwise had sufficient professional education or experience to perform his role as engagement quality reviewer on the audit in accordance with PCAOB rules and standards.

55. From 2011 through 2013, the Firm did not have in place quality control policies and procedures to reasonably assure that auditors such as Sañé and Algás, were sufficiently familiar with and trained in PCAOB rules and standards, U.S. GAAP, and applicable SEC reporting requirements, at the time they were assigned as the engagement partner and the engagement quality reviewer respectively on PCAOB audits. As a result, the Firm violated QC § 20.13.

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[66] QC § 20.13; QC §§ 40.03 and .06, *The Personnel Management Element of a Firm's System of Quality Control – Competencies Required by a Practitioner-in-Charge of an Attest Engagement*. See also AU § 230.06.

ORDER

Engagement Performance

56. A firm's system of quality control should include policies and procedures to provide it with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, including with respect to planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement.[67] These policies and procedures should address engagement quality reviews pursuant to AS7.[68]

57. From 2011 through 2013, the Firm did not effectively implement policies and procedures to provide it with reasonable assurance that the work performed on its PCAOB audits met applicable professional standards, including with respect to planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement. Further, from 2011 through 2013, the Firm did not have quality control policies and procedures in place to reasonably assure that an audit report was released only after the engagement team had completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report. This failure allowed the reports for the Audits to be issued notwithstanding the numerous and serious violations of PCAOB standards described above. As a result of this conduct, the Firm violated QC § 20.

Monitoring

58. A firm's system of quality control should include a monitoring element to provide it with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with its policies and procedures.[69] Monitoring involves an ongoing consideration and evaluation of the: (a) relevance and adequacy of the firm's policies and procedures; (b) appropriateness of the firm's guidance materials and any practice aids; (c) effectiveness of professional development activities; and (d) compliance with the firm's policies and procedures.[70]

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[67] See QC §§ 20.17 - .18.

[68] See QC § 20.18.

[69] See QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[70] See QC § 30.02.

ORDER

Monitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective.[71]

59. The repeated violations of PCAOB rules and standards set forth above went undetected by the Firm, demonstrating that the Firm did not adequately consider and evaluate compliance with the Firm's policies and procedures, including policies and procedures regarding acceptance and continuance of clients and engagements, personnel management, and engagement performance.[72] As a result of its failure to monitor its quality control system, the Firm violated QC § 30.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), BDO Auditores, S.L.P., Santiago Sañé Figueras, and José Ignacio Algás Fernández are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Santiago Sañé Figueras is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[73]

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[71] See QC § 30.03.

[72] See QC § 30.02.

[73] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Sañé. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

C. After three (3) years from the date of this Order, Santiago Sañé Figueras may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), José Ignacio Algás Fernández is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[74]

E. After one (1) year from the date of this Order, José Ignacio Algás Fernández may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), civil money penalties in the amount of $40,000 payable by BDO Auditores, S.L.P. and $7,500 payable by Santiago Sañé Figueras are imposed. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. BDO Auditores, S.L.P. and Santiago Sañé Figueras shall pay these civil money penalties within 30 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter which identifies BDO Auditores, S.L.P. or Santiago Sañé Figueras as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

G. Pursuant to Sections 105(c)(4)(F) and (G) of the Act and PCAOB Rules 5300(a)(6) and (9), the Board orders that:

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[74] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act, discussed *supra*, at n. 73, will apply with respect to Algás.

ORDER

1. Undertakings: The Firm shall carry out the following Undertakings:

(a) *Initial Certification*.

Within ninety (90) days of the entry of this Order, the Firm shall provide a certification to the Director of the Division of Enforcement and Investigations, signed by its Managing Partner, stating that the Firm has adopted systems designed to provide reasonable assurance that (a) the Firm undertakes only those engagements that the Firm can reasonably expect to be completed with professional competence; (b) for any audit, review or specified procedures conducted pursuant to PCAOB rules and standards, work is assigned to personnel having the degree of technical training and proficiency required in the circumstances; (c) personnel involved in the performance of audits and reviews pursuant to PCAOB rules and standards participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of the AICPA and regulatory agencies; (d) the work performed by engagement personnel meets applicable professional standards, including with respect to planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement, including policies and procedures addressing engagement quality reviews pursuant to PCAOB Auditing Standard No. 7, *Engagement Quality Review*; and (e) the Firm has in place monitoring procedures that taken as a whole enable the firm to obtain reasonable assurance that its system of quality control is effective.

(b) *Subsequent Certification*.

Within one hundred twenty (120) days of the entry of this Order, the Firm shall provide a certification, signed by its Managing Partner, stating that all professionals considered audit seniors or team leaders, managers, directors and partners involved in the performance of PCAOB audits have received forty (40) hours of training from January 1, 2017 through the initial certification described in Section G.1.(a) above concerning U.S. GAAP, PCAOB rules and standards, and SEC reporting requirements, rules, and regulations.

ORDER

(c) *Provision of Order.*

No later than thirty (30) days after the date of this Order, the Firm shall provide an electronic or paper copy of this Order to all of its associated persons who are audit professionals in the Firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

September 26, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Pinaki & Associates LLC and Pinaki Mohapatra, CPA,* *Respondents.*	PCAOB Release No. 105-2017-040 October 26, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Pinaki & Associates LLC (the "Firm"), revoking the Firm's registration,[1] and censuring Pinaki Mohapatra, CPA ("Mohapatra") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the Firm and Mohapatra (collectively, "Respondents") on the basis of its findings that Respondents violated PCAOB rules and standards in connection with the fiscal year end 2014 audits of four issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party,

[1] The Firm may reapply for registration after five (5) years from the date of this Order.

[2] Mohapatra may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

ORDER

and without admitting or denying the findings herein, except as to the facts contained in paragraph 27, and the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Pinaki & Associates LLC is, and at all relevant times was, a limited liability company organized under the laws of Delaware (License No. CA-0002911), with an office in Wilmington, Delaware. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, the Firm was the external auditor for the issuers identified below.

2. Pinaki Mohapatra, CPA, age 58, is a certified public accountant licensed by the state of Delaware (License No. CC-0002708). At all relevant times, Mohapatra was the managing partner and sole owner of the Firm, and served as the engagement partner on the audits discussed below. Mohapatra is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' numerous and repeated violations of PCAOB rules and standards in connection with Respondents' audits of the December 31, 2014 financial statements of Genoil, Inc. ("Genoil"); the June 30, 2014 financial

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

statements of International Automated Systems, Inc. ("IAUS"); the December 31, 2014 financial statements of Infrastructure Developments Corp. ("Infrastructure Developments"); and the December 31, 2014 financial statements of Genie Gateway, formerly known as WWA Group, Inc., (collectively, the "Issuer Audits"). As detailed below, Respondents failed to perform audit procedures required to evaluate the financial statements of their issuer audit clients. Respondents failed repeatedly, among other things, to plan and perform adequate, if any, audit procedures in accordance with PCAOB standards. Respondents also failed to exercise due professional care and obtain sufficient appropriate audit evidence to provide a reasonable basis for an opinion regarding the financial statements of the Issuer Audits. In addition, Respondents failed to retain audit documentation for the Issuer Audits for the required period of time.

C. Respondents Violated PCAOB Rules and Standards

4. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable Board auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6] Those standards require, among other things, that an auditor plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.[7] PCAOB standards require that an auditor exercise due professional care and professional skepticism in the

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017), https://pcaobus.org/Standards/Auditing/Documents/PrintableReferenceTable.pdf.

[6] See AU § 508.07, *Reports on Audited Financial Statements*.

[7] See Auditing Standard No. 15 ("AS 15"), *Audit Evidence*, at ¶ 4.

ORDER

performance of the audit and preparation of the report.[8]

5. Under PCAOB standards, the auditor should properly plan the audit.[9] Planning the audit includes establishing the overall audit strategy for the engagement and developing an audit plan, which includes, planned risk assessment procedures and planned responses to the risks of material misstatements.[10] PCAOB standards also state auditors should perform risk assessment procedures that are sufficient to provide a reasonable basis for identifying and assessing the risks of material misstatement, whether due to error or fraud.[11]

6. To plan the nature, timing, and extent of audit procedures, the auditor should establish a materiality level for the financial statements as a whole that is appropriate in light of the particular circumstances.[12] This includes consideration of the company's earnings and other relevant factors.[13] To determine the nature, timing, and extent of audit procedures, the materiality level for the financial statements as a whole needs to be expressed as a specified amount.[14] Auditors also should determine the amount or amounts of tolerable misstatement for purposes of assessing risks of material misstatement and planning and performing audit procedures at the account or disclosure level.[15]

7. PCAOB standards require an auditor to evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support

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[8] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; see also Auditing Standard No. 13 ("AS 13"), *The Auditor's Responses to the Risks of Material Misstatement*, at ¶ 7.

[9] See Auditing Standard No. 9 ("AS 9"), *Audit Planning*, at ¶ 4.

[10] Id. at ¶ 5.

[11] See Auditing Standard No. 12 ("AS 12"), *Identifying and Assessing Risks of Material Misstatement*, at ¶ 4.

[12] See Auditing Standard No. 11 ("AS 11"), *Consideration of Materiality in Planning and Performing an Audit*, at ¶ 6.

[13] Id.

[14] Id.

[15] Id. at ¶ 8.

ORDER

the opinion to be expressed in the auditor's report.[16] One of the factors relevant to concluding whether sufficient appropriate audit evidence has been obtained is the appropriateness (i.e., the relevance and reliability) of the audit evidence obtained.[17]

If the auditor has not obtained sufficient appropriate audit evidence about a relevant assertion or has substantial doubt about a relevant assertion, the auditor should perform procedures to obtain further audit evidence to address the matter.[18] If the auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the financial statements as a whole are free of material misstatement, the auditor should express a qualified opinion or a disclaimer of opinion.[19]

8. As described below, Respondents failed to comply with PCAOB rules and standards in connection with the Issuer Audits.

Audit of Genoil Inc.'s 2014 Financial Statements

9. Genoil Inc., ("Genoil") is a Canadian corporation located in Calgary, Alberta, Canada. Genoil's public filings disclose that, at all relevant times, it was a technology company focused on providing innovative solutions to the oil and gas industry using proprietary technologies. Its primary business activity involved the development and commercialization of its upgrader technology designed to convert heavy crude oil into light synthetic crude. At all relevant times, Genoil was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

10. Mohapatra, as the engagement partner, authorized the Firm's issuance of an audit report, dated March 24, 2015, expressing an unqualified audit opinion on Genoil's financial statements for the year ended December 31, 2014. The audit report was included with Genoil's Form 6-K filed with the Commission on December 14, 2015.

11. In connection with the audit, Respondents failed to exercise due professional care and professional skepticism and failed to plan and perform the audit of Genoil's financial statements in accordance with PCAOB standards. Specifically, Respondents failed to: establish an overall audit strategy for the engagement and

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16 See Auditing Standard No. 14 ("AS 14"), *Evaluating Audit Results,* at ¶ 2.

17 Id. at ¶ 34e.

18 Id. at ¶ 35.

19 Id.

ORDER

develop an audit plan;[20] perform any risk assessment procedures that are sufficient to provide a reasonable basis for identifying and assessing the risks of material misstatement, whether due to error or fraud;[21] design and implement overall responses to address the assessed risks of material misstatement;[22] and establish a materiality level for the financial statements as a whole and an amount of tolerable misstatement for purposes of assessing risks of material misstatement and planning and performing audit procedures at the account or disclosure level.[23]

12. For the year-ended December 31, 2014, Genoil reported assets of $391,802, liabilities of $5,136,515, and a net loss of $558,516. Other than obtaining a high-level comparison of the operating expense accounts for the current and prior year, Respondents failed to perform any procedures to determine whether the operating expenses or other expenses – which included a $197,372 finance expense and a $88,413 loss on derivative liability, were properly valued and recorded in the proper period. As a result of this conduct, Respondents violated PCAOB standards by failing to obtain sufficient appropriate evidence to support their conclusions regarding operating or other expenses.[24]

13. As of December 31, 2014, Genoil reported a derivative liability of $629,610. Other than obtaining a client prepared schedule, Respondent failed to perform any procedures to determine whether the derivative liability existed and was properly valued. As a result of this conduct, Respondents violated PCAOB standards by failing to obtain sufficient appropriate evidence to support their conclusions regarding the derivative liability.[25]

Audit of International Automated Systems, Inc.'s 2014 Financial Statements

14. International Automated Systems, Inc. ("IAUS'") is a Utah corporation located in American Fork, Utah. IAUS' public filings disclose that, at all relevant times, it

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[20] See AS 9 at ¶¶ 8-10.

[21] See AS 12 at ¶ 4.

[22] See AS 13 at ¶ 5.

[23] See AS 11 at ¶ 6 and ¶ 8.

[24] See AS 15 at ¶¶ 4-6, ¶ 11. See also AS 13 at ¶ 36.

[25] Id.

ORDER

sought to design, produce and market leading-edge technology. At all relevant times, IAUS was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

15. Mohapatra, as the engagement partner, authorized the Firm's issuance of an audit report, dated May 26, 2015, expressing an unqualified audit opinion on IAUS' financial statements for the year ended June 30, 2014. The audit report was included with IAUS' Form 10-K filed with the Commission on July 16, 2015.

16. In connection with the audit, Respondents failed to exercise due professional care and professional skepticism and failed to plan and perform the audit of IAUS' financial statements in accordance with PCAOB standards. Specifically, Respondents failed to: establish an overall audit strategy for the engagement and develop an audit plan;[26] perform any risk assessment procedures to identify and assess the risks of material misstatement;[27] design and implement overall responses to address the assessed risks of material misstatement;[28] and establish a materiality level for the financial statements as a whole and an amount of tolerable misstatement for purposes of assessing risks of material misstatement and planning and performing audit procedures at the account or disclosure level.[29]

17. For the year-ended June 30, 2014, IAUS reported assets of $306,940, and a net loss of $1.1 million. Other than obtaining detailed general ledgers for the operating expense accounts for the current and prior year, Respondents failed to perform any procedures to determine whether the operating expenses of $1,119,942 were properly valued and recorded in the proper period. As a result of this conduct, Respondents violated PCAOB standards by failing to obtain sufficient appropriate evidence to support their conclusions regarding IAUS' operating expenses.[30]

18. IAUS reported preferred stock of $470,264 as of June 30, 2014. Respondents failed to perform any procedures to determine whether IAUS' preferred

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[26] See AS 9 at ¶¶ 8-10.

[27] See AS 12 at ¶ 4.

[28] See AS 13 at ¶ 5.

[29] See AS 11 at ¶ 6 and ¶ 8.

[30] See AS 15 at ¶¶ 4-6 and ¶ 11. See also AS 13 at ¶ 36.

ORDER

stock balance existed and was properly valued. As a result of this conduct, Respondents violated PCAOB standards by failing to obtain sufficient appropriate evidence regarding IAUS' preferred stock balance.[31]

Audit of Infrastructure Developments Corp.'s 2014 Financial Statements

19. Infrastructure Developments Corp. ("Infrastructure Developments") is a Nevada corporation located in Salt Lake City, Utah. Infrastructure Developments' public filings disclose that, at all relevant times, its operations consisted of marketing prefabricated housing and other project management services. At all relevant times, Infrastructure Developments was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

20. Mohapatra, as the engagement partner, authorized the Firm's issuance of an audit report, dated April 27, 2015, expressing an unqualified audit opinion on Infrastructure Developments' financial statements for the year ended December 31, 2014. The audit report was included with Infrastructure Developments' Form 10-K filed with the Commission on April 28, 2015.

21. In connection with the audit, Respondents failed to exercise due professional care and professional skepticism and failed to plan and perform the audit of Infrastructure Developments' financial statements in accordance with PCAOB standards. Specifically, Respondents failed to: establish an overall audit strategy for the engagement and develop an audit plan;[32] perform any risk assessment procedures to identify and assess the risks of material misstatement;[33] design and implement overall responses to address the assessed risks of material misstatement;[34] and establish a materiality level for the financial statements as a whole and an amount of tolerable misstatement for purposes of assessing risks of material misstatement and planning and performing audit procedures at the account or disclosure level.[35]

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31 Id.

32 See AS 9 at ¶¶ 8-10.

33 See AS 12 at ¶ 4.

34 See AS 13 at ¶ 5.

35 See AS 11 at ¶ 6 and ¶ 8.

ORDER

22. For the year-ended December 31, 2014, Infrastructure Developments reported $205,100 of revenue, assets of $44,170, and a net loss of $231,821. Other than obtaining a detailed general ledger for revenue for the current year, Respondents failed to perform any procedures regarding revenue. Respondents also failed to perform any procedures to determine whether any of Infrastructure Developments' expenses were properly valued and recorded in the proper period. As a result of this conduct, Respondents violated PCAOB standards by failing to obtain sufficient appropriate evidence to support their conclusions regarding Infrastructure Developments' revenue and operating expenses.[36]

Audit of Genie Gateway's 2014 Financial Statements

23. Genie Gateway (formerly known as WWA Group, Inc.) is a Nevada corporation located in Portland, Michigan. Genie Gateway's public filings disclose that, at all relevant times, it was a multi-system operator that provides cable television, high speed internet and related services to rural communities in the United States. At all relevant times, Genie Gateway was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

24. Mohapatra, as the engagement partner, authorized the Firm's issuance of an audit report, dated March 24, 2015, expressing an unqualified audit opinion on Genie Gateway's financial statements for the year ended December 31, 2014. The audit report was included with Genie Gateway's Form 10-K filed with the Commission on March 27, 2015.

25. In connection with the audit, Respondents failed to exercise due professional care and professional skepticism and failed to plan and perform the audit of Genie Gateway's financial statements in accordance with PCAOB standards. Specifically, Respondents failed to: establish an overall audit strategy for the engagement and develop an audit plan;[37] perform any risk assessment procedures to identify and assess the risks of material misstatement;[38] design and implement overall responses to address the assessed risks of material misstatement;[39] and establish a materiality level for the financial statements as a whole and an amount of tolerable

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[36] See AS 15 at ¶¶ 4-6 and 11. See also AS 13 at ¶ 36.

[37] See AS 9 at ¶¶ 8-10.

[38] See AS 12 at ¶ 4.

[39] See AS 13 at ¶ 5.

ORDER

misstatement for purposes of assessing risks of material misstatement and planning and performing audit procedures at the account or disclosure level.[40]

26. For the year-ended December 31, 2014, Genie Gateway reported $524,163 of revenue, assets of $197,168, and a net loss of $317,213. Respondents failed to perform any procedures to determine whether any of Genie Gateway's expenses - which included a $90,118 gain on derivative liability – were properly valued and recorded in the proper period. As a result of this conduct, Respondents violated PCAOB standards by failing to obtain sufficient appropriate evidence to support their conclusions regarding Genie Gateway's operating expenses.[41]

Retention of Certain Work Papers

27. PCAOB standards require an auditor to "retain audit documentation for seven years from the date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements (report release date), unless a longer period of time is required by law."[42] Respondents failed to retain significant portions of the audit documentation for the Issuer Audits for the required period, and were unable to provide certain documentation in response to demands made in a PCAOB investigation. As a result, Respondents violated PCAOB audit documentation requirements.[43]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Pinaki & Associates LLC and Pinaki Mohapatra are hereby censured;

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40 See AS 11 at ¶ 6 and ¶ 8.

41 See AS 15 at ¶¶ 4-6 and ¶ 11. See also AS 13 at ¶ 36.

42 See Auditing Standard No. 3, *Audit Documentation*, at ¶ 14.

43 Id.

ORDER

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Pinaki Mohapatra is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[44]

C. After five (5) years from the date of this Order, Pinaki Mohapatra may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Pinaki & Associates LLC is revoked; and

E. After five (5) years from the date of the Order, Pinaki & Associates LLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 26, 2017

[44] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Mohapatra. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Weaver and Tidwell, L.L.P.* *Respondent.*	PCAOB Release No. 105-2017-041 October 26, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring the registered public accounting firm Weaver and Tidwell, L.L.P. ("Weaver," the "Firm," or "Respondent"); imposing a civil money penalty of $30,000; and requiring the Firm to undertake certain remedial measures. The Board is imposing these sanctions on the basis of its findings concerning the Firm's violations of PCAOB rules and standards in connection with four of the Firm's audits of broker-dealer audit clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over the Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

ORDER

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Weaver and Tidwell, L.L.P. is, and at all relevant times was, a limited liability partnership organized under the laws of the state of Texas, and headquartered in Fort Worth, Texas. Weaver is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Weaver is licensed by the Texas State Board of Public Accountancy (license no. P04338). At all relevant times, the Firm was the external auditor for the broker-dealers identified below. The Firm was previously the subject of a PCAOB Order concerning a violation of Auditing Standard No. 7, *Engagement Quality Review* ("AS 7")[2] in connection with an issuer audit.[3]

B. Summary

2. This matter concerns Respondent's failure to comply with AS 7 in connection with two Weaver audit partners serving as engagement quality reviewers on four fiscal year ended December 31, 2014 audits of broker-dealer financial statements, immediately after serving as the engagement partners on the respective prior year's audits, without satisfying the mandatory two year "cooling-off" period for former engagement partners.[4]

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[2] See PCAOB Rules 3100, *Compliance with Auditing and Related Professional Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB standards are to the versions of those standards in effect at the time of the audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017), https://pcaobus.org/Standards/Auditing/Documents/ReorganizedandPreReorganizedNumbering.pdf

[3] See *Weaver and Tidwell, L.L.P.*, PCAOB Rel. No. 105-2015-022 (July 23, 2015) (censuring the Firm).

[4] See AS 7 ¶ 8.

ORDER

3. This matter also concerns the Firm's violations of PCAOB rules and quality control standards by failing to establish and implement quality control policies and procedures sufficient to provide the Firm with reasonable assurance that its personnel would comply with applicable professional standards and the Firm's standards of quality.

C. Respondent Violated Auditing Standard No. 7

4. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards. For audits of financial statements for fiscal years ending on or after June 1, 2014, Rule 17a-5(g) requires that audits of broker-dealers be performed in accordance with PCAOB standards. AS 7 requires that an engagement quality review be performed on audit engagements, reviews of interim financial information, and certain attestation engagements conducted pursuant to PCAOB standards.[5] Further, paragraph 8 of AS 7 provides: "[t]he person who served as the engagement partner during either of the two audits preceding the audit subject to the engagement quality review may not be the engagement quality reviewer."[6]

5. As described below, Respondent failed to comply with AS 7.

Audit of Coastal Securities, Inc.

6. Coastal Securities, Inc. ("Coastal") was at all relevant times, a Delaware corporation headquartered in Houston, Texas. Coastal's public filings disclose that its business consists of the buying, selling, and trading of government and government agency guaranteed securities and corporate and municipal bonds. Coastal is registered with FINRA and the United States Securities and Exchange Commission ("Commission"). At all relevant times, Coastal was a "broker" and "dealer," as defined in Sections 110(3) and (4) of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii).

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[5] See AS 7 ¶ 1.

[6] At all relevant times, Weaver had five or more issuer audit clients and did not qualify for AS 7 ¶ 8's small firm exemption.

ORDER

7. Weaver audited Coastal's December 31, 2013 and December 31, 2014 financial statements and issued audit reports, which were filed with the Commission, expressing unqualified opinions on the financial statements.

8. After serving as the engagement partner on the Firm's audit of Coastal's fiscal year ended December 31, 2013 financial statements, the partner immediately served as the engagement quality reviewer on the audit of Coastal's fiscal year ended December 31, 2014 financial statements, violating AS 7's two-year "cooling-off" period for former engagement partners.

Audit of Hamilton Clark Sustainable Capital, Inc.

9. Hamilton Clark Sustainable Capital, Inc. ("Hamilton Clark") was, at all relevant times, a Delaware corporation headquartered in Washington, D.C. Hamilton Clark's public filings disclose that it is in the business of the distribution of private placements of debt and equity securities to institutional and other accredited investors, and mergers and acquisitions. Hamilton Clark is registered with FINRA and the Commission. At all relevant times, Hamilton Clark was a "broker" and "dealer," as defined in Sections 110(3) and (4) of the Act and PCAOB Rules 1001(b)(iii) and (d)(iii).

10. Weaver audited Hamilton Clark's December 31, 2013 and December 31, 2014 financial statements and issued audit reports, which were filed with the Commission, expressing unqualified opinions on the financial statements.

11. After serving as the engagement partner on the Firm's audit of Hamilton Clark's fiscal year ended December 31, 2013 financial statements, the partner immediately served as the engagement quality reviewer on the audit of Hamilton Clark's fiscal year ended December 31, 2014 financial statements, violating AS 7's two-year "cooling-off" period for former engagement partners.

Audit of Leecam Advisors

12. Leecam Advisors ("Leecam") (now known as "Chiron Capital LLC," since October 2016) was, at all relevant times, a Delaware limited liability company headquartered in Houston, Texas. Leecam's public filings disclose that it is in the business of brokering energy industry investments to a select group of institutional investors. Leecam is registered with FINRA and the Commission. At all relevant times, Leecam was a "broker" and "dealer," as defined in Sections 110(3) and (4) of the Act and PCAOB Rules 1001(b)(iii) and (d)(iii).

ORDER

13. Weaver audited Leecam's December 31, 2013 and December 31, 2014 financial statements and issued audit reports, which were filed with the Commission, expressing unqualified opinions on the financial statements.

14. After serving as the engagement partner on the Firm's audit of Leecam's fiscal year ended December 31, 2013 financial statements, the partner immediately served as the engagement quality reviewer on the audit of Leecam's fiscal year ended December 31, 2014 financial statements, violating AS 7's two-year "cooling-off" period for former engagement partners.

Audit of Kercheville and Company, Inc.

15. Kercheville and Company, Inc. ("Kercheville") was, at all relevant times, a Texas corporation headquartered in San Antonio, Texas. Kercheville's public filings disclose that it acts as a clearing broker for Pershing LLC, and carries the accounts of the customers on a fully-disclosed basis as customers of Pershing, and does not hold cash or securities in connection with these transactions. Kercheville is registered with FINRA and the Commission. At all relevant times, Kercheville was a "broker" and "dealer," as defined in Sections 110(3) and (4) of the Act and PCAOB Rules 1001(b)(iii) and (d)(iii).

16. Weaver audited Kercheville's December 31, 2013 and December 31, 2014 financial statements and issued audit reports, which were filed with the Commission, expressing unqualified opinions on the financial statements.

17. After serving as the engagement partner on the Firm's audit of Kercheville's fiscal year ended December 31, 2013 financial statements, the partner immediately served as the engagement quality reviewer on the audit of Kercheville's fiscal year ended December 31, 2014 financial statements, violating AS 7's two-year "cooling-off" period for former engagement partners.

D. Respondent Violated PCAOB Rules and Standards Related to Quality Control

18. PCAOB rules require that a registered public accounting firm and their associated persons comply with the Board's quality control standards.[7] PCAOB quality control standards require that a registered public accounting firm establish policies and

[7] PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

ORDER

procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[8] Policies and procedures for engagement performance encompass all phases of the design and execution of the engagement.[9] To the extent appropriate and as required by applicable professional standards, these policies and procedures should cover planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement.[10] These policies and procedures also should address engagement quality reviews pursuant to AS 7.[11]

19. Throughout the relevant time period, the Firm failed to implement and maintain a system of quality control that would provide it with reasonable assurance that the work performed by the engagement personnel would comply with applicable professional standards. As described above, the Firm failed to establish and implement quality control policies and procedures to provide reasonable assurance that engagement quality reviewers on Firm audits of broker-dealer clients had not served as the engagement partner during either of the two preceding audits in accordance with AS 7.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Weaver and Tidwell, L.L.P. is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed upon Weaver

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[8] QC § 20.17, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice.*

[9] QC § 20.18.

[10] Id.

[11] Id. at ¶¶ 17 & 18.

ORDER

and Tidwell, L.L.P. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Weaver and Tidwell, L.L.P. shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Weaver and Tidwell, L.L.P. as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or review and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with AS 1220, *Engagement Quality Review*;

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent basis, concerning AS 1220, of any Firm audit personnel who participate in any way in the planning or performing of any audit services (as defined in PCAOB Rule 1001(a)(vii));

3. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the

ORDER

staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 26, 2017

PCAOB
Public Company Accounting Oversight Board

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Washington, DC 20006
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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS	PCAOB Release No. 105-2017-042
In the Matter of Brace & Associates, PLLC and Kari Brace, CPA,	November 16, 2017
Respondents.	

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Brace & Associates, PLLC ("Firm"), a registered public accounting firm, revoking the Firm's registration,[1] and imposing a civil money penalty in the amount of $10,000 upon the Firm; and censuring Kari Brace, CPA ("Brace") and barring her from being an associated person for a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Brace (collectively "Respondents") violated PCAOB rules and standards in connection with the Firm's audits of 19 broker-dealer clients.

I.

On April 12, 2017, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 (the "Act"), as amended, and PCAOB Rule 5200(a)(1) against the Respondents. These proceedings were not public pursuant to Section 105(c)(2) of the Act and PCAOB Rule 5203. The Board determined, under Section 105(c)(2) of the Act and PCAOB Rule 5203, that good cause was shown to make the hearing in this proceeding public, and the Division of Enforcement and Investigations consented to making the hearing public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, Respondents did not consent to make the hearing in this proceeding public.

[1] The Firm may reapply for registration after three (3) years from the date of this Order.

[2] Brace may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

ORDER

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Respondents admit the facts, findings, and violations set forth below, and consent to entry of this Order Making Findings, and Imposing Sanctions ("Order").[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Brace & Associates, PLLC is, and at all relevant times was, a limited liability corporation organized under New Hampshire law, and headquartered in Hudson, New Hampshire. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and is licensed by the New Hampshire Board of Accountancy (license no. 00743). At all relevant times, the Firm was the external auditor for each of the broker-dealers identified below.

2. Kari K. Brace, CPA, age 41, is, and at all relevant times was, a certified public accountant licensed by the New Hampshire Board of Accountancy (license no. 03326). At all relevant times, Brace was the sole owner of the Firm. Brace is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[3] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

B. Summary

3. This matter concerns the Firm's repeated failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to 19 broker-dealer audit clients.[5] In the case of each client, the Firm failed to obtain an engagement quality review of each audit and attestation engagement even though it was required to be performed.

4. This matter also concerns Brace's direct and substantial contribution to the Firm's violations of PCAOB rules and standards concerning the requirement for engagement quality reviews. With respect to each of the 19 audit engagements in which the Firm failed to have an engagement quality review, Brace took or omitted to take actions knowing, or recklessly not knowing, that her acts and omissions would directly and substantially contribute to the Firm's violations of PCAOB rules and standards.

C. The Firm Violated PCAOB Rules and Standards Relating to Engagement Quality Reviews

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6]

6. For audits, interim reviews, and attestations of broker-dealers for fiscal years ending on or after June 1, 2014, AS 7 requires that an engagement quality review be performed pursuant to PCAOB standards.[7] AS 7 also provides that a firm may grant

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[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017).

[6] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[7] See AS 7 ¶ 1.

permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance.[8]

7. The Firm failed to obtain an engagement quality review for each of the audit and attestation engagements set forth in the attached Appendix, even though PCAOB standards required an engagement quality review to be performed. In each instance, the audit was of a "broker" and "dealer," as defined in Sections 110(3) and 110(4) of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii). And in each instance, the Firm improperly permitted the issuance of its unqualified audit report and review report without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm repeatedly violated AS 7.

D. Brace Contributed to the Firm's Violations of PCAOB Rules and Standards

8. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that firm of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.

9. Brace, the sole owner and only member of the Firm, was principally responsible for the audits conducted by the Firm. Accordingly, Brace had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Brace knew, or was reckless in not knowing, that she was directly and substantially contributing to the Firm's violations of AS 7, described above. As a result, she violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

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[8] See id. at ¶¶ 13, 18, and 18C.

ORDER

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Brace & Associates, PLLC and Kari Brace, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Kari Brace, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[9]

C. After three (3) years from the date of this Order, Kari Brace, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Brace & Associates, PLLC is revoked;

E. After three (3) years from the date of this Order, Brace & Associates, PLLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Brace & Associates, PLLC. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Brace & Associates, PLLC shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company

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[9] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Brace. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Brace & Associates, PLLC as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

November 16, 2017

Appendix
Brace & Associates, PLLC
Audits & Attestations Not Performed in Accordance with AS 7

Broker-Dealer	Fiscal Year Ended	Reports Issued Without EQR	Engagement Partner
Rossoff & Co.	June 30, 2014	Audit & Review	Kari Brace, CPA
ProNet Financial Partners, LLC	June 30, 2014	Audit & Review	Kari Brace, CPA
GSV Advisors, LLC	June 30, 2014	Audit & Review	Kari Brace, CPA
Adirondack Trading Group, LLC	June 30, 2014	Audit & Review	Kari Brace, CPA
GIT Investment Services, Inc.	June 30, 2014	Audit	Kari Brace, CPA
BTS Securities Corporation	July 31, 2014	Audit & Review	Kari Brace, CPA
Stuyvesant Square Advisors, Inc.	September 30, 2014	Audit & Review	Kari Brace, CPA
Consensus Securities LLC	September 30, 2014	Audit & Review	Kari Brace, CPA
Bluefin Research Partners, Inc.	December 31, 2014	Audit	Kari Brace, CPA
Perkins Fund Marketing, LLC	December 31, 2014	Audit & Review	Kari Brace, CPA
Morgan Partners, LLC	December 31, 2014	Audit	Kari Brace, CPA
JSB Partners, LP	December 31, 2014	Audit & Review	Kari Brace, CPA
North Bridge Capital, LLC	December 31, 2014	Audit	Kari Brace, CPA
First Commonwealth Securities Corp.	December 31, 2014	Audit & Review	Kari Brace, CPA
Kuhns Brothers Securities Corp.	December 31, 2014	Audit & Review	Kari Brace, CPA
Exit 3 Capital Markets	December 31, 2014	Audit & Review	Kari Brace, CPA
Somerset Securities	December 31, 2014	Audit & Review	Kari Brace, CPA
Oceanus Securities, LLC	March 31, 2015	Audit & Review	Kari Brace, CPA
Selalu Partners, Inc.	March 31, 2015	Audit & Review	Kari Brace, CPA

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Anthony Kam & Associates Limited, and Anthony KAM Hau Choi, CPA,* *Respondents.*	PCAOB Release No. 105-2017-043 (Corrected Copy) November 28, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Anthony Kam & Associates Limited ("AKAL" or the "Firm"), a registered public accounting firm, revoking the Firm's registration,[1] and imposing a civil money penalty in the amount of $10,000 upon the Firm; and censuring Anthony KAM Hau Choi, CPA ("Kam") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the Firm and Kam (collectively, "Respondents") on the basis of its findings that: (a) Respondents violated PCAOB rules and standards in connection with the Firm's audits of an issuer client; (b) the Firm violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder in connection with one of those audits; and (c) Kam directly and substantially contributed to the Firm's violation of the Exchange Act and Rule 10b-5 thereunder.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

[1] The Firm may reapply for registration after five (5) years from the date of this Order.

[2] Kam may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

PCAOB
Public Company Accounting Oversight Board

ORDER

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. Anthony Kam & Associates Limited is, and at all relevant times was, a limited liability corporation headquartered in the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong"). The Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB Rules since December 17, 2009. The Firm is registered with the Hong Kong Institute of Certified Public Accountants ("HKICPA") (Certificate No. M0332). At all relevant times, the Firm was the external auditor for the issuer identified below.

2. From its registration with the Board through 2017, AKAL issued 20 audit reports for 13 different issuers (publicly traded companies that are required to file audited financial statements with the U.S. Securities and Exchange Commission

[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

("Commission")).[5] All but five of those issuers reported having operations in Mainland China. Because of the position taken by authorities in Mainland China with respect to audit documentation concerning such operations, the Board has not had access to the information that is necessary to be able to inspect the Firm's issuer audit work as required by the Act and PCAOB Rules.[6]

3. Anthony KAM Hau Choi, CPA, age 52, is a resident of Hong Kong and a Practising Member of the HKICPA (Practising Certificate No. P02558). At all relevant times, Kam was the Managing Director of AKAL, and served as the engagement partner on the audits discussed below. Kam is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

4. This matter concerns Respondents' violations of the Exchange Act and PCAOB rules and standards in connection with Respondents' issuance of unqualified audit reports on the December 31, 2012, 2013 and 2014 financial statements of Sino Agro Food, Inc. ("SIAF" or the "Company").

5. The Firm violated Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder, by issuing an audit report containing an unqualified audit opinion concerning SIAF's December 31, 2012 financial statements stating that its audit had been conducted in accordance with PCAOB rules and standards. The Firm did so when it knew, or was reckless in not knowing, the statements therein were false. Kam took or omitted to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violations of Section 10(b) and Rule 10b-5, and thereby violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations.*

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[5] See Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii) (defining "issuer").

[6] In the absence of that obstacle to access, the Board, in the normal course, would have inspected AKAL (including a selection of its audits and a review of its system of quality control) at least twice in the period from 2009 to 2017. Since October 2010, the Board has considered this obstacle to access when evaluating new registration applications from firms in Hong Kong (among other jurisdictions) and has not approved any new applications from Hong Kong firms.

ORDER

6. With respect to the 2013 and 2014 fiscal year audits of SIAF, Respondents failed to exercise due professional care and professional skepticism, and failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for an opinion regarding the financial statements of the Company.

C. Respondents Violated the Securities Laws, PCAOB Rules and Auditing Standards

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards and related professional practice standards.[7] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[8] Among other things, those standards require that an auditor exercise due professional care, including professional skepticism, and obtain sufficient appropriate audit evidence to provide a reasonable basis for an opinion regarding the financial statements under audit.[9] In addition, the auditor must document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions, and clearly demonstrate that the work was in fact performed.[10]

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[7] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar.31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017).

[8] See AU § 508.07, *Reports on Audited Financial Statements.*

[9] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230.07-.09, *Due Professional Care in the Performance of Work*; and Auditing Standard No. 15 ("AS 15"), *Audit Evidence*, at ¶ 4.

[10] See Auditing Standard No. 3, *Audit Documentation*, at ¶ 6.

ORDER

8. Section 10(b) of the Exchange Act and Rule 10b-5 thereunder prohibit a person, in connection with the purchase or sale of a security, from making an untrue statement of a material fact or from omitting to state a material fact necessary to make statements made, in light of the circumstances under which they were made, not misleading. To violate Section 10(b) or Rule 10b-5, a respondent must act with scienter,[11] which the United States Supreme Court has defined as "a mental state embracing intent to deceive, manipulate, or defraud."[12] Scienter encompasses knowing or intentional conduct, or recklessness.[13] An auditor violates Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by issuing an audit report stating that the audit has been performed in accordance with PCAOB standards when it knows, or is reckless in not knowing, that the statement is false.[14] Such a misstatement is clearly material, as "[f]ew matters could be more important to investors than that of whether an issuer's financial statements, contained in its filings with the Commission, had, in fact, been subjected to an annual audit conducted in accordance with [PCAOB standards] in all material respects."[15]

9. As detailed below, Respondents failed to comply with the aforementioned rules, standards, and Exchange Act.

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[11] See *Aaron v. SEC*, 446 U.S. 680, 695, 701-02 (1980).

[12] See *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 n.12 (1976).

[13] See, e.g., *IIT v. Cornfeld*, 619 F.2d 909, 923 (2d Cir. 1980).

[14] See *In the Matter of Eugene M. Egeberg III, CPA*, Exchange Act Release No. 71348, at *7-9 (Jan.17, 2014); *In the Matter of Hood & Associates CPAs, P.C., and Rick C. Freeman, CPA,* PCAOB Release No. 105-2013-012, at *16-17 (Nov. 21, 2013)*; In the Matter of Harris F Rattray CPA, PL, and Harris F. Rattray, CPA,* PCAOB Release No. 105-2013-009, at *4-5 (November 21, 2013); *P. Parikh & Associates, Ashok B. Rajagiri, CA, Sandeep P. Parikh, CA, and Sundeep P S G Nair,* CA, PCAOB Release No. 105-2013-002, at *7 (Apr. 24, 2013); *In re Richard P. Scalzo, CPA*, Exchange Act Release No. 48328, 2003 SEC LEXIS 3490, at *51-53 (Aug. 13, 2003).

[15] *Scalzo*, 2003 SEC LEXIS 3490, at *52-53.

ORDER

D. SIAF Audits

10. At all relevant times, SIAF was a Nevada corporation with principal operations in the People's Republic of China. SIAF's public filings disclosed that it was an agriculture technology and natural food holding company and a vertically integrated food producer, primarily involved in beef, fish and shrimp production. SIAF's common stock was registered under Section 12(b) of the Exchange Act and was quoted on the OTC Markets. At all relevant times, SIAF was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

11. In June 2013, AKAL was engaged to provide audit services to SIAF after SIAF dismissed the predecessor auditor.[16] During 2014, AKAL issued three audit reports containing unqualified audit opinions regarding SIAF's financial statements for the years ended December 31, 2012 and 2013. Kam authorized the issuance of an undated, unqualified audit opinion included in a Form 10-K filed by SIAF with the Commission on April 11, 2014. Kam also authorized the issuance of two subsequent audit reports regarding SIAF's financial statements for the years ended December 31, 2012 and 2013: (a) an unqualified audit opinion, dated June 27, 2014, included in a Form 10-K/A filed by SIAF with the Commission on July 1, 2014; and (b) an unqualified audit opinion, dated December 1, 2014, included in a Form 10-K/A filed by SIAF with the Commission on December 2, 2014.

a. *Audit of SIAF's 2012 Financial Statements*

12. For the audit of SIAF's 2012 financial statements, Kam served as the engagement partner and authorized the issuance of AKAL's undated audit report expressing an unqualified audit opinion on SIAF's financial statements for the year ended December 31, 2012. Other than obtaining 2012 audit work papers from the predecessor auditor and obtaining a management representation letter from SIAF,

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[16] On January 15, 2015, the Board revoked the registration of Madsen & Associates CPAs, Inc., SIAF's predecessor auditor, with a right to reapply for registration after two years for failure to comply with PCAOB rules and standards in connection with the audit of SIAF's financial statements for the year ended December 31, 2011 and the audit of the financial statements of another issuer. See *In the Matter of Madsen & Associates CPAs, Inc., and Ted A. Madsen, CPA*, PCAOB Release No. 105-2015-002 (Jan. 15, 2015).

ORDER

Respondents failed to perform any audit procedures to support AKAL's unqualified opinion on the 2012 financial statements of SIAF.[17]

13. The Firm violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by issuing an audit report that falsely stated that the 2012 audit had been conducted in accordance with PCAOB standards when the Firm knew, or was reckless in not knowing, that Firm personnel had not performed any audit procedures, other than obtaining 2012 audit work papers from the predecessor auditor and obtaining a management representation letter, prior to the issuance of the Firm's audit report on those financial statements.

14. Kam knew, or was reckless in not knowing, that that he was directly and substantially contributing to the Firm's violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder when he improperly authorized the issuance of the Firm's audit report regarding SIAF's 2012 financial statements. Kam accordingly violated PCAOB Rule 3502.

b. *Audits of SIAF's 2013 and 2014 Financial Statements*

15. The Firm served as SIAF's auditors for the years ended 2013 and 2014. Kam, as engagement partner, authorized the Firm's issuance of the audit reports expressing unqualified audit opinions on SIAF's financial statements for the year ended December 31, 2013, and the Firm's issuance of an audit report, dated March 31, 2015, expressing an unqualified audit opinion on SIAF's financial statements for the year ended December 31, 2014. The Firm's audit reports for 2013 and 2014 were included in SIAF's Form 10-K filed with the Commission on March 31, 2015.

16. In 2013 and 2014, SIAF's public filings reported consulting and service income from development contracts related to certain long-term arrangements for the development of fishery, prawn and beef farms, and catering facilities and restaurants. The Company accounted for these long-term arrangements using the percentage-of-completion method, recognizing revenue based on the percentage of actual costs incurred to management's estimate of the total costs upon completion ("estimates to complete") for each contract.[18] Components of the consulting and service income from

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[17] With the subsequently issued reports for fiscal year 2012, AKAL did not document any additional audit procedures.

[18] See FASB Accounting Standards Codification Subtopic 605-35, *Revenue Recognition – Construction-Type and Production-Type Contracts*.

ORDER

development contracts reported in 2013 and 2014 were related to incomplete projects for which estimates to complete were used; these amounted to $12 million and $77 million, respectively.

17. The auditor's objective when evaluating accounting estimates includes obtaining sufficient appropriate evidential matter to provide reasonable assurance that accounting estimates are reasonable in the circumstances.[19] However, during the 2013 and 2014 audits, Respondents failed to perform any audit procedures regarding SIAF's estimates to complete related to incomplete development contracts and, accordingly, failed to obtain sufficient appropriate audit evidence to determine whether they were properly valued.[20]

18. In 2013 and 2014, SIAF reported revenue of approximately $3 million and $57 million, respectively, from its largest facility development contract. For the 2013 audit, the only audit evidence obtained by Respondents related to this particular development contract was an unexecuted, temporary contract proposal. For the 2014 audit, Respondents obtained copies of contracts that were not fully executed by all contracting parties and that did not include sufficient information such as the contract price and the tangible or intangible goods or services that were intended to be delivered. As a result, Respondents failed to perform any procedures to evaluate whether it was appropriate under U.S. Generally Accepted Accounting Principles for SIAF to recognize revenue for this contract.[21]

19. For both the 2013 and 2014 audits, Respondents failed to perform audit procedures to specifically address the risk of management override of controls.[22] Respondents failed: (a) to examine journal entries and other adjustments for evidence of possible material misstatement due to fraud;[23] and (b) to perform retrospective reviews of significant accounting estimates, including with respect to the significant

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[19] See AU § 342.07, *Auditing Accounting Estimates*; AS 15 at ¶¶ 4-6.

[20] See AS 15 at ¶¶ 4-6.

[21] See Auditing Standard No. 14 ("AS 14"), *Evaluating Audit Results*, at ¶ 30.

[22] See AU § 316.57-67, *Consideration of Fraud in a Financial Statement Audit*.

[23] See AU § 316.58-62.

ORDER

estimates related to estimates to complete, and to determine whether judgments and assumptions relating to those estimates indicated possible bias on the part of management.[24] Further, for both the 2013 and 2014 audits, Respondents failed to identify revenue recognition as a fraud risk, and failed to document or provide a sufficient basis to overcome the presumption that revenue recognition should have been identified as a fraud risk.[25]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Anthony Kam & Associates Limited and Anthony KAM Hau Choi are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Anthony KAM Hau Choi is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[26]

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[24] See AU § 316.64.

[25] See Auditing Standard No. 12 ("AS 12"), *Identifying and Assessing Risks of Material Misstatement,* at ¶ 68; AU §316.83.

[26] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Kam. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

C. After five (5) years from the date of this Order, Anthony KAM Hau Choi may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Anthony Kam & Associates Limited is revoked;

E. After five (5) years from the date of the Order, Anthony Kam & Associates Limited may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Anthony Kam & Associates Limited. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Anthony Kam & Associates Limited shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies Anthony Kam & Associates Limited as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 28, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of VanDuyne, Bruno & Co., P.A., Anthony Bruno, CPA, and Jack Gutierrez, CPA,* *Respondents.*	PCAOB Release No. 105-2017-044 November 28, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is (1) censuring VanDuyne, Bruno & Co., P.A. ("Firm"), a registered public accounting firm, revoking the Firm's registration,[1] and imposing a civil money penalty in the amount of $10,000 upon the Firm; (2) censuring Anthony Bruno, CPA ("Bruno") and barring him from being an associated person of a registered public accounting firm;[2] and (3) censuring Jack Gutierrez, CPA ("Gutierrez") and barring him from being an associated person of a registered public accounting firm.[3] The Board is imposing these sanctions on the basis of its findings that the Firm, Bruno and Gutierrez repeatedly violated PCAOB rules and standards in connection with their audit of the financial statements and supplemental information of Blue Vase Securities, LLC, a broker-dealer, for the year ended December 31, 2015.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondents.

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[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Bruno may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

[3] Gutierrez may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

ORDER

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds that:[5]

A. Respondents

1. VanDuyne, Bruno & Co., P.A. is a professional association organized under the laws of New Jersey, and headquartered in Pine Brook, New Jersey. The Firm registered with the Board on September 29, 2009, pursuant to Section 102 of the Act and PCAOB rules. The Firm holds an accountancy license issued by the State of New Jersey (Lic. No. 20CB00141000). At all relevant times, the Firm was the external auditor of the 2015 financial statements of Blue Vase Securities, LLC ("BVS"), with Bruno serving as the engagement partner and Gutierrez serving as the engagement quality reviewer. At the time of the BVS audit, the Firm had four broker-dealer audit clients for which Bruno served as the engagement partner and Gutierrez as the EQR. The Firm had three other principals who provided tax and consulting services, but did not perform audit work.

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[4] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

2. Anthony Bruno, CPA, age 56, of Pine Brook, New Jersey, is, and at all relevant times was, a principal of the Firm and a certified public accountant licensed by the State of New Jersey (Lic. No. 20CC02167900) and the State of New York (Lic. No. 055755). Bruno was the engagement partner for the Firm's audit of BVS's 2015 financial statements. Bruno is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. Jack Gutierrez, CPA, age 62, of Ramsey, New Jersey, is, and at all relevant times was, employed by the Firm until he became a principal in December 2016. Gutierrez is a certified public accountant licensed by the State of Florida (Lic. No. AC36025) and the State of New York (Lic. No. 041860). Gutierrez served as the engagement quality reviewer for the Firm's audit of BVS's 2015 financial statements. He is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

4. This matter concerns the Firm's failure to comply with auditor independence requirements in connection with the Firm's audit of the 2015 financial statements of BVS, a broker-dealer. As detailed below, the Firm was not independent of BVS under auditor independence criteria established by the U.S. Securities and Exchange Commission ("Commission") and made applicable by Exchange Act Rule 17a-5(f)(1) to audits of brokers and dealers.[6] Bruno authorized the issuance of the 2015 audit report, notwithstanding his knowledge that the Firm had prepared BVS's financial statements. As a result, the Firm violated PCAOB Rule 3520, *Auditor Independence*, by failing to satisfy the independence criteria applicable to the engagement, including the criteria set out in Rule 2-01(c)(4)(i) of the Commission's Regulation S-X, and AU § 220, *Independence*.[7] Bruno directly and substantially contributed to the Firm's violation of

[6] Exchange Act Rule 17a-5, referenced throughout this Order as "Rule 17a-5" is found at 17 C.F.R. § 240.17a-5.

[7] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audit. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017), https://pcaobus.org/Standards/Auditing/Documents/ReorganizedandPreReorganizedNumbering.pdf.

ORDER

applicable independence requirements, in violation of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

5. This matter also concerns the Firm's and Bruno's violations of PCAOB rules and standards in connection with their audit of BVS's 2015 financial statements and accompanying supporting schedule (the "Audit"). As detailed below, among other things, they failed to exercise due professional care and professional skepticism, to obtain sufficient appropriate audit evidence to support the Firm's audit opinion on BVS's financial statements and supporting schedule, and to comply with the audit documentation requirements of Auditing Standard No. 3, *Audit Documentation* ("AS 3").

6. The matter also concerns the Firm's and Bruno's violation of Auditing Standard No. 17, *Auditing Supplemental Information Accompanying Audited Financial Statements* ("AS 17"), because of their failure to perform adequate procedures on the supplemental information, namely BVS's net capital computation.[8]

7. Additionally, in connection with the above Audit, Gutierrez violated Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), by providing his concurring approval of issuance without performing the required engagement quality review with due professional care.

C. The Firm and Bruno Violated PCAOB Rules and Auditing Standards

Independence Violations

8. At all relevant times, BVS was a Delaware limited liability company with its principal place of business in Rhinebeck, New York. BVS's public filings disclosed that it was registered as a broker-dealer with the Commission and was a member of the Financial Industry Regulatory Authority. BVS was primarily engaged in transactions on the secondary markets for equities and equity options and claimed an exemption under Exchange Act Rule 15c3-3 (the Customer Protection Rule). At all relevant times, BVS was a "broker" and "dealer," as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii).

9. Rule 17a-5(d)(1) requires, among other things, that every broker or dealer registered under Section 15 of the Securities Exchange Act of 1934 file annually a financial report audited by an independent public accountant. Rule 17a-5(d)(2) requires

[8] See 17 C.F.R. § 240.15c3-1, *Net Capital Requirements for Brokers or Dealers* ("Rule 15c3-1").

ORDER

that the financial report filed by a registered broker or dealer contain, among other things, certain financial statements: a Statement of Financial Condition, a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and a Statement of Changes in Liabilities Subordinated to Claims of General Creditors. Rule 17a-5(d)(2)(ii) requires that the financial report contain certain supporting schedules, including a net capital computation.

10. Rule 17a-5(g) requires that an independent public accountant prepare a report based on an examination of the financial report required to be filed by the broker or dealer under Rule 17a-5(d) in accordance with PCAOB standards.

11. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[9] PCAOB rules and standards also require a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period,[10] and includes the obligation to satisfy the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[11]

12. Pursuant to Rule 17a-5(f)(1), certain of the Commission's auditor independence criteria described in Rule 2-01 of Regulation S-X[12] apply to audits of brokers and dealers.[13] The applicable provisions include Rule 2-01(c)(4), which states in part:

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[9] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[10] See PCAOB Rule 3520; AU § 220.

[11] See PCAOB Rule 3520, Note 1.

[12] 17 C.F.R. § 210.2-01.

[13] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for

ORDER

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> * * *
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

13. During the 2015 audit and professional engagement period, Firm staff obtained data BVS maintained in its accounting system and entered the information into a template to create BVS's financial statements. Firm staff also used the accounting records obtained from BVS to draft the notes to the financial statements. The 2015 financial statements, including the accompanying notes, all prepared by Firm staff, were filed by BVS with the Commission.

14. As a result of the Firm's preparation of BVS's financial statements and accompanying notes, the Firm was not independent of BVS under the independence criteria established by the Commission in Rule 2-01(c)(4) of Regulation S-X, which Rule 17a-5 made applicable to the Audit. As the Commission explained in adopting Rule 2-01(c)(4), providing such services for an audit client "impairs the auditor's independence because the auditor will be placed in the position of auditing the firm's work when auditing the client's financial statements. . . . In addition, keeping the books is a management function, the performance of which leads to an inappropriate mutuality of interests between the auditor and the audit client."[14] The Firm consequently violated PCAOB Rule 3520 and AU § 220 in connection with the Audit.

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employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 70073 at II.E.

[14] *Revision of the Commission's Auditor Independence Requirements*, Exchange Act Release No. 43602 (November 21, 2000) at IV.D.4.b(i).

ORDER

15. Firm staff prepared BVS's financial statements under Bruno's supervision, and Bruno authorized the issuance of the Audit Report, when he knew or should have known that such activities would impair the Firm's independence. Through his actions, Bruno directly and substantially contributed to the Firm's violation of the applicable independence requirements, in violation of PCAOB Rule 3502.

Audit Violations

16. For audits of fiscal years on or after June 1, 2014, Rule 17a-5(g) requires that audits of broker-dealers be performed in accordance with PCAOB standards. An auditor may express an unqualified opinion on financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[15] Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism in performing the audit, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to afford a reasonable basis for an opinion regarding the financial statements.[16]

17. PCAOB standards also require the auditor to perform risk assessment procedures sufficient to provide a reasonable basis for identifying and assessing the risks of material misstatement, whether due to error or fraud, and designing further audit procedures.[17] The auditor should presume there is a fraud risk involving improper revenue recognition and evaluate which types of revenue, revenue transactions, or assertions may give rise to such risks.[18] In addition, the auditor's assessment of the risks of material misstatement, including fraud risks, should continue throughout the audit.[19]

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[15] See AU § 508.07, *Reports on Audited Financial Statements.*

[16] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; and Auditing Standard No. 15, *Audit Evidence* ("AS 15").

[17] See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"), ¶ 4.

[18] See AS 12 ¶ 68.

[19] See AS 12 ¶ 74.

ORDER

The auditor should also perform substantive procedures, including tests of details that are specifically responsive to the assessed fraud risks.[20]

18. PCAOB standards provide that, when an auditor uses information produced by the audit client as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information.[21] PCAOB standards also require that sample items should be selected in such a way that the sample can be expected to be representative of the population and all items in the population should have an opportunity to be selected.[22] If audit evidence obtained from one source is inconsistent with that obtained from another, or if the auditor has doubts about the reliability of the information to be used as audit evidence, the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit.[23]

19. PCAOB standards also require that, when the auditor is engaged to audit supplemental information accompanying the financial statements, the auditor should perform audit procedures to obtain appropriate audit evidence that is sufficient to support the auditor's opinion regarding whether the supplemental information is fairly stated, in all material respects, in relation to the financial statements as a whole.[24] In performing the audit procedures on supplemental information, the auditor should perform procedures to test the accuracy and completeness of the information presented in the supplemental information to the extent that it was not tested as part of the audit of financial statements.[25]

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[20] See Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"), ¶ 13.

[21] See AS 15 ¶ 10.

[22] See AU § 350.24, *Audit Sampling*.

[23] See AS 15 ¶ 29.

[24] See AS 17 ¶¶ 2-3.

[25] Id. ¶ 4(e).

ORDER

20. As described below, the Firm and Bruno failed to comply with PCAOB rules and standards in connection with the Audit.

21. On February 24, 2016, BVS filed with the Commission a Form X-17A-5 Part III for the year ended December 31, 2015. Included in that filing was the Firm's audit report dated February 1, 2016 ("Audit Report"). Bruno authorized the Firm's issuance of the Audit Report, which expressed an unqualified opinion on BVS's financial statements and supporting schedule, and stated, among other things, that the Firm's audit was conducted in accordance with PCAOB standards. Gutierrez, as the engagement quality reviewer, provided concurring approval of issuance of the Audit Report.

22. As of YE 2015, BVS reported assets of approximately $716,000, and revenues and accounts receivable ("AR") of approximately $2.4 million and $503,000, respectively. BVS's revenue and AR included approximately $1.5 million of commission income and $417,000 of AR, respectively, from its largest customer.

23. During audit planning, the Firm and Bruno identified the risk of improper entry of invoices from customers as a significant risk in auditing revenue and AR but they failed to presume there is a fraud risk involving improper revenue recognition. Consequently, they failed to evaluate which types of revenue, revenue transactions or assertions may give rise to such risks, which is inconsistent with PCAOB requirements.[26]

24. BVS earned almost all of its revenue in 2015 from commission income. First, the Firm and Bruno selected transactions with only the largest customer to test commission income. Then, from management's schedule listing the monthly commission income from the largest customer for the entire year, they selected for testing only the November and December commission income which was not representative of the entire population. With this sampling approach, the Firm and Bruno excluded approximately $2 million or 83% of the aggregate commission income transactions from possible selection for testing. As a result, the Firm and Bruno violated AU § 350.

25. The Firm and Bruno also failed to evaluate whether information produced by management was sufficient and appropriate as audit evidence. For example, they agreed management's revenue summary schedule to other management produced information without performing procedures to test the accuracy and completeness of the information produced by BVS.

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[26] See AS 12 ¶ 68.

ORDER

26. The Firm and Bruno also ignored red flags regarding the accuracy of BVS's revenue at year end. On January 29, 2016, the engagement team became aware the largest customer had retroactively reduced the commission rate paid to BVS, which would affect the December 2015 invoice and could significantly reduce BVS's commission income. They failed to perform any audit procedures to resolve the inconsistency between the amount of the December commission income as tested and the information related to the retroactive reduction to the commission income. As a result, the Firm and Bruno violated AS 15 ¶ 29.

27. On April 5, 2016, BVS's management restated the financial statements to reflect the reduction in the December commission income due to the retroactive change in the commission rate of approximately $177,000. That same day, the Firm and Bruno failed to perform any procedures other than obtaining a management representation and reissued the Audit Report, reflecting the $177,000 reduction in revenue.

AS 17 Violations

28. Rule 17a-5 required BVS to file a supporting schedule, audited by a PCAOB-registered firm, setting forth its net capital computation.[27] Auditing Standard No. 17 provides that the objective of the auditor of the financial statements, when engaged to perform audit procedures and report on supplemental information that accompanies audited financial statements, is to obtain sufficient appropriate audit evidence to express an opinion on whether the supplemental information is fairly stated, in all material respects, in relation to the financial statements as a whole.[28] The nature, timing, and extent of audit procedures necessary to obtain sufficient appropriate audit evidence and to report on the supplemental information depends on, among other things, the risk of material misstatement of the supplemental information.[29]

29. AS 17 also require the auditor's report on supplemental information accompanying audited financial statements should include a statement that the audit procedures performed included determining whether the supplemental information reconciles to the financial statements or underlying accounting and other records, as applicable, and performing procedures to test the completeness and accuracy of the

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[27] See Rule 17a-5(d)(1)(i), (2), (3) and (4).

[28] See AS 17 ¶ 2.

[29] See AS 17 ¶ 3(a).

ORDER

information presented in the supplemental information.[30] The auditor's report should also include a statement that, in forming the auditor's opinion, the auditor evaluated whether the supplemental information, including its form and content, complies, in all material respects, with the specified regulatory requirements or other applicable criteria.[31]

30. The Firm and Bruno failed to obtain sufficient appropriate audit evidence regarding the supplemental information in the supporting schedule – Statement of Net Capital pursuant to SEC Rule 15c3-1 – that accompanied BVS's 2015 financial statements. In performing procedures to report on BVS's net capital computation, the Firm and Bruno failed to identify and assess the risk of material misstatements in order to determine the nature, timing, and extent of the audit procedures necessary to obtain sufficient appropriate audit evidence to support its report on BVS's supporting schedule, including the report on BVS's compliance with Commission rules requiring BVS to maintain a sufficient amount of net capital liquidity ("Net Capital Rule").[32] The engagement team relied on management's representations and failed to perform any procedures to determine whether BVS's assessment of allowable and non-allowable assets included in BVS's net capital computation and BVS's reported minimum net capital requirement complied with the Net Capital Rule.

31. The Firm's audit report on BVS's financial statements and supporting schedule failed to include statements that (a) the audit procedures performed included testing the completeness and accuracy of the information presented in the supplemental information and (b) the auditor, in forming the auditor's opinion, evaluated whether the supplemental information, including its form and content, complied in all material respects with Rule 17a-5.

32. As a result, the Firm and Bruno violated AS 17.

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[30] See AS 17 ¶ 10(d).

[31] See AS 17 ¶ 10(e).

[32] See 17 C.F.R. § 240.15c3-1, *Net Capital Requirements for Brokers or Dealers* ("Rule 15c3-1" or the "Net Capital Rule").

ORDER

Audit Documentation Violations

33. The PCAOB's audit documentation standard, AS 3, requires, among other things, that a complete and final set of audit documentation be assembled for retention by the "documentation completion date", a date no later than 45 days from the date on which the auditor grants permission to use its report. The standard also requires the auditor to identify all significant findings or issues in an engagement completion document.[33]

34. The Firm and Bruno violated AS 3 by failing to (a) prepare an engagement completion document and (b) assemble a complete and final set of audit documentation by the documentation completion date.

D. Gutierrez Violated PCAOB Rules and Auditing Standards in Connection with the Engagement Quality Review for the Audit

35. Auditing Standard No. 7, *Engagement Quality Review*, requires that an engagement quality review be performed on all audits, interim reviews, and attestation engagements conducted pursuant to PCAOB standards.[34]

36. Moreover, under AS 7, the engagement quality reviewer may provide concurring approval of issuance for an audit report only if, after performing with due professional care the review required by AS 7, he or she is not aware of a significant engagement deficiency.[35] AS 7 states that a significant engagement deficiency in an audit exists under any of the following four circumstances: "(1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client."[36]

37. An engagement quality reviewer should review the engagement team's evaluation of the firm's independence in relation to the engagement.[37] The engagement

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[33] See AS 3 ¶ 13.

[34] See AS 7 ¶ 1.

[35] Id. ¶¶ 12, 18B.

[36] Id. ¶ 12, Note.

[37] Id. ¶ 10(d).

quality reviewer should also evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[38] In performing an engagement quality review for an audit, the engagement quality reviewer should, among other things, evaluate the engagement team's assessment of, and audit responses to, significant risks, including fraud risks, identified by the engagement team or other significant risks identified by the engagement quality reviewer.[39] The engagement quality reviewer should also evaluate whether the engagement documentation that he or she reviewed indicates that the engagement team responded appropriately to significant risks and whether the engagement documentation reviewed supports the conclusions reached by the engagement team with respect to matters reviewed.[40] Finally, the engagement quality reviewer should review the engagement completion document.[41]

38. In performing the engagement quality review, Gutierrez failed to properly evaluate the significant judgments made, and the related conclusions reached, by the engagement team with respect to significant areas of the Audit, including risk assessment, revenue, accounts receivable, and auditor independence.

39. First, Gutierrez failed to review the engagement team's evaluation of the firm's independence with respect to this engagement.[42] The evaluation included information indicating that the Firm prepared BVS's financial statements during the 2015 audit and professional engagement period which impaired the Firm's independence.

40. Second, Gutierrez failed to properly evaluate the significant judgments made, and the related conclusions reached, by the engagement team with respect to risk assessment.[43] For example, Gutierrez failed to identify the engagement team's failure to presume improper revenue recognition as a fraud risk, or that risk assessment procedures should be performed on BVS's supplemental information. He also failed to

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[38] Id. ¶¶ 9, 18A.

[39] Id. ¶ 10(b).

[40] Id. ¶ 11.

[41] Id. ¶¶ 10(e), 18A.

[42] Id. ¶ 10(d).

[43] Id. ¶ 10(b).

ORDER

evaluate whether the engagement documentation he reviewed indicated that (a) the engagement team responded appropriately to the significant risks; and (b) supported the conclusions reached by the engagement team.[44]

41. Third, Gutierrez failed to properly evaluate the significant judgments made and related conclusions reached, by the engagement team with respect to revenue and AR.[45] Gutierrez failed to review the audit procedures performed with respect to revenue and AR. Indeed, the sole evidence in the Firm's audit file of any work performed by Gutierrez is a Supervision, Review, and Approval Form. This work paper is simply a checklist in which Gutierrez checked "Yes" to 7 statements that referenced AICPA Quality Control Standards with no references to other work papers or to PCAOB engagement quality review standards.

42. Gutierrez provided his concurring approval of issuance without performing the engagement quality review with due professional care and, accordingly, violated AS 7.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), VanDuyne Bruno & Co., P.A., Anthony Bruno, CPA, and Jack Gutierrez CPA, are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of VanDuyne Bruno & Co., P.A. is revoked;

C. After two (2) years from the date of this Order, VanDuyne Bruno & Co., P.A. may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

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[44] Id. ¶ 11.

[45] Id. ¶ 10(a).

ORDER

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Anthony Bruno, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[46]

E. After two (2) years from the date of this Order, Anthony Bruno, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

F. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jack Gutierrez, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[47]

G. After one (1) year from the date of this Order, Jack Gutierrez, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

H. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon VanDuyne Bruno & Co., P.A. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance

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[46] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Bruno. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[47] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Gutierrez. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

with Section 109(c)(2) of the Act. VanDuyne Bruno & Co., P.A. shall pay the civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the payor as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

November 28, 2017

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Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2017-045
In the Matter of Peter D. Willner, CPA and Peter Willner, CPA,	December 13, 2017
Respondents.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring the registered public accounting firm Peter D. Willner, CPA ("Firm"), revoking the Firm's registration,[1] and imposing a $10,000 civil money penalty on the Firm; and censuring Peter Willner, CPA ("Willner") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Willner (collectively, "Respondents") violated PCAOB rules and standards in connection with six of the Firm's audits and reviews for two broker-dealer audit clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondents pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the facts contained in paragraphs 13-14 and 18-19, and the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted,

[1] The Firm may reapply for registration after one (1) year from the date of this Order.

[2] Willner may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

ORDER

Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Peter D. Willner, CPA is a sole proprietorship organized under the laws of the state of New York with headquarters in Saddle River, New Jersey. The Firm is not licensed. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, it was the external auditor for the two broker-dealers identified below.

2. Peter Willner, CPA, age 73, of Saddle River, New Jersey is a certified public accountant licensed under the laws of the State of New York (License No. 31225). He is the sole owner of the Firm and was the engagement partner on the audits and reviews at issue herein. He is, and at all relevant times was, an "associated person of a registered public accounting firm" as that phrase is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns the Firm's violations of Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), in connection with six audits and reviews for two broker-dealer audit clients.[5] The violations arise from the Firm's failure to obtain

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[5] All references to PCAOB standards and rules are to the versions of those standards and rules in effect at the time of the relevant audits and reviews. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical

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engagement quality reviews and concurring approvals of issuance in connection with the Firm's audits of the 2014, 2015, and 2016 financial statements and accompanying supplemental information ("Audits") of Trade Manage Capital, Inc. ("Trade Manage Capital") and Bettinger & Leech Financial Corp. ("Bettinger & Leech"). The violations also arise from the Firm's failure to obtain engagement quality reviews and concurring approvals of issuance in connection with the Firm's reviews of the statements made in exemption reports ("Exemption Report Reviews") prepared by Trade Manage Capital for 2014, 2015, and 2016, and Bettinger & Leech for 2015.

4. In addition, Willner violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, because he took actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violations of AS 7.

5. This matter also concerns Respondents' violations of Auditing Standard No. 3, *Audit Documentation* ("AS 3"), in connection with the Audits and Exemption Report Reviews. These violations arise from Respondents' failures to prepare and retain audit documentation containing sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the nature, timing, extent, and results of the procedures performed and conclusions reached. In addition, they arise from Respondents' failures to document any audit planning or risk assessment procedures and responses to risks of misstatement, and prepare an engagement completion document.

C. Respondents Violated PCAOB Rules and Standards

6. In connection with the preparation or issuance of an audit or review report for a broker-dealer, PCAOB rules require a registered public accounting firm and its associated persons to comply with the Board's auditing and related professional practice standards.[6]

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structure and a single, integrated numbering system. Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules, PCAOB Rel. No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017), https://pcaobus.org/Standards/Auditing/Documents/ReorganizedandPreReorganizedNumbering.pdf.

[6] PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards*; 3200T, *Interim Auditing Standards*.

ORDER

7. AS 7 requires an engagement quality review and concurring approval of issuance in connection with an audit engagement conducted pursuant to PCAOB standards.[7] It also requires an engagement quality review and concurring approval of issuance in connection with an attestation engagement performed pursuant to Attestation Standard No. 2, *Review Engagements Regarding Exemption Reports of Brokers and Dealers* ("AT 2"),[8] to review the statements made by a broker-dealer in an exemption report ("Exemption Report") prepared pursuant to Securities and Exchange Act of 1934 Rule ("Exchange Act Rule") 17a-5, 17 C.F.R. § 240.17a-5. AS 7 provides further that a firm may grant permission to a client to use the engagement reports from such audits and reviews only after an engagement quality reviewer provides concurring approval of issuance.[9]

8. AS 3 requires an auditor to prepare and retain audit documentation in connection with each engagement conducted pursuant to PCAOB standards.[10] Audit documentation includes records of the planning and performance of the engagement,[11] and should be prepared in sufficient detail to provide a clear understanding of its purpose, its source, and the conclusions reached.[12] The auditor must document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[13] The audit documentation must clearly demonstrate that the work was in fact performed, and contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the nature, timing, extent, and results of the procedures performed,

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7 AS 7 ¶ 1.

8 Id.

9 Id. ¶¶ 13, 18C.

10 AS 3 ¶¶ 4, 14.

11 Id. ¶ 2.

12 Id. ¶ 4.

13 Id. ¶ 6. See also id. n.2 ("In an engagement conducted pursuant to [AT 2] the relevant assertions are the assertions expressed by management or the responsible party regarding the subject matter of the attestation engagement. The documentation requirements in this standard regarding assertions apply to the aspects of the subject matter to which the assertions relate.").

ORDER

evidence obtained and conclusions reached.[14] In addition, the auditor must identify all significant findings or issues in an engagement completion document.[15]

9. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the U.S. Securities and Exchange Commission ("Commission") issued under the Act, or professional standards.

10. As described below, Respondents failed to comply with these PCAOB rules and standards.

The Trade Manage Capital 2014-2016 Audits and Exemption Report Reviews

11. At all relevant times, Trade Manage Capital was a broker-dealer incorporated in the state of New York with a principal place of business in Saddle Brook, New Jersey. Its public filings disclose that it is organized to be active in various aspects of the securities industry. It claims it is an introducing broker-dealer exempt from the customer protection requirements of Exchange Act Rule 15c3-3, 17 C.F.R. § 240.15c3-3.[16] At all relevant times, Trade Manage Capital was a "broker" and a "dealer" as those terms are defined in Sections 110(3) and 110(4) of the Act, and PCAOB Rules 1001(b)(iii) and 1001(d)(iii).

12. The Firm audited Trade Manage Capital's financial statements and accompanying supplemental information as of December 31, 2014, December 31, 2015, and December 31, 2016. The Firm reviewed the statements made by Trade Manage Capital in its Exemption Reports for fiscal years 2014, 2015, and 2016. Willner was the engagement partner for these audits and reviews. He authorized the Firm's issuance of audit and review reports to Trade Manage Capital on February 15, 2015, February 15, 2016, and February 17, 2017, respectively. Trade Manage Capital included the Firm's audit and review reports in Forms X-17A-5 Part III filed with the Commission on April 20, 2015, March 1, 2016, and March 15, 2017, respectively.

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[14] Id. ¶ 6.

[15] Id. ¶ 13.

[16] See Exchange Act Rule 15c3-3(k)(2)(ii). It also claims it is exempt under Exchange Act Rule 15c3-3(k)(2)(i).

ORDER

13. Without having obtained engagement quality reviews and concurring approvals of issuance as required by AS 7, the Firm granted permission to Trade Manage Capital to use its audit and review reports. As a result, the Firm violated AS 7.[17]

14. Willner was the sole owner of the Firm and the engagement partner for the Firm's audits and reviews for Trade Manage Capital. He had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards in connection with the audits and reviews. He authorized the Firm's issuance of audit and review reports for use by Trade Manage Capital without obtaining engagement quality reviews and concurring approvals of issuance. Accordingly, Willner knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7. As a result, he violated PCAOB Rule 3502.

15. Willner prepared the audit documentation for the Firm's audits and reviews for Trade Manage Capital. The audit documentation he prepared and retained consists primarily of documents obtained from Trade Manage Capital on which he recorded tick marks and other notations that do not provide sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the nature, timing, extent, and results of the procedures performed and conclusions reached.[18] The audit documentation fails to document any audit planning, or risk assessment procedures and responses to risks of misstatement.[19] In addition, it does not clearly demonstrate that the audit work was in fact performed or include an engagement completion document.[20] As a result, Respondents violated AS 3.

The Bettinger & Leech 2014-2016 Audits and 2015 Exemption Report Review

16. At all relevant times, Bettinger & Leech was a broker-dealer incorporated in the state of Delaware with a principal place of business in Englewood Cliffs, New Jersey. Its public filings disclose that it was formed to engage primarily in securities brokerage activities. It claims it is an introducing broker-dealer exempt from the customer protection requirements of Exchange Act Rule 15c3-3.[21] At all relevant times,

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17 See AS 7 ¶¶ 1, 13, 18C.

18 See AS 3 ¶ 6.

19 See id. ¶¶ 2, 9A.

20 See id. ¶¶ 6, 13.

21 See Exchange Act Rule 15c3-3(k)(2)(ii).

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Bettinger & Leech was a "broker" and a "dealer" as those terms are defined in Sections 110(3) and 110(4) of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii).

17. The Firm audited Bettinger & Leech's financial statements and accompanying supplemental information as of December 31, 2014, December 31, 2015, and December 31, 2016. The Firm reviewed the statements made by Bettinger & Leech in its Exemption Report for fiscal year 2015. Willner was the engagement partner for these audits and this review. He authorized the Firm's issuance of audit reports to Bettinger & Leech on February 14, 2015, February 14, 2016, and February 20, 2017, respectively, and a review report on February 14, 2016. Bettinger & Leech included the Firm's audit reports in Forms X-17A-5 Part III filed with the Commission on March 4, 2015, February 25, 2016, and March 1, 2017, respectively, and the Firm's review report in the abovementioned form filed on February 25, 2016.

18. Without having obtained engagement quality reviews and concurring approvals of issuance as required by AS 7, the Firm granted permission to Bettinger & Leech to use its audit and review reports. As a result, the Firm violated AS 7.[22]

19. Willner was the sole owner of the Firm and the engagement partner for the audits and review for Bettinger & Leech. He had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards in connection with the audits and review. He authorized the Firm's issuance of audit and review reports for use by Bettinger & Leech without obtaining engagement quality reviews and concurring approvals of issuance. Accordingly, Willner knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7. As a result, he violated PCAOB Rule 3502.

20. Willner prepared the audit documentation for the Firm's audits and review for Bettinger & Leech. The audit documentation he prepared and retained consists primarily of documents obtained from Bettinger & Leech on which he recorded tick marks and other notations that do not provide sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the nature, timing, extent, and results of the procedures performed and conclusions reached.[23] The audit documentation fails to document any audit planning, or risk assessment procedures and responses to risks of misstatement.[24] In addition, it

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[22] See AS 7 ¶¶ 1, 13, 18C.

[23] See AS 3 ¶ 6.

[24] See id. ¶¶ 2, 9A.

ORDER

does not clearly demonstrate that the audit work was in fact performed or include an engagement completion document.[25] As a result, Respondents violated AS 3.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit and review reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Peter D. Willner, CPA, a registered public accounting firm, and Peter Willner, CPA, the Firm's sole owner, are censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Peter D. Willner, CPA is revoked;

C. Pursuant to PCAOB Rule 5302(a), after one (1) year from the date of the Order, Peter D. Willner, CPA may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Peter Willner, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[26]

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[25] See id. ¶¶ 6, 13.

[26] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Peter Willner, CPA. Section 105(c)(7)(B) of the Act provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

E. Pursuant to PCAOB Rule 5302(b), after one (1) year from the date of this Order, Peter Willner, CPA may file a petition for Board consent to associate with a registered public accounting firm; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Peter D. Willner, CPA, a registered public accounting firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Peter D. Willner, CPA shall pay the civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter that identifies Peter D. Willner, CPA as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

December 13, 2017

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Weld Asia Associates and Tan Chin Huat, Chartered Accountant,* *Respondents.*	PCAOB Release No. 105-2017-046 December 13, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is (1) censuring Weld Asia Associates ("Weld Asia" or the "Firm"), revoking the Firm's registration, and imposing a civil money penalty in the amount of $20,000 upon the Firm;[1] and (2) censuring Tan Chin Huat, Chartered Accountant ("Tan Chin Huat"), and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that: (a) the Firm and Tan Chin Huat (collectively, "Respondents") violated PCAOB rules and standards in connection with audits of seven issuer clients, including rules and standards concerning independence, engagement quality reviews and audit documentation; (b) the Firm violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), and Rule 10b-5 thereunder, in one issuer audit; (c) the Firm violated PCAOB quality control standards; (d) the Firm failed to timely disclose certain reportable events to the Board on PCAOB Form 3, *Special Reports*, in violation of PCAOB rules, and (e) Tan Chin Huat directly and substantially contributed to the Firm's violations of the Exchange Act, Rule 10b-5, quality control standards, and certain auditing standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted

[1] The Firm may reapply for registration after five (5) years from the date of this Order.

[2] Tan Chin Huat may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

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pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the facts contained in paragraphs 8-32 and 39-48, the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Weld Asia Associates is a partnership organized under the laws of Malaysia, and headquartered in Kuala Lumpur, Malaysia. The Firm is licensed by the Malaysia Institute of Accountants (license no. AF002026). The Firm is registered with the PCAOB, pursuant to Section 102 of the Act and PCAOB Rules. At all relevant times the Firm was the external auditor for the issuers identified below.

2. Tan Chin Huat, age 50, of Rawang, Selangor, Malaysia, at all relevant times was a partner of the firm. Tan Chin Huat was also the managing partner of the

[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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Firm from at least January 1, 2013 to September 30, 2016, and held ultimate responsibility for the Firm's adopting and maintaining an adequate system of quality control during that period. Tan Chin Huat is a Chartered Accountant with the Malaysian Institute of Accountants (member no. 10081) and is licensed to perform auditing services by the Malaysian Ministry of Finance (license No. 2037/06/18(J)). Tan Chin Huat is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns the Firm's violations of PCAOB rules and standards that require a registered public accounting firm and its associated persons to be independent of the firm's issuer audit clients throughout the audit and professional engagement period. During the audits for five issuers, the Firm was not independent because directors and substantial owners of an associated entity of the Firm also served as directors and officers of the issuer audit clients or affiliated entities of the issuer audit clients in a decision-making capacity. Respondents nevertheless authorized and issued audit reports on those issuers' financial statements, in which the Firm purported to be independent.

4. This matter also concerns the Firm's violation of Section 10(b) of the Exchange Act[5] and Rule 10b-5 by issuing an audit report on the financial statements of Odenza Corp. for the year ended January 31, 2012, stating that the audit has been performed in accordance with PCAOB standards when it knew, or was reckless in not knowing, that the statement was false. Tan Chin Huat took or omitted to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violations of Section 10(b) and Rule 10b-5, and thereby violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

5. In addition, this matter concerns Respondents' failures to obtain required engagement quality reviews, their failure to comply with the "cooling-off" requirements

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[5] 78 U.S.C. § 78j(b). All references to laws, regulations, and PCAOB rules and standards are to the versions of those laws, regulations, and PCAOB rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre Reorganized Numbering* (January 2017).

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for the engagement quality reviewer, and their failure to prepare and retain appropriate audit documentation.

6. This matter also concerns the Firm's failure to comply with PCAOB quality control standards, and Tan Chin Huat's failure to take appropriate steps to establish and monitor an appropriate system of quality control for the Firm.

7. Finally, this matter concerns the Firm's failure to comply with PCAOB Rule 2203, *Special Reports*, by failing to timely report disciplinary action against one of its audit partners.

C. Respondents Violated PCAOB Rules and Standards Relating to Auditor Independence

8. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards.[6] PCAOB standards also provide that due professional care is to be exercised in the planning and performance of the audit and the preparation of the audit report.[7]

9. PCAOB rules require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[8] A registered public accounting firm or an associated person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria

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[6] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards* ("PCAOB Rule 3100"); PCAOB Rule 3200T, *Interim Auditing Standards* ("PCAOB Rule 3200T").

[7] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; see also Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"), at ¶ 7.

[8] See PCAOB Rule 3520, *Auditor Independence*; see also AU § 220, *Independence*.

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set out in the rules and regulations of the Securities and Exchange Commission ("Commission") under the federal securities laws.[9]

10. Rule 2-01 of Commission Regulation S-X[10] ("Rule 2-01") provides, among other things, that "[a]n accountant is not independent if, at any point during the audit and professional engagement period, the accounting firm or any covered person in the firm has any direct or material indirect business relationship with an audit client, or with persons associated with the audit client in a decision-making capacity, such as an audit client's officers, directors, or substantial stockholders."[11] Rule 2-01 also provides that "[a]n accountant is not independent if, at any point during the audit and professional engagement period, the accountant has an employment relationship with the audit client, such as . . . [a] current partner, principal, shareholder or professional employee of the accounting firm is employed by the audit client or serves as a member of the board of directors or similar management or governing body of the audit client."[12]

11. For purposes of Rule 2-01, the "[a]udit and professional engagement period includes both: (i) The period covered by any financial statements being audited or reviewed (the 'audit period'); and (ii) The period of the engagement to audit or review the audit client's financial statements or to prepare a report filed with the Commission (the 'professional engagement period') . . . ."[13] References to the "accounting firm" in Rule 2-01 include, among others, the firm's parents, subsidiaries and associated entities.[14] References to the "audit client" in Rule 2-01 include "affiliates of the audit client."[15]

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9 See PCAOB Rule 3520, Note 1.

10 17 C.F.R. § 210.2-01.

11 Rule 2-01(c)(3).

12 Rule 2-01(c)(2)(i).

13 Rule 2-01(f)(5).

14 See Rule 2-01(f)(2).

15 See Rule 2-01(f)(6); Rule 2-01(f)(4).

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12. The engagement partner on an audit is responsible for the engagement and its performance,[16] including the planning of the audit[17] and compliance with PCAOB standards.[18] As part of the planning activities at the beginning of the audit, the auditor should determine compliance with independence and ethics requirements.[19]

13. As discussed, below, Weld Asia failed to satisfy the auditor independence criteria set forth in Rule 2-01 when auditing the financial statements of: (a) Odenza Corp. ("Odenza") for the years ended January 31, 2013, 2014, 2015 and 2016; (b) Greenpro Capital Corp. ("Greenpro") for the years ended October 31, 2013 and 2014; (c) DSwiss Inc. ("DSwiss") for the years ended December 31, 2013, 2014, and 2015; (d) CGN Nanotech, Inc. ("CGN") for the year ended December 31, 2014; and (e) Rito Group Corp. ("Rito") for the year ended June 30, 2015. Specifically, Weld Asia was not independent during those audits because directors of Weld Asia CPA (HK) Limited (hereinafter "Weld HK"), an associated entity of the Firm, were serving as directors and officers of the Firm's issuer audit clients, or of affiliated entities of issuer audit clients in a decision-making capacity, during the audit and professional engagement period.

Weld Asia and Weld Asia CPA (HK) Limited

14. At all relevant times, Weld Asia has operated as an associated entity of an accounting firm in Hong Kong, PRC, named Weld Asia CPA (HK) Limited (hereinafter "Weld HK"). Both firms use the same Weld Asia trademark. In its audit work papers for the first audit it performed for Odenza, Weld Asia documented that Weld HK was its "affiliated firm." At various times, from at least 2013 and continuing into 2016, both Weld Asia and Weld HK issued invoices identifying that the firms were associated entities with one another, including invoices for some of the audits discussed below. Weld Asia also directed some of its issuer clients to remit payment for Weld Asia services to Weld HK, including fees for some of the audits discussed below.

15. From at least July 20, 2011, through July 3, 2015, Weld HK was substantially or wholly owned by individuals—"Person A" and "Person B"—who were

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[16] See Auditing Standard No. 9, *Audit Planning* ("AS 9"), at ¶ 3; Auditing Standard No. 10, *Supervision of the Audit Engagement* ("AS 10"), at ¶ 3.

[17] See AS 9 ¶ 3.

[18] See AS 10 ¶ 3.

[19] See AS 9 ¶ 6(b).

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also associated with the issuer audit clients identified in paragraph 13.[20] Person A and Person B were also directors of Weld HK. Person A was a director of Weld HK from July 20, 2011 to June 18, 2014. Person B was a director of Weld HK from January 1, 2012 to July 3, 2015.

Odenza Audits

16. Odenza was, at all relevant times, a Nevada corporation with its principal executive office in Selangor, Malaysia. Odenza's public filings disclosed that it was "an exploration stage company engaged in the business of acquiring mineral exploration rights throughout Asia, exploring for commercially producible quantities of minerals, and exploiting any mineral deposits we discover that demonstrate economic feasibility." At all relevant times, Odenza was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

17. Weld Asia served as the auditor for Odenza's January 31, 2013, 2014, 2015 and 2016 financial statements. Weld Asia issued an audit report expressing an unqualified opinion on the 2013 financial statements, dated April 26, 2013, which was included in a Form 10-K that Odenza filed with the Commission. Weld Asia issued an audit report expressing an unqualified opinion on the 2014 financial statements, dated April 16, 2014, which was included in a Form 10-K that Odenza filed with the Commission. Weld Asia issued an audit report expressing an unqualified opinion on the 2015 financial statements, dated April 20, 2015, which was included in a Form 10-K that Odenza filed with the Commission. Weld Asia issued an audit report expressing an unqualified opinion on the 2016 financial statements, dated April 15, 2016, which was included in a Form 10-K that Odenza filed with the Commission.

18. During the audit and professional engagement period for those audits, Person A served as the CFO, treasurer and a director of Odenza, and Person B served as a director of Odenza, while Person A and/or Person B were also serving as directors and owners of Weld HK. As a result, the Firm did not satisfy the applicable independence criteria and thereby violated PCAOB rules and standards.[21]

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[20] Person A owned 50% of Weld HK from July 20, 2011 to July 28, 2014. Person B owned 50% of Weld HK from March 15, 2012 to September 25, 2014, and 99.9% of Weld HK from September 25, 2014 to July 3, 2015.

[21] See Rule 3520; AU § 220.

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Greenpro Audits

19. Greenpro was, at all relevant times, a Nevada corporation with its principal executive office in Hong Kong, PRC. Greenpro's public filings disclosed that it was a development stage company with "plan[s] to provide cloud system resolution, financial consulting services and corporate accounting services to small and mid-size businesses located in Asia, with an initial focus on Hong Kong and Malaysia." At all relevant times, Greenpro was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

20. Weld Asia served as the auditor for Greenpro's October 31, 2013 and 2014 financial statements. Weld Asia issued an audit report expressing an unqualified opinion on the 2013 financial statements, dated November 28, 2013, which was included in a Form S-1 and three Forms S-1/A that Greenpro filed with the Commission. Weld Asia issued an audit report expressing an unqualified opinion on the 2014 financial statements, dated January 23, 2015, which was included in a Form 10-K that Greenpro filed with the Commission.

21. During the audit and professional engagement period for those audits, Person A and Person B were the majority shareholders of Greenpro, Person A served as the CEO, president and a director of Greenpro, and Person B served as the CFO, treasurer, secretary and a director of Greenpro, while also serving as directors and owners of Weld HK. As a result, the Firm did not satisfy the applicable independence criteria and thereby violated PCAOB rules and standards.[22]

DSwiss Audits

22. DSwiss was, at all relevant times, a Nevada corporation with its principal executive office in Selangor, Malaysia. DSwiss's public filings disclosed that it was "a beauty supply company that sells cosmetics and other related beauty products to consumers in Malaysia with plans to expand throughout the world." At all relevant times, DSwiss was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

23. Weld Asia served as the auditor for DSwiss's December 31, 2013, 2014 and 2015 financial statements. Weld Asia issued an audit report expressing an unqualified opinion on the 2013 and 2014 financial statements, dated November 12, 2015, which was included in a Form S-1 and two Forms S-1/A that DSwiss filed with the

[22] See Rule 3520; AU § 220.

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Commission. Weld Asia issued an audit report expressing an unqualified opinion on the 2015 financial statements, dated March 25, 2016, which was included in five Forms S-1/A that DSwiss filed with the Commission.

24. Greenpro was a substantial shareholder in DSwiss through its subsidiary Greenpro Venture Capital Ltd (Anguilla) ("Greenpro Venture Capital"). During the audit and professional engagement period for those audits, Person A and Person B were the majority shareholders of Greenpro, Person A served as the CEO, president and a director of Greenpro, and Person B served as the CFO, treasurer, secretary and a director of Greenpro, while Person A and/or Person B were also serving as directors and owners of Weld HK. As a result, the Firm did not satisfy the applicable independence criteria and thereby violated PCAOB rules and standards.[23]

CGN Audit

25. CGN was, at all relevant times, a Nevada corporation with its principal executive office in Hong Kong, PRC. CGN's public filings disclosed that it was the exclusive global sales and distributor for lighting products produced by PRC-based Dongguan Light Power New Energy S&T Co. Ltd. At all relevant times, CGN was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

26. Weld Asia served as the auditor for CGN's December 31, 2014 financial statements. Weld Asia issued an audit report expressing an unqualified opinion on those financial statements, dated March 2, 2015, which was included in a Form S-1 and two Forms S-1/A that CGN filed with the Commission.

27. During the audit and professional engagement period for that audit, Person B served as the CFO, treasurer, secretary and a director of CGN, while also serving as a director and 99.9% owner of Weld HK. As a result, the Firm did not satisfy the applicable independence criteria and thereby violated PCAOB rules and standards.[24]

Rito Audit

28. Rito was, at all relevant times, a Nevada corporation with its principal executive office in Hong Kong, PRC. Rito's public filings disclosed that it was engaged

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[23] See Rule 3520; AU § 220.

[24] See Rule 3520; AU § 220.

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in "the sale of miscellaneous retail goods." At all relevant times, Rito was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

29. Weld Asia served as the auditor for Rito's June 30, 2015 financial statements. Weld Asia issued an audit report expressing an unqualified opinion on those financial statements, dated August 7, 2015, which was included in a Form S-1 and six Forms S-1/A that Rito filed with the Commission.

30. Greenpro was a substantial shareholder in Rito through its subsidiary Greenpro Venture Capital. During the audit and professional engagement period for those audits, Person B was the CFO, treasurer, secretary, and a substantial shareholder and director of Greenpro, while Person B was also serving as a director and 99.9% owner of Weld HK. As a result, the Firm did not satisfy the applicable independence criteria and thereby violated PCAOB rules and standards.[25]

31. Tan Chin Huat served as the engagement partner for the audits of Odenza's FY 2013-2015 financial statements, Greenpro's FY 2013-2014 financial statements, DSwiss's FY 2013-2014 financial statements, CGN's FY 2014 financial statements, and Rito's FY 2015 financial statements, and he authorized the Firm's audit reports on those financial statements.[26] At the time of those audits, he was aware of Person A's and Person B's relationships to the issuer audit clients and to Weld HK.

32. During the audits in which he served as the engagement partner, Tan Chin Huat violated PCAOB rules and standards because he failed to exercise due professional care in determining whether the firm was in compliance with independence requirements during the audit and professional engagement periods for those audits.[27] Despite Person A's and/or Person B's relationships with the issuer audit clients and Weld HK, Tan Chin Huat and the engagement teams on those audits failed to take any steps to determine whether the Firm was in compliance with the independence criteria set forth in Rule 2-01. Tan Chin Huat also violated PCAOB Rule 3502 because he knew, or was reckless in not knowing, that he was directly and substantially contributing

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[25] See Rule 3520; AU § 220.

[26] Another partner of Weld Asia served as the engagement partner for the audits of Odenza's FY 2016 financial statements and DSwiss's FY 2015 financial statements. See *Tan Poh Ling, Chartered Accountant,* PCAOB Release No. 105-2017-047 (Dec. 13, 2017).

[27] See AU § 230; AS 9 ¶ 6(b).

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to the Firm's violations of PCAOB rules and standards when he improperly authorized the issuance of the Firm's audit report regarding those financial statements.

D. The Firm Violated Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder, and Tan Chin Huat Violated PCAOB Rule 3502, in Connection with the 2012 Odenza Audit

33. Section 10(b) of the Exchange Act and Commission Rule 10b-5 thereunder prohibit a person, in connection with the purchase or sale of a security, from making an untrue statement of a material fact or from omitting to state a material fact necessary to make statements made, in light of the circumstances under which they were made, not misleading.[28] To violate Section 10(b) or Rule 10b-5, a defendant must act with scienter,[29] which the Supreme Court has defined as "a mental state embracing intent to deceive, manipulate, or defraud."[30] Scienter encompasses knowing or intentional conduct, or recklessness.[31]

34. An auditor violates Section 10(b) of the Exchange Act and Commission Rule 10b-5 thereunder by issuing an audit report stating that the audit has been performed in accordance with PCAOB standards when he or she knows, or is reckless in not knowing, that the statement is false.[32] These statements are clearly material, as "[f]ew matters could be more important to investors than that of whether an issuer's financial statements, contained in its filings with the Commission, had, in fact, been

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[28] See Section 10(b) of the Exchange Act; Exchange Act Rule 10b-5, *Employment of Manipulative and Deceptive Practices*, 17 C.F.R. § 240.10b-5(b).

[29] See *Aaron v. SEC*, 446 U.S. 680, 695, 701-02 (1980).

[30] *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 n.12 (1976).

[31] See, e.g., *IIT v. Cornfeld*, 619 F.2d 909, 923 (2d Cir. 1980).

[32] See *Deloitte Touche Tohmatsu Auditores Independentes*, PCAOB Rel. No. 105-2016-031, at *8-17 (Dec. 5, 2016); *Eugene M. Egeberg III, CPA*, Exchange Act Rel. No. 71348, at *7-9 (Jan. 17, 2014); *Hood & Associates CPAs, P.C.*, PCAOB Rel. No. 105-2013-012, at *16-17 (Nov. 21, 2013); *Harris F Rattray CPA, PL*, PCAOB Rel. No. 105-2013-009, at *4-5 (Nov. 21, 2013); *Richard P. Scalzo, CPA*, Exchange Act Rel. No. 48328, 2003 WL 21938985, at *14 (Aug. 13, 2003).

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subjected to an annual audit conducted in accordance with [PCAOB standards] in all material respects."[33]

35. Odenza's financial statements for the year ended January 31, 2012, were originally audited by another PCAOB-registered accounting firm. On or about April 12, 2013, Odenza dismissed that firm, and engaged Weld Asia as its independent auditor. Weld Asia issued an audit report, dated April 26, 2013, which contained an unqualified audit opinion with respect to both Odenza's 2012 and 2013 financial statements. That report was included in a Form 10-K that Odenza filed with the Commission on April 26, 2013. Tan Chin Huat, the engagement partner, authorized the issuance of the report. The report stated, among other things, that the Firm had "audited the accompanying balance sheets of Odenza Corp. (An Exploration Stage 'Company') as of January 31, 2013 and 2012 and the related statement of operations, changes in shareholders' equity and cash flows for the years then ended January 31, 2013 and 2012." It further stated that the Firm had conducted the audit "in accordance with the standards of the Public Company Accounting Oversight Board (United States)."

36. While Weld Asia conducted audit procedures with respect to Odenza's January 31, 2013, financial statements, it failed to perform any audit procedures related Odenza's 2012 financial statements.

37. Weld Asia violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, by issuing an audit report that falsely stated that the audit of Odenza's 2012 financial statements had been conducted in accordance with PCAOB standards when the Firm knew, or was reckless in not knowing, that it had failed to perform any audit procedures prior to the issuance of the Firm's audit report.

38. Tan Chin Huat knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder when he improperly authorized the issuance of the Firm's audit report regarding Odenza's 2012 financial statements because he knew, or was reckless in not knowing that the Firm had failed to perform any audit procedures prior to his authorizing the issuance of the audit report. Tan Chin Huat, accordingly, violated PCAOB Rule 3502.

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[33] *Scalzo*, 2003 WL 21938985, at *14.

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E. Respondents Violated Additional PCAOB Rules and Standards in Connection With Issuer Audits

The Firm and Tan Chin Huat Failed to Obtain Engagement Quality Reviews in Eight Issuer Audits

39. PCAOB standards require that an engagement quality review be performed on audits, interim reviews, and certain attestation engagements conducted pursuant to PCAOB standards.[34] AS 7 also provides that, in an audit, a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance of the report.[35] As described below, the Firm failed to obtain a required engagement quality review in eight issuer audits, and Tan Chin Huat directly and substantially contributed to those violations.

40. In addition to issuer audits described above, Weld Asia also audited the financial statements of XYI Group, Inc. ("XYI") for the year ended January 31, 2015. XYI was, at all relevant times, a Nevada corporation with its principal executive office in Hong Kong, PRC. XYI's public filings disclosed that it was a development stage company seeking to engage in the sale and marketing of custom and personalized souvenir products. At all relevant times, XYI was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

41. Weld Asia issued an audit report expressing an unqualified opinion on XYI's FY 2015 financial statements, dated February 16, 2015, which was included in a Form S-1 and a Form S-1/A that XYI filed with the Commission. Tan Chin Huat served as the engagement partner for the FY 2015 XYI audit, and authorized the Firm's audit report on those financial statements.

42. The Firm failed to obtain an engagement quality review for each of the issuer audit engagements set forth in the table below, even though PCAOB standards required an engagement quality review to be performed:

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[34] See Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), at ¶ 1.

[35] See AS 7 ¶ 13.

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Issuer	Fiscal Year(s) Ended	Date of Audit Report
CGN	December 31, 2014	March 2, 2015
DSwiss	December 31, 2013 and 2014	November 12, 2015
Greenpro	October 31, 2013	November 28, 2013
Greenpro	October 31, 2014	January 23, 2015
Odenza	January 31, 2012 and 2013	April 26, 2013
Odenza	January 31, 2013 and 2014	April 16, 2014
Rito	June 30, 2015	August 7, 2015
XYI	January 31, 2015	February 16, 2015

Tan Chin Huat was the engagement partner for each of the audits identified in the chart, above, and authorized the issuance of those audit reports.

43. In each of the eight audits, above, the Firm issued unqualified audit reports, and permitted those reports to be included in the issuers' filings with the Commission, despite failing to obtain an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 7.

44. Tan Chin Huat knew that the Firm had not obtained an engagement quality review and concurring approval of issuance for the above-referenced audit reports. Tan Chin Huat therefore knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7 when he caused the Firm to grant permission to the client to use the audit reports. As a result, Tan Chin Huat violated PCAOB Rule 3502.

Respondents Failed to Comply with the Engagement Quality Reviewer "Cooling-Off" Requirement

45. AS 7 also provides that: "[t]he person who served as the engagement partner during either of the two audits preceding the audit subject to the engagement

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quality review may not be the engagement quality reviewer."[36] As described below, Respondents violated AS 7 because Tan Chin Huat served as the engagement quality reviewer on one issuer audit, immediately after serving as the engagement partner on the prior year's audit.

46. Gushen, Inc. ("Gushen") was, at all relevant times, a Nevada corporation with its principal executive office in Hong Kong, PRC. Gushen's public filings disclosed that it was "a developmental stage company that intends to provide managerial and IT support to start-ups as well as SME (small and medium enterprises) to assist them in their early stages of operations as they expand and grow their own company." At all relevant times, Gushen was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

47. Weld Asia audited Gushen's April 30, 2015 year-end financial statements. The Firm issued an audit report expressing an unqualified opinion on Gushen's FY 2015 financial statements, dated May 18, 2015, which was included in a Form S-1 and two Forms S-1/A that Gushen filed with the Commission. Tan Chin Huat served as the engagement partner on the Firm's audit of Gushen's FY 2015 financial statements.

48. Weld Asia also audited Gushen's April 30, 2016 year-end financial statements. The Firm issued an audit report expressing an unqualified opinion on Gushen's FY 2016 financial statements, dated July 21, 2016, which was included in a Form 10-K that Gushen filed with the Commission. After serving as the engagement partner on the FY 2015 audit, Tan Chin Huat immediately served as the engagement quality reviewer on the FY 2016 audit, violating AS 7's two-year "cooling-off" period.

The Respondents Failed to Prepare and Retain Appropriate Audit Documentation

49. PCAOB standards require that the auditor document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[37] The audit documentation "must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement: [a.] [t]o understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and [b.] [t]o

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[36] AS 7 ¶ 8.

[37] See Auditing Standard No. 3 ("AS 3"), *Audit Documentation*, at ¶ 6.

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determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review."[38]

50. The Respondents violated AS 3 during the FY 2013 Odenza audit, the FY 2014 Odenza audit, and the FY 2015 Rito audit, because the audit work papers for those engagements did not contain sufficient information to allow an experienced auditor, having no previous connection with those engagements, to understand the nature, timing and extent of the audit work that Tan Chin Huat performed or the conclusions that he reached. In each of those audits, the engagement team had prepared checklists and forms for the engagement partner to complete to demonstrate his review of the audit work and the specific conclusions that he reached through that review. However, Tan Chin Huat failed to complete those work papers or otherwise document his review during the completion phase of the audit.

51. PCAOB standards also provide that, in an audit, the auditor "must retain audit documentation for seven years from the date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements (*report release date*), unless a longer period of time is required by law."[39] Likewise, Rule 2-06 of the Commission's Regulation S-X requires that for a period of seven years after an accountant concludes an audit or review of an issuer's financial statements to which section 10A(a) of the Exchange Act applies, the accountant must retain records relevant to the audit or review.[40] The Firm violated AS 3 and Rule 2-06 in connection with the FY 2014 CGN audit, the FY 2013 Greenpro audit, and the FY 2015 XYI audit, because the firm failed to retain a complete and final set of audit documentation for those audits for seven years from the report release dates for the audit reports.

F. The Firm Failed to Maintain an Adequate System of Quality Control and Tan Chin Huat Contributed to that Failure

52. PCAOB rules and standards require that a registered public accounting firm comply with the Board's quality control standards.[41] PCAOB quality control

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38 Id. at ¶ 6.

39 Id. at ¶ 14.

40 See 17 C.F.R. § 210.2-06 ("Rule 2-06").

41 See PCAOB Rule 3400T, *Interim Quality Control Standards.*

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standards require that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[42] Pursuant to those standards, a registered firm should establish quality control policies and procedures to provide the firm with reasonable assurance that, among other things:

a. personnel maintain independence (in fact and in appearance) in all required circumstances;[43]

b. personnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned;[44] and

c. the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality, including standards and requirements for documenting the audits.[45]

53. The Firm violated PCAOB quality control standards because it failed to maintain an adequate system of quality control from at least 2012 through 2016. During that period, the Firm failed to adopt adequate policies and procedures to provide reasonable assurance that the firm and its personnel maintained independence from its audit clients, obtained adequate training in PCAOB auditing standards, and complied with PCAOB auditing standards. Among other things, the Firm's deficient system of quality control permitted the firm to repeatedly (1) perform audits for clients while lacking independence, (2) fail to obtain required engagement quality reviews, (3) fail to comply with the cooling-off requirement for engagement quality reviewers, (4) fail to document audit procedures, and the review of those procedures, in accordance with PCAOB auditing standards, and (5) fail to maintain audit documentation for the requisite seven-year time period.

54. At all relevant times, Tan Chin Huat served as the Firm's managing partner and held ultimate responsibility for the Firm's adopting and maintaining an adequate

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[42] Quality Control ("QC") § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[43] See QC § 20.09.

[44] See QC § 20.13(c).

[45] See QC §§ 20.17-.18.

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system of quality control. During that time, Tan Chin Huat knowingly or recklessly failed to reasonably ensure that the Firm took appropriate steps to establish and monitor an appropriate system of quality control in the above-described areas, and thereby directly and substantially contributed to the Firm's violations of the PCAOB's quality control standards. As a result, Tan Chin Huat violated PCAOB Rule 3502.

G. The Firm Failed to Timely Disclose a Reportable Event to the PCAOB

55. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[46] One such specified event occurs when a firm "has become aware that, in a matter arising out of his or her conduct in the course of providing professional services for a client, a partner, shareholder, principal, owner, member, or audit manager of the Firm who provided at least ten hours of audit services for any issuer, broker, or dealer during the Firm's current fiscal year or its most recently completed fiscal year has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding" ("Item 2.9 Proceeding").[47] Another such specified event occurs when a firm "has become aware that" an Item 2.9 Proceeding "has been concluded."[48]

56. On August 19, 2013, the Malaysian Audit Oversight Board[49] reprimanded Tan Chin Huat for "[f]ailure to comply with certain requirements of International Standards on Auditing in discharging his professional duties in the performance of an audit of [a public interest entity]" for the year ended December 31, 2010.[50]

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[46] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[47] PCAOB Form 3, at Item 2.9 (italics in the original removed).

[48] PCAOB Form 3, at Item 2.10.

[49] The Audit Oversight Board was established pursuant to Part IIIA of the Securities Commission Malaysia Act 1993.

[50] See List of Sanctions by the Malaysian Audit Oversight Board for 2013, available at https://www.sc.com.my/post_archive/2013-sanctions/.

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57. In violation of Rule 2203, the Firm failed to file a Form 3 with the Board, reporting this disciplinary action against Tan Chin Huat.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Weld Asia Associates and Tan Chin Huat are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Tan Chin Huat is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[51]

C. After five (5) years from the date of this Order, Tan Chin Huat may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Weld Asia Associates is revoked;

E. After five (5) years from the date of the Order, Weld Asia Associates may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon Weld Asia

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[51] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Tan Chin Huat. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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Associates. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay the civil money penalty imposed within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter that identifies the Firm as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of said cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 13, 2017

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Tan Poh Ling, Chartered Accountant,* *Respondent.*	PCAOB Release No. 105-2017-047 December 13, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Tan Poh Ling, Chartered Accountant ("Tan Poh Ling" or "Respondent") and barring her from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings that Respondent, in her capacity as a partner of a registered firm, Weld Asia Associates ("Weld Asia" or the "Firm"),[2] violated PCAOB rules and standards in connection with four audits of issuer financial statements, including rules and standards concerning independence and engagement quality reviews.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and

[1] Tan Poh Ling may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

[2] See *Weld Asia Associates and Tan Chin Huat, Chartered Accountant,* PCAOB Release No. 105-2017-046 (Dec. 13, 2017).

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without admitting or denying the findings herein, except as to the facts contained in paragraphs 3-24, the Board's jurisdiction over her and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondent's Offer, the Board finds that:[4]

A. Respondent

1. Tan Poh Ling, age 47, of Kuala Lumpur, Malaysia, has been a partner of Weld Asia since 2015. Respondent is a Chartered Accountant with the Malaysian Institute of Accountants (member no. 10559) and is licensed to perform auditing services by the Malaysian Ministry of Finance (license No. 02564/03/2019 J). Respondent is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Respondent's violations of PCAOB rules and standards in connection with four issuer audits.[5] Respondent violated PCAOB rules

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[3] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[5] The audits described in the Order are the Firm's audits of the financial statements of DSwiss Inc. ("DSwiss") for the year ended December 31, 2015, and of Odenza Corp. ("Odenza") for the years ended January 31, 2015, 2016 and 2017. All references to laws, regulations, and PCAOB rules and standards are to the versions of those laws, regulations, and PCAOB rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing

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and standards because she failed to act with due professional care in three issuer audits in which the Firm failed to satisfy applicable independence criteria. As a result, she improperly authorized the issuance of the audit reports in two of those audits, where she served as the engagement partner, and improperly provided concurring approval of issuance in another of those audits, where she served as the engagement quality reviewer. Through those actions, Respondent also knowingly or recklessly contributed to the Firm's violation of PCAOB rules and standards. Respondent also failed to comply with the "cooling-off" requirements for the engagement quality reviewer in one issuer audit. Finally, Respondent failed to comply with PCAOB rules and standards when performing audit procedures concerning: (a) related party transactions in two issuer audits; and (b) convertible debt in one issuer audit.

C. Respondent Violated PCAOB Rules and Standards Relating to Auditor Independence

3. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards.[6] PCAOB standards also provide that due professional care is to be exercised in the planning and performance of the audit and the preparation of the audit report.[7]

4. PCAOB rules require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[8] A registered public accounting firm or an associated

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standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre Reorganized Numbering* (January 2017).

[6] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards* ("PCAOB Rule 3100"); PCAOB Rule 3200T, *Interim Auditing Standards* ("PCAOB Rule 3200T").

[7] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; see also Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"), at ¶ 7.

[8] See PCAOB Rule 3520, *Auditor Independence*; see also AU § 220, *Independence*.

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person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Securities and Exchange Commission ("Commission") under the federal securities laws.[9]

5. Rule 2-01 of Commission Regulation S-X[10] ("Rule 2-01") provides, among other things, that "[a]n accountant is not independent if, at any point during the audit and professional engagement period, the accounting firm or any covered person in the firm has any direct or material indirect business relationship with an audit client, or with persons associated with the audit client in a decision-making capacity, such as an audit client's officers, directors, or substantial stockholders."[11] Rule 2-01 also provides that "[a]n accountant is not independent if, at any point during the audit and professional engagement period, the accountant has an employment relationship with the audit client, such as . . . [a] current partner, principal, shareholder or professional employee of the accounting firm is employed by the audit client or serves as a member of the board of directors or similar management or governing body of the audit client."[12]

6. For purposes of Rule 2-01, the "[a]udit and professional engagement period includes both: (i) The period covered by any financial statements being audited or reviewed (the 'audit period'); and (ii) The period of the engagement to audit or review the audit client's financial statements or to prepare a report filed with the Commission (the 'professional engagement period') . . . ."[13] References to the "accounting firm" in Rule 2-01 include, among others, the firm's parents, subsidiaries and associated

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9 See PCAOB Rule 3520, Note 1.

10 17 C.F.R. § 210.2-01.

11 Rule 2-01(c)(3).

12 Rule 2-01(c)(2)(i).

13 Rule 2-01(f)(5).

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entities.[14] References to the "audit client" in Rule 2-01 include affiliates of the audit client.[15]

7. The engagement partner on an audit is responsible for the engagement and its performance,[16] including the planning of the audit[17] and compliance with PCAOB standards.[18] As part of the planning activities at the beginning of the audit, the auditor should determine compliance with independence requirements.[19]

8. PCAOB standards provide that an engagement quality review and concurring approval of issuance are required for audits, interim reviews and certain attestation engagements conducted pursuant to PCAOB standards.[20] "The objective of the engagement quality reviewer is to perform an evaluation of the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report, if a report is to be issued, in order to determine whether to provide concurring approval of issuance."[21] An engagement quality reviewer may provide concurring approval of issuance in an audit engagement only if, after performing with due professional care her review, she is not aware of a significant engagement deficiency.[22] PCAOB standards provide that a lack of independence on the part of the firm is a significant engagement deficiency.[23] PCAOB standards also provide that an engagement quality reviewer

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[14] See Rule 2-01(f)(2).

[15] See Rule 2-01(f)(6); Rule 2-01(f)(4).

[16] See Auditing Standard No. 9, *Audit Planning* ("AS 9"), at ¶ 3; Auditing Standard No. 10, *Supervision of the Audit Engagement* ("AS 10"), at ¶ 3.

[17] See AS 9 ¶ 3.

[18] See AS 10 ¶ 3.

[19] See AS 9 ¶ 6(b).

[20] See Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), at ¶ 1.

[21] AS 7 ¶ 2.

[22] See AS 7 ¶ 12.

[23] See id.

should review the engagement team's evaluation of the firm's independence in relation to the engagement.[24]

9. As discussed, below, Respondent failed to comply with the foregoing PCAOB rules and standards.

Weld Asia and Weld Asia CPA (HK) Limited

10. At all relevant times, Weld Asia has operated as an associated entity of an accounting firm in Hong Kong, PRC, named Weld Asia CPA (HK) Limited (hereinafter "Weld HK"). Both firms use the same Weld Asia trademark. In audit work papers from as early as 2014, Weld Asia documented that Weld HK was its "affiliated firm." At various times, from at least 2013 and continuing into 2016, both Weld Asia and Weld HK issued invoices identifying that the firms were associated entities with one another, including invoices for some of the audits discussed below. Weld Asia also directed some of its issuer clients to remit payment for Weld Asia services to Weld HK, including fees for some of the audits discussed below.

11. From at least July 20, 2011, through July 3, 2015, Weld HK was substantially or wholly owned by individuals—"Person A" and "Person B"—who were also associated with the issuer audit clients identified below.[25] Person A and Person B were also directors of Weld HK. Person A was a director of Weld HK from July 20, 2011 to June 18, 2014. Person B was a director of Weld HK from January 1, 2012 to July 3, 2015.

Odenza Audits

12. Odenza was, at all relevant times, a Nevada corporation with its principal executive office in Selangor, Malaysia. Odenza's public filings disclosed that it was "an exploration stage company engaged in the business of acquiring mineral exploration rights throughout Asia, exploring for commercially producible quantities of minerals, and exploiting any mineral deposits we discover that demonstrate economic feasibility." At all relevant times, Odenza was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[24] See AS 7 ¶ 10(d).

[25] Person A owned 50% of Weld HK from July 20, 2011 to July 28, 2014. Person B owned 50% of Weld HK from March 15, 2012 to September 25, 2014, and 99.9% of Weld HK from September 25, 2014 to July 3, 2015.

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13. Weld Asia served as the auditor for Odenza's January 31, 2015 and 2016 financial statements. Weld Asia issued an audit report expressing an unqualified opinion on the 2015 financial statements, dated April 20, 2015, which was included in a Form 10-K that Odenza filed with the Commission. Weld Asia also issued an audit report expressing an unqualified opinion on the 2016 financial statements, dated April 15, 2016, which was included in a Form 10-K that Odenza filed with the Commission.

14. During the audit and professional engagement period for the FY 2015 and FY 2016 Odenza audits, Person A served as the CFO, treasurer and a director of Odenza, and Person B served as a director of Odenza, while Person A and/or Person B were also serving as directors and owners of Weld HK. As a result, the Firm did not satisfy the applicable independence criteria and thereby violated PCAOB rules and standards.[26]

15. Respondent served as the engagement quality reviewer for the audit of Odenza's FY 2015 financial statements, and provided concurring approval of issuance for the Firm's report on the FY 2015 financial statements. Respondent subsequently served as the engagement partner for the audit of Odenza's FY 2016 financial statements, and authorized the Firm's audit report on the FY 2016 financial statements. At the time of the FY 2015 and FY 2016 audits, Respondent was aware of Person A's and Person B's relationships to Odenza and to Weld HK.

16. During the FY 2015 Odenza audit, Respondent violated AS 7 by providing her concurring approval of issuance without performing an engagement quality review with due professional care.[27] There was no evidence that the Firm had undertaken any steps to determine whether the Firm satisfied the independence criteria set forth in Rule 2-01, in light of the fact that directors and officers of Odenza were also Directors of the Firm's associated entity, Weld HK. Despite the existence of a significant engagement deficiency because the Firm was not independent of Odenza, Respondent provided her concurring approval of issuance for the Firm's audit report.

17. During the FY 2016 audit, Respondent, while serving as the engagement partner, violated PCAOB rules and standards because she failed to exercise due professional care in determining whether the firm was in compliance with independence requirements during the audit and professional engagement period.[28] Despite Person

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[26] See Rule 3520; AU § 220.

[27] See AS 7 ¶ 12.

[28] See AU § 230; AS 9 ¶ 6(b).

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B's relationships with Odenza and Weld HK, Respondent and the engagement team failed to take any steps to determine whether the Firm was in compliance with the independence criteria set forth in Rule 2-01. Respondent also violated PCAOB Rule 3502 because she knew, or was reckless in not knowing, that she was directly and substantially contributing to the Firm's violations of PCAOB rules and standards when she improperly authorized the issuance of the Firm's audit report regarding the FY 2016 financial statements.

DSwiss Audit

18. DSwiss was, at all relevant times, a Nevada corporation with its principal executive office in Selangor, Malaysia. DSwiss's public filings disclosed that it was "a beauty supply company that sells cosmetics and other related beauty products to consumers in Malaysia with plans to expand throughout the world." At all relevant times, DSwiss was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

19. Weld Asia served as the auditor for DSwiss's December 31, 2015 financial statements. Weld Asia issued an audit report expressing an unqualified opinion on the 2015 financial statements, dated March 25, 2016, which was included in five Forms S-1/A that DSwiss filed with the Commission.

20. Greenpro Capital Corp. ("Greenpro Capital") was a substantial shareholder in DSwiss through its subsidiary Greenpro Venture Capital Ltd (Anguilla) ("Greenpro Venture Capital"). During the audit and professional engagement period for that audit, Person B was the CFO, secretary, and treasurer of Greenpro Capital, and a substantial shareholder and director of Greenpro Capital, while Person B was also serving as a director and 99.9% owner of Weld HK. As a result, the Firm did not satisfy the applicable independence criteria and thereby violated PCAOB rules and standards.[29]

21. Tan Poh Ling served as the engagement partner for the audit of DSwiss's FY 2015 financial statements and authorized the Firm's audit report on those financial statements. At the time of those audits, she was aware of 'Person B's relationships to DSwiss and to Weld HK.

22. During the FY 2015 DSwiss audit, Respondent, while serving as the engagement partner, violated PCAOB rules and standards because she failed to exercise due professional care in determining whether the firm was in compliance with

[29] See Rule 3520; AU § 220.

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independence requirements during the audit and professional engagement period.[30] Despite Person B's relationships with DSwiss and Weld HK, Respondent and the engagement team failed to take any steps to determine whether the Firm was in compliance with the independence criteria set forth in Rule 2-01. Respondent also violated PCAOB Rule 3502 because she knew, or was reckless in not knowing, that she was directly and substantially contributing to the Firm's violations of PCAOB rules and standards when she improperly authorized the issuance of the Firm's audit report regarding those financial statements.

D. Respondent Failed to Comply with the Engagement Quality Reviewer "Cooling-Off" Requirement

23. AS 7 provides that: "[t]he person who served as the engagement partner during either of the two audits preceding the audit subject to the engagement quality review may not be the engagement quality reviewer."[31] As described below, Respondent violated AS 7 because Tan Poh Ling served as the engagement quality reviewer on one issuer audit, immediately after serving as the engagement partner on the prior year's audit.

24. As described above, the Firm audited Odenza's January 31, 2016 year-end financial statements, and Tan Poh Ling served as the engagement partner on that audit. The Firm also audited Odenza's January 31, 2017 year-end financial statements, which were filed with the Commission, and issued an audit report expressing an unqualified opinion on the financial statements. After serving as the engagement partner on the FY 2016 audit, Tan Poh Ling immediately served as the engagement quality reviewer on the FY 2017 audit, violating AS 7's two-year "cooling-off" period.

E. Respondent's Other Violations of PCAOB Standards

25. An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[32] Those standards require the auditor to plan and perform the audit to obtain sufficient appropriate audit evidence to provide a

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30 See AU § 230; AS 9 ¶ 6(b).

31 AS 7 ¶ 8.

32 See AU § 508.07, *Reports on Audited Financial Statements.*

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reasonable basis for the auditor's opinion.[33] They also require the auditor to evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[34]

26. PCAOB standards also require an auditor to obtain sufficient appropriate audit evidence to determine whether related parties and relationships and transactions with related parties have been properly identified, accounted for, and disclosed in the financial statements.[35] The auditor should evaluate whether the company has properly identified its related parties and relationships and transactions with related parties by, among other things, performing procedures to test the accuracy and completeness of the related parties and relationships and transactions with related parties identified by the company, taking into account the information gathered during the audit.[36] In addition, the auditor "must evaluate whether related party transactions have been properly accounted for and disclosed in the financial statements."[37]

27. As described, below, Respondent failed to comply with the foregoing standards in two audits where she served as the engagement partner.

FY 2015 DSwiss Audit

28. As of year-end December 31, 2015, DSwiss reported total assets of approximately $496,000, total liabilities of approximately $271,000, and a net loss for the year of approximately $129,000.

29. During the FY 2015 DSwiss audit, Respondent and the engagement team gathered evidence that showed that DSwiss had recorded $48,000 in expenses in FY 2015 for professional services provided by Greenpro Financial Consulting Ltd. ("Greenpro Consulting"). Respondent also knew that Greenpro Venture Capital was

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33 See Auditing Standard No. 15, *Audit Evidence* ("AS 15"), at ¶ 4.

34 See Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), at ¶ 30.

35 See Auditing Standard No. 18, *Related Parties* ("AS 18"), at ¶ 2.

36 See AS 18 ¶ 14.

37 AS 18 ¶ 17.

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one of two substantial shareholders of DSwiss.[38] Greenpro Consulting, like Greenpro Venture Capital, was a subsidiary of Greenpro Capital. However, the transaction with Greenpro Consulting was not disclosed as a related party transaction. Despite knowing about the relationship with Greenpro Venture Capital and the transaction with Greenpro Consulting, Respondent and the engagement team failed to evaluate whether that related party transaction was properly accounted for and disclosed in the financial statements.[39]

30. Respondent also failed to exercise due professional care in connection with DSwiss's convertible notes payable balance. As of year-end December 31, 2015, approximately 79% of DSwiss's liability balance was comprised of convertible notes, totaling $213,500. When testing the convertible notes payable balance, however, Respondent failed to evaluate whether the financial statements were presented fairly, in all material respects, in conformity with U.S. GAAP.[40] Respondent failed to consider whether any of the convertible notes contained any beneficial conversion features that were required to be recognized separately at issuance by allocating a portion of the proceeds equal to the intrinsic value of that feature to additional paid-in capital.[41]

FY 2016 Odenza Audit

31. As of year-end January 31, 2016, Odenza reported no assets, approximately $129,000 in total liabilities, and a net loss for the year of approximately $16,000.

32. Throughout FY 2016, Person A was Odenza's Chief Financial Officer, Treasurer and one of its Directors and, for the first four months of FY 2016, Person B was one of its Directors. During the FY 2016 Odenza audit, Respondent and the

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[38] As disclosed in DSwiss's Form S-1/A, Greenpro Venture Capital owned approximately 29.5% of DSwiss, and DSwiss's Chief Executive Officer owned approximately 68.9% of DSwiss's common stock.

[39] See AS 18 ¶¶ 14-18; see also Financial Accounting Standards Board Accounting Standards Codification ("FASB ASC") Topic 850-10-50, *Related Party Disclosures – Overall - Disclosure*.

[40] See AS 14 ¶ 30.

[41] See FASB ASC Topic 470-20 *Debt - Debt with Conversion and Other Options*.

ORDER

engagement team gathered evidence that Person A had founded a company called Asia UBS Global Limited. Respondent and the engagement team also gathered evidence that showed that Odenza had recorded expenses during FY 2016 for professional services provided by Asia UBS Global Limited, equal to approximately 23% of Odenza's reported net loss. As of fiscal year-end 2016, Asia UBS Global Limited was a subsidiary of Greenpro Capital, for which Person A and Person B were officers,[42] directors and majority owners. However, the transaction with Asia UBS Global Limited was not disclosed as a related party transaction.

33. Despite knowing about Odenza's relationship with Person A, Person A's founding of Asia UBS Global Limited, and Odenza's transaction with Asia UBS Global Limited, Respondent and the engagement team failed to evaluate whether that related party transaction was properly accounted for and disclosed in the financial statements.[43]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Tan Poh Ling is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Tan Poh Ling is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[44] and

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[42] At all relevant times, Person A was Greenpro Capital's Chief Executive Officer and President, and Person B was Greenpro Capital's Chief Financial Officer and Treasurer.

[43] See AS 18 ¶¶ 14-18; see also "FASB ASC" Topic 850-10-50, *Related Party Disclosures – Overall - Disclosure*.

[44] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Tan Poh Ling. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain

ORDER

C. After two (2) years from the date of this Order, Tan Poh Ling may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 13, 2017

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associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER GRANTING PETITION TO TERMINATE BAR AND CONSENTING TO ASSOCIATION WITH A REGISTERED PUBLIC ACCOUNTING FIRM *In the Matter of Ted A. Madsen, CPA*	PCAOB Release No. 105-2017-048 December 19, 2017

On January 15, 2015, the Public Company Accounting Oversight Board ("Board" or "PCAOB") issued an order instituting disciplinary proceedings, making findings and imposing sanctions that barred Ted A. Madsen, CPA ("Madsen") from being an associated person of a registered public accounting firm.[1] Madsen was permitted, pursuant to the order, to petition for Board consent to associate with a registered public accounting firm after two years from the date of the order. Madsen has filed a petition to terminate the bar and for Board consent to associate with Madsen & Associates CPA's, Inc. ("M&A"), a public accounting firm registered with the Board pursuant to Section 102 of the Sarbanes-Oxley Act of 2002, as amended, and PCAOB Rules. By this Order, the Board is granting Madsen's petition.

In the order imposing sanctions against Madsen, the Board found that M&A, a registered public accounting firm, violated PCAOB rules and standards, as well as Section 10A(g) of the Securities Exchange Act of 1934 ("Exchange Act"), and Exchange Act Rule 10A-2, concerning a failure to comply with PCAOB rules and auditing standards in connection with the audit of the financial statements of two issuers. Specifically, Madsen and M&A hired Hong Kong-based engagement team members who performed most of the audit work, but Madsen failed to properly supervise the work of those engagement team members and to review their work to determine its proper performance. Madsen consented to the entry of the Order without admitting or denying the findings in it, except as to the Board's jurisdiction over him and the subject matter of the proceedings, which he admitted.

PCAOB Rule 5302(b) governs petitions to terminate a bar from being an associated person of a registered public accounting firm. Such petitions must be

[1] *In the Matter of Madsen & Associates CPAs, Inc., and Ted A. Madsen, CPA*, PCAOB Rel. No. 105-2015-002 (Jan. 15, 2015).

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supported by an affidavit addressing certain factors and include certain exhibits as specified in PCAOB Rule 5302(b)(2). PCAOB Rule 5302(b)(3) requires the petitioner to make a showing satisfactory for the Board to be able to determine that the proposed association would be consistent with the public interest. Such a determination depends on the petitioner's specific facts and circumstances.

On the basis of the information supplied and representations made relating to factors identified in PCAOB Rule 5302(b)(4), it appears that Madsen has met the requirements of PCAOB Rule 5302(b) and that he has complied with the January 15, 2015 order barring him from being an associated person of a registered public accounting firm. Moreover, nothing has come to the Board's attention that would be a basis for an adverse decision on Madsen's petition.

In view of the foregoing, the Board determines that the proposed association would be consistent with the public interest. Accordingly, it is hereby ORDERED that:

A. The Board consents to Ted A. Madsen, CPA's association with M&A, a registered public accounting firm;

B. The bar against Ted A. Madsen, CPA from being an associated person of a registered public accounting firm is hereby terminated; and

C. Madsen agrees that, for the period of one year from the date the Board grants the Petition, Madsen undertakes:

   i. that he will be supervised for all work performed that is subject to the jurisdiction of the Public Company Accounting Oversight Board, as set forth in Title I of the Sarbanes-Oxley Act of 2002, as amended;

   ii. that his supervisors will include management of any registered firm for whom he will work, except that to the extent Madsen is doing work for issuers on behalf of M&A, he will supervised by David Madsen;

   iii. that he will provide all supervisors with a copy of the Board order granting the petition to terminate the bar; and

   iv. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, Madsen's

ORDER

compliance with the above undertakings. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. Madsen shall submit such certification within thirty (30) days of the close of the one-year period from the date the Board grants Madsen's petition to terminate the bar. During and after the one-year period from the date the Board grants Madsen's petition to terminate the bar, Madsen shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

Phoebe W. Brown
Secretary

December 19, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Stevenson & Company CPAs LLC a/k/a Stevenson & Company CPAs; Raydell Stevenson, CPA; and Wesley H. Hufford, CPA;* *Respondents.*	PCAOB Release No. 105-2017-049 December 19, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Stevenson & Company CPAs LLC a/k/a Stevenson & Company CPAs (the "Firm"), revoking the Firm's registration,[1] and imposing a civil money penalty in the amount of $10,000 upon the Firm; censuring Raydell Stevenson ("Stevenson") and barring Stevenson from being an associated person of a registered public accounting firm;[2] and censuring Wesley H. Hufford ("Hufford") and barring Hufford from being an associated person of a registered public accounting firm.[3] The Board is imposing these sanctions on the basis of its findings that the Firm, Stevenson, and Hufford (collectively, "Respondents") violated PCAOB rules and standards in connection with the audits of the financial statements of two issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Stevenson may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

[3] Hufford may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

ORDER

pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act") and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds that:[5]

A. Respondents

1. Stevenson & Company CPAs LLC, a/k/a Stevenson & Company CPAs, is a professional corporation organized under the laws of the state of Florida, and headquartered in Tampa, Florida. The Firm registered with the Board on June 16, 2015, pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accountancy by the state of Nevada (License No. LLC-0429) and the state of Florida (License No. AD68865). At all relevant times, the Firm was the external auditor for the issuers identified below.

[4] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

2. Raydell Stevenson, age 42, is a certified public accountant licensed by the state of Florida (License No. AC40388). Mr. Stevenson was the engagement partner for the Firm's audit of the 2015 financial statements of MagneGas Corporation ("MagneGas"), and the engagement quality reviewer for the Firm's audit of the 2015 financial statements of AF Ocean Investment Management Co. ("AF Ocean"). He owns fifty percent of the Firm. Mr. Stevenson is, and at all relevant times was, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. Wesley H. Hufford, age 63, is a certified public accountant licensed by the state of Florida (License No. AC0020984). Mr. Hufford was the engagement partner for the Firm's audit of the 2015 financial statements of AF Ocean, and the engagement quality reviewer for the Firm's audit of the 2015 financial statements of MagneGas. He owns fifty percent of the Firm. Mr. Hufford is, and at all relevant times was, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

4. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the audits of the December 31, 2015 ("FY 2015") financial statements of AF Ocean and MagneGas (collectively, the "Audits"). As detailed below, Respondents failed to obtain sufficient appropriate audit evidence and to exercise due care and professional skepticism in connection with the Audits.

5. This matter also concerns Hufford and Stevenson's failures to comply with PCAOB Auditing Standard No. 7 ("AS 7"), *Engagement Quality Review*.[6] Despite being aware of a significant engagement deficiency in each of their respective audits, both Hufford and Stevenson provided concurring approvals of issuance, and failed to perform with due professional care[7] the engagement quality reviews ("EQRs"), in

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[6] All references herein to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the Audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017).

[7] See AS 7 ¶ 12; AU § 230, *Due Professional Care in the Performance of Work*.

ORDER

violation of AS 7.

C. Respondents Violated PCAOB Rules and Standards in Connection with the Audits

6. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[8] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[9] PCAOB standards also require that an auditor plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.[10] PCAOB standards further require that an auditor exercise due professional care and professional skepticism in performing the audit.[11]

7. AS 7 requires that an EQR be performed on audits, interim reviews, and certain attestation engagements conducted pursuant to PCAOB standards.[12] In an audit engagement, an engagement quality reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[13] The engagement quality reviewer should evaluate the engagement team's assessment of, and audit responses to, significant risks identified by the engagement team, including fraud risks, and other significant risks identified by the engagement quality reviewer through performance of the procedures required by AS 7.[14]

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[8] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[9] See AU § 508.07, *Reports on Audited Financial Statements.*

[10] See Auditing Standard No. 15, *Audit Evidence*, ¶¶ 4-6.

[11] See AU § 150.02, *Generally Accepted Auditing Standards*; AU §§ 230.01-.09.

[12] See AS 7 ¶ 1.

[13] Id. at ¶ 9.

[14] Id. at ¶ 10(b).

ORDER

8. Moreover, under AS 7, in an audit, the engagement quality reviewer may provide concurring approval of issuance for an audit report only if, after performing with due professional care the review required by AS 7, he or she is not aware of a significant engagement deficiency.[15] AS 7 states that a "significant engagement deficiency in an audit exists when (1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client."[16] As described below, Respondents failed to comply with the above PCAOB rules and standards in connection with the Audits.

AF Ocean

9. At all relevant times, AF Ocean Investment Management Co. was a Florida corporation headquartered in Ellenton, Florida. AF Ocean's public filings disclose that it promotes business relations and exchanges between Chinese and U.S. companies, facilitating international mergers and acquisitions, and increasing co-operation between Chinese companies and Wall Street financial institutions. Its common stock is registered under Section 12(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and quoted on the OTCQB under the symbol "AFAN." At all relevant times, AF Ocean was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

10. Hufford was the engagement partner for the Firm's audit of the December 31, 2015 financial statements of AF Ocean. On April 9, 2016, Hufford authorized the Firm's issuance of an audit report expressing an unqualified opinion on AF Ocean's financial statements. The audit report was included in the Form 10-K that AF Ocean filed with the Commission on April 14, 2016.

11. In its Form 10-K, AF Ocean disclosed intangible assets with an indefinite life of $294,193, which represented approximately 34 percent of total assets and a net loss of $316,877 for 2015. In addition, AF Ocean's Form 10-K disclosed that the intangible assets consisted of a business license that allowed the issuer to do business in China.

12. In connection with the 2015 audit of AF Ocean, Hufford and the Firm identified a significant risk related to the improper valuation of intangible assets. Other

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[15] Id. at ¶ 12.

[16] Id. at ¶ 12, Note.

ORDER

than obtaining management representations, Hufford and the Firm failed to perform any substantive procedures regarding whether the intangible assets were impaired, including tests of details, that were specifically responsive to the assessed risks.[17] Therefore, Hufford and the Firm failed to obtain sufficient appropriate audit evidence to determine whether the intangible assets were properly valued.[18]

13. In reviewing the intangible assets work papers in his capacity as engagement quality reviewer, Stevenson was aware that no audit procedures regarding the intangible asset's impairment had been performed by the engagement team. As such, Stevenson was aware of a significant engagement deficiency, because the engagement team failed to obtain sufficient appropriate evidence regarding the intangible asset's valuation in accordance with PCAOB standards. Despite being aware of this significant engagement deficiency, Stevenson provided his concurring approval of issuance for the audit without performing the EQR with due professional care, in violation of AS 7.[19]

MagneGas

14. At all relevant times, MagneGas was a Delaware corporation headquartered in Clearwater, Florida. MagneGas' public filings disclose that it is a technology company that utilizes a plasma-based system for the gasification and sterilization of liquid waste. Its common stock is registered under Section 12(g) of the Exchange Act and quoted on the NASDAQ Capital Market under the symbol "MNGA." At all relevant times, MagneGas was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

15. Stevenson was the engagement partner for the Firm's audit of the December 31, 2015 financial statements of MagneGas. On March 21, 2016, Stevenson authorized the Firm's issuance of an audit report expressing an unqualified opinion on MagneGas' financial statements. The audit report was included in the Form 10-K that MagneGas filed with the Commission on March 23, 2016.

16. In its Form 10-K, MagneGas disclosed goodwill, definite lived intangible assets, and property and equipment that together represented approximately 48 percent of total assets of $17.8 million and a net loss of $9.1 million for 2015.

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[17] See Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement*.

[18] See AS 15 ¶¶ 4-6.

[19] AS 7 ¶ 12.

ORDER

17. In connection with the 2015 audit of MagneGas, Stevenson and the Firm identified a fraud risk related to the improper valuation of goodwill, finite-lived intangible assets, and property and equipment. Other than obtaining management representations, Stevenson and the Firm failed to perform any substantive procedures regarding whether the goodwill, finite-lived intangible assets, and property and equipment were impaired, including tests of details, that were specifically responsive to the assessed risks.[20] Therefore, Stevenson and the Firm failed to obtain sufficient appropriate audit evidence to determine whether the goodwill, finite-lived intangible assets, and property and equipment were properly valued.[21]

18. In reviewing the intangible asset work papers in his capacity as engagement quality reviewer, Hufford was aware that no audit procedures regarding the intangible asset's impairment had been performed by the engagement team. As such, Hufford was aware of a significant engagement deficiency, because the engagement team failed to obtain sufficient appropriate evidence regarding the intangible asset's valuation in accordance with PCAOB standards. Despite being aware of this significant engagement deficiency, Hufford provided his concurring approval of issuance for the audit without performing the EQR with due professional care, in violation of AS 7.[22]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Stevenson & Company CPAs LLC a/k/a Stevenson & Company CPAs, Raydell Stevenson, and Wesley H. Hufford are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Raydell Stevenson is barred from being an associated person of a

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20 See AS 13 ¶ 11.

21 See AS 15 ¶¶ 4-6.

22 AS 7 ¶ 12.

ORDER

registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[23]

C. After two (2) years from the date of this Order, Raydell Stevenson may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Wesley H. Hufford is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[24]

E. After two (2) years from the date of this Order, Wesley H. Hufford may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

F. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Stevenson & Company CPAs LLC a/k/a Stevenson & Company CPAs is revoked;

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[23] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Stevenson. Section 105(c)(7)(B) of the Act provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[24] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Hufford. Section 105(c)(7)(B) of the Act provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

G. After two (2) years from the date of the Order, Stevenson & Company CPAs LLC a/k/a Stevenson & Company CPAs may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

H. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Stevenson & Company CPAs LLC a/k/a Stevenson & Company CPAs. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Stevenson & Company CPAs LLC a/k/a Stevenson & Company CPAs shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies Stevenson & Company CPAs LLC a/k/a Stevenson & Company CPAs as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 19, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of DRT Bagimsiz Denetim ve Serbest Muhasebeci Mali Musavirlik A.Ş.*, *Respondent.*	PCAOB Release No. 105-2017-050 December 19, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring DRT Bagimsiz Denetim ve Serbest Muhasebeci Mali Musavirlik A.Ş. ("Deloitte Turkey," the "Firm" or "Respondent"); (2) imposing a civil money penalty in the amount of $750,000 on the Firm; (3) requiring the Firm to certify that it has remediated the quality control deficiencies identified in this Order; (4) requiring the Firm to adopt, implement, and certify to certain additional policies and procedures related to its system of quality control; (5) requiring the Firm to report certain information to Board staff during the two-year period following the entry of this Order; and (6) requiring the Firm to provide additional training to its associated persons. In ordering these sanctions, including the amount of the civil money penalty imposed upon the Firm, the Board took into account that the Firm provided extraordinary cooperation during the Board's investigation of this matter, as described in more detail below.

The Board is imposing these sanctions on the basis of its findings that Deloitte Turkey violated PCAOB rules and standards by devising and implementing a plan to improperly alter work papers in advance of a Board inspection in 2014, which included the improper alteration of work papers in connection with one issuer audit.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board

ORDER

has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds[2] that:

A. Summary

1. This matter concerns Deloitte Turkey's improper and unethical conduct in connection with the Board's 2014 inspection of the Firm. Specifically, the Firm violated PCAOB rules and standards when former members of the Firm's management devised an improper audit document alteration plan and then implemented it in advance of the inspection, culminating in the Firm making that documentation available to PCAOB inspectors without revealing the alterations. The individuals responsible for devising and implementing the plan were, at the time, some of the Firm's most senior partners,[3] who were entrusted with leadership and governance roles in the Firm. As a result of this misconduct, the Firm undermined the Board's inspection process, a critical tool for the Board's investor protection mission.

2. As part of the plan, former members of the Firm's management provided the opportunity to improperly alter work papers to all three of the engagement teams whose engagements had been selected for review in connection with the 2014

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard.

[3] The term "partner," as used in this Order refers to a Deloitte Turkey partner or shareholder.

ORDER

inspection. The engagement partner for one of those teams took the opportunity and improperly altered several work papers, which were then made available to PCAOB inspectors.

3. Through its actions, Deloitte Turkey violated PCAOB quality control standards requiring it to establish and maintain policies and procedures to provide it with reasonable assurance that its personnel would act with integrity and in compliance with professional standards. In addition, Deloitte Turkey violated PCAOB ethics standards, audit documentation standards, and the Firm's duty to cooperate with PCAOB inspections.

B. Respondent

4. **DRT Bagimsiz Denetim ve Serbest Muhasebeci Mali Musavirlik A.Ş.** is a public accounting firm organized as a joint stock corporation under the laws of Turkey, and is headquartered in Istanbul, Turkey. The Firm registered with the Board on September 15, 2004, pursuant to Section 102 of the Act and PCAOB rules. The Firm is currently the principal auditor for one "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). During the period relevant to this matter, the Firm performed audits for one issuer client. In addition, as to four issuers, the Firm currently participates in audits led by other accounting firms, including by other member firms of the Deloitte Touche Tohmatsu Limited network ("Deloitte Global"). Those other accounting firms request the Firm to perform audit work that those other firms use or rely on in issuing their audit reports. The Firm has approximately 30 partners and 645 employees, and is managed by a Board of Directors, which together with the Executive Committee (the "Executive Committee") for Deloitte's operations in Turkey, is responsible for overseeing the Firm's operations, including its system of quality control and ethics.[4]

C. Other Relevant Persons and Entities

5. **Senior Partner 1** is a former partner of Deloitte Turkey. At all relevant times, Senior Partner 1 held senior leadership positions at the Firm, including serving on the Firm's Executive Committee, and acted as the Firm's primary contact with the

[4] In the Fall of 2016, Deloitte Turkey began the process of installing new leadership, which has begun the process of implementing enhancements to the Firm's system of quality control and to reinforce the Firm's commitment to compliance with laws and professional standards.

ORDER

PCAOB on its 2014 inspection. As a result of the conduct described in this Order, the Firm placed Senior Partner 1 on administrative leave on or about August 19, 2016, and effective January 1, 2017, he separated from the Firm.

6. **Senior Partner 2**[5] is a former partner of Deloitte Turkey. At all relevant times, senior Partner 2 held a leadership position in the Firm's Audit function and had significant interactions with PCAOB staff during the 2014 inspection. As a result of the conduct described in this Order, the Firm placed Senior Partner 2 on administrative leave on or about August 19, 2016, and effective January 1, 2017, Senior Partner 2 separated from the Firm.

7. **Senior Partner 3** is a former partner of Deloitte Turkey. At all relevant times, Senior Partner 3 held senior leadership positions at the Firm including serving on the Firm's Executive Committee, and he also had significant interactions with PCAOB staff during the 2014 inspection. As a result of the conduct described in this Order, the Firm placed Senior Partner 3 on administrative leave on or about August 19, 2016, and effective January 1, 2017, he separated from the Firm.

8. **Senior Partner 4** is a former partner of Deloitte Turkey. At all relevant times, Senior Partner 4 held senior leadership positions at the Firm including serving on the Firm's Executive Committee. By virtue of his specific leadership positions, Senior Partner 4 was one of the Firm partners most responsible for ensuring compliance by Firm personnel with ethical and regulatory requirements. As a result of the conduct described in this Order, the Firm placed Senior Partner 4 on administrative leave on or about September 8, 2016, and, and on or about September 30, 2016, Senior Partner 4 retired from the Firm.

9. **Partner for Engagement A**[6] is a former partner of Deloitte Turkey. The Partner for Engagement A led Deloitte Turkey's audit work on the Turkish subsidiary of an issuer for December 31, 2013. On or about September 8, 2016, the Partner for Engagement A was placed on administrative leave due to her participation in the improper alteration of work papers for Engagement A, as described herein, and on February 14, 2017, the Partner for Engagement A separated from the Firm.

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[5] See *Berkman Özata,* PCAOB Release No. 105-2017-051 (Dec. 19, 2017).

[6] See *Şule Firuzment,* PCAOB Release No. 105-2017-052 (Dec. 19, 2017).

ORDER

10. **IT Leader** is a former technology officer at Deloitte Turkey. As a result of the conduct described in this Order, the Firm placed the IT Leader on administrative leave on or about August 19, 2016, and on November 30, 2016, he separated from the Firm.

D. Deloitte Turkey Violated PCAOB Rules and Standards in Connection with the Board's 2014 Inspection of the Firm

The Improper Document Alteration Plan

11. The Board conducted its first inspection of Deloitte Turkey in 2014. On or about August 28, 2014, the Board's Division of Registration and Inspections ("Inspections") informed the Firm that its work in connection with three issuer audits would be inspected. At the time Inspections notified the Firm of the engagements it had selected for inspection, the documentation completion date[7] for each of the audits had long since passed.[8]

12. Following the PCAOB's notification of the engagements it had selected for inspection, Senior Partner 1, Senior Partner 2, Senior Partner 3, and Senior Partner 4 held one or more discussions to address various issues, including the upcoming inspection. During one of those discussions, Senior Partner 4, who among the group held the most elevated position at Deloitte Turkey, approved a plan concerning the audit

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[7] PCAOB Standards state that: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (documentation completion date)." See Auditing Standard No. ("AS") 3, *Audit Documentation*, at ¶ 15. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules, PCAOB Rel. No. 2015-002 (Mar. 31, 2015).

[8] One issuer filed its Form 20-F with the U.S. Securities and Exchange Commission ("SEC") on March 21, 2014, and thus the documentation completion date for that audit was no later than May 5, 2014. The other two issuers filed Forms 10-K with the SEC on February 28, 2014 and June 5, 2014, respectively, and thus the documentation completion dates for those audits were no later than April 14, 2014 and July 20, 2014, respectively.

ORDER

documentation for the engagements selected for inspection (the "previously archived work papers"). Under that plan, the engagement teams would be given the opportunity, in advance of the PCAOB's inspection, to improperly alter the previously archived work papers without indicating to the PCAOB that any such alterations had occurred (the "Improper Alteration Plan" or "Plan").

13. After Senior Partner 4 approved the Plan, Senior Partner 1 began the process of implementing it by seeking the assistance of the Firm's information technology ("IT") department, supervised by the IT Leader. However, before agreeing to provide the assistance requested, the IT Leader contacted Senior Partner 4 to confirm that Senior Partner 4 had approved and understood the implications of the Improper Alteration Plan. In response, Senior Partner 4 reiterated his approval. The IT Leader thereafter caused the Firm's IT department to download the previously archived work papers for each of the three engagements Inspections had selected onto separate laptop computers. Each of the laptops was disconnected from the Deloitte Turkey network so that the laptops' system date could be backdated in order to permit the previously archived work papers to be improperly altered without detection.

14. Senior Partner 2 then provided the laptops to the engagement teams for each of the three engagements selected for inspection. After doing so, Senior Partner 2 participated in a test designed to ensure that, after the work papers had been improperly altered and then restored to Deloitte Turkey's network and returned to the Firm's work paper archiving system, any alterations made on the laptops could not be detected.

Improper Alterations

15. In connection with the Improper Alteration Plan, Senior Partner 1 approached the Partner for Engagement A and informed her that deficiencies in the previously archived work papers for Engagement A would lead the PCAOB to issue negative comments that could affect her career and lead to monetary sanctions and reputational damage to the Firm. In response to Senior Partner 1's comments, the Partner for Engagement A made several improper alterations to the previously archived work papers on the laptop Senior Partner 2 had provided to her.

16. Senior Partner 2 then facilitated the transfer of the file containing the improperly altered work papers for Engagement A to the Firm's IT department, so that the file could replace the original file on the Deloitte Turkey network. The improperly altered file for Engagement A was then made available to the PCAOB inspectors.

ORDER

Misleading Engagement Profile

17. Before the Board's inspection field work began, Deloitte Turkey produced to the Board completed work sheets concerning Engagement A in a document entitled Public Company Accounting Oversight Board 2014 Inspection Period Substantial Role and Referred Work Engagement Profile ("Engagement Profile"). Firm representatives, including the Partner for Engagement A, signed the completed work sheets in the Engagement Profile.

18. One of the questions in the Engagement Profile work sheets asked: "Have there been any changes made to the audit documentation subsequent to the document completion date? If yes, please explain . . . the nature of the changes and provide a summary log of when the changes were made, or attach a summary memo of any such alterations." In response to this question, the completed Engagement Profile work sheet stated "No." The Partner for Engagement A knew that response was false when she signed the completed work sheets in the Engagement Profile, in light of the improper alterations she had made to the Engagement A work papers.

PCAOB Inspection Field Work

19. During the PCAOB inspection, Senior Partners 1, 2, 3, and 4, as well as the Partner for Engagement A, had discussions with the PCAOB inspectors, but they never informed the inspectors of the Improper Alteration Plan. Further, Senior Partners 1 and 2 and the Partner for Engagement A, all of whom knew that improper alterations had been made pursuant to the Plan, did not inform the inspectors of the improper alterations.

Applicable PCAOB Rules and Standards

20. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards as well the Board's ethics standards.[9] PCAOB quality control standards require that a registered public accounting firm "have a system of quality control for its accounting and auditing practice."[10] As part of its system of

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[9] See PCAOB Rules 3400T, *Interim Quality Control Standards*, and 3500T, *Interim Ethics and Independence Standards*.

[10] QC § 20.02, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

ORDER

quality control, a firm should establish policies and procedures to provide the firm with reasonable assurance that (1) "personnel … perform all professional responsibilities with integrity;" [11] and (2) "the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality." [12] PCAOB ethics standards require that, "[i]n the performance of any professional service, a [registered firm] shall maintain . . . integrity . . . ."[13]

21. PCAOB rules also require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[14] As noted above, PCAOB audit documentation standards require that the complete and final set of documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its report.[15] After the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding the documentation.[16]

22. In addition, PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. The cooperation requirement of Rule 4006 includes an obligation "not to provide misleading documents or information in connection with the Board's inspection processes."[17]

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[11] QC § 20.09.

[12] QC § 20.17.

[13] ET § 102.01, *Integrity and Objectivity*.

[14] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[15] AS 3 at ¶ 15.

[16] See id. at ¶ 16.

[17] *Deloitte Touche Tohmatsu Auditores Independentes*, PCAOB Rel. No. 105-2016-031, ¶ 62 (December 5, 2016); *José Domingos do Prado*, PCAOB Rel. No.

ORDER

Deloitte Turkey's Violations

23. As a result of the conduct described above, including former Firm management's devising of the Improper Alteration Plan, as well as the implementation of the Plan, through which documents were improperly altered and then made available to PCAOB inspectors, Deloitte Turkey violated PCAOB quality control standards. Specifically, the Firm failed to establish and maintain policies and procedures to provide it with reasonable assurance that its personnel would "perform all professional responsibilities with integrity" and that "the work performed by engagement personnel [would] meet[] applicable professional standards, regulatory requirements, and the firm's standards of quality."[18] Through its conduct, Deloitte Turkey also violated PCAOB ethics standards requiring it to maintain integrity in the performance of professional services.[19]

24. In addition, through the action of former partners, including those holding senior management positions at the Firm, Deloitte Turkey violated PCAOB audit documentation standards by improperly altering previously archived work papers. Further, Deloitte Turkey violated its duty to cooperate with Inspections by making those improperly altered work papers available to PCAOB inspectors without informing the inspectors of the improper alterations.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. In ordering sanctions, including the amount of the civil money penalty imposed upon the Firm, the Board took into account that the Firm provided extraordinary cooperation during the Board's investigation of this matter. Specifically, the Firm: (a) voluntarily and timely self-reported the entirety of the misconduct described in this Order;[20] (b) began the process of implementing enhancements to its quality

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105-2016-032, ¶ 55 (December 5, 2016); *Arturo Vargas Arellano, CPC*, PCAOB Rel. No. 105-2016-045, ¶ 38.

[18] QC § 20.09, 17.

[19] See ET § 102.01; QC § 20.10.

[20] Specifically, in 2016, a former partner of the Firm received information from a senior partner of the Firm regarding misconduct that had occurred in connection

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control policies and procedures in relevant areas and separating from the Firm those personnel responsible for the misconduct identified by the Firm; and (c) provided substantial assistance to the PCAOB's investigation, including by conducting its own internal investigation and sharing the factual results of that internal investigation with Board staff. Absent that extraordinary cooperation, the monetary penalty imposed would have been significantly larger and the Board may have imposed other, additional sanctions. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Deloitte Turkey is censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rules 5300(a)(4), a civil money penalty in the amount of $750,000 is imposed upon Deloitte Turkey. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Deloitte Turkey shall pay this civil money penalty within 20 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

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with the PCAOB's 2014 inspection. The former partner then contacted Deloitte Global, which passed the information onto the Firm. The Firm in turn reported the alleged misconduct to the Board. At the time of the Firm's self-reporting, the PCAOB had no indication that the Firm and its personnel had improperly altered documents.

ORDER

C. Pursuant to Sections 105(c)(4)(F) and (G) of the Act and PCAOB Rules 5300(a)(6) and (9), the Board orders that:

1. Undertakings: Deloitte Turkey shall carry out the following Undertakings:

(a) *Initial Certification*.

Within thirty (30) days of the entry of this Order, the Firm shall provide a certification, signed by the Chief Executive Officer of Deloitte's operations in Turkey (the "CEO"), and an additional appropriate signatory of the Firm, to the Director of the PCAOB's Division of Enforcement and Investigations ("Director"), stating that the Firm has adopted policies and procedures designed to provide the Firm with reasonable assurance that it will detect any improper alterations of previously archived work papers, including ensuring that any additions to audit documentation after the documentation completion date are made only in accordance with PCAOB rules and standards.

(b) *Subsequent Certification*.

Within ninety (90) days of the entry of this Order, the Firm shall provide to the Director a certification, signed by the CEO, and an additional signatory of the Firm, stating that all professionals involved in the performance of any audit, as that term is defined in Section 110(1) of the Act ("Audit"), have received eight (8) hours of additional training concerning compliance with AS3, PCAOB Rule 4006, and the obligation to perform all professional responsibilities with ethics and integrity.

(c) *Other Undertakings*

(1) For two (2) years from the date of this Order, the Firm will promptly report to the Board any allegations of improper document alterations in connection with any Audit subject to the PCAOB's jurisdiction ("PCAOB Audit") in which Respondent plays a role, or any ethics violations in connection with any PCAOB Audit in which Respondent plays a role.

(2) Beginning one year from the date of this Order and for a total period of two years, the CEO and an additional appropriate signatory of the Firm shall annually certify to the Director that the Firm has met its reporting obligations pursuant to (c)(1) above.

ORDER

(3) Within ninety (90) days of the entry of this Order, the Firm will, to the extent not already in place, adopt enhanced reporting procedures for the reporting and investigation of suspected wrongdoing by Firm personnel. Within that same time period, the Firm shall provide to the Director a certification, signed by the Firm's CEO, that the Firm has adopted such enhanced reporting procedures. The enhanced reporting procedures shall include processes for Firm personnel to report misconduct anonymously, and to report misconduct via telephone, email, website, or mail. The enhanced reporting procedures shall include a prohibition on retaliation against Firm personnel making good faith reports of suspected wrongdoing, to the same extent as the protections established by Section 806(a), (d), and (e) of the Act.

(4) No later than 30 days after the date of this Order, the Firm shall provide an electronic or paper copy of this Order to all of its associated persons.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 19, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Berkman Özata*, Respondent.	PCAOB Release No. 105-2017-051 December 19, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Berkman Özata ("Özata" or "Respondent"); and (2) barring Özata from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings that Özata failed to cooperate with a Board inspection and violated PCAOB audit documentation standards in connection with the Turkish subsidiary of one engagement involving one issuer.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent

[1] Özata may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

ORDER

consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Berkman Özata, 45, is a former partner of the registered public accounting firm DRT Bagimsiz Denetim ve Serbest Muhasebeci Mali Musavirlik A.Ş. ("Deloitte Turkey" or "Firm"). Özata served as the Risk and Reputation Leader for Deloitte Turkey between June 2016 and August 2016, and also served as the Firm's National Professional Practice Director between March 2010 and June 2016. On or about August 19, 2016, Özata was placed on administrative leave due to the misconduct described in this Order, and on January 1, 2017, after declining the possibility of accepting a non-audit position at the Firm, Özata separated from the Firm. At all relevant times, Özata was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondent Violated Applicable PCAOB Rules and Standards in Connection with a Board Inspection

Applicable PCAOB Rules and Standards

2. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[4] Auditing Standard No.

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard.

[4] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of*

ORDER

3, *Audit Documentation* ("AS3"), requires that the complete and final set of documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its report.[5] After the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding the documentation.[6]

3. PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. The cooperation requirement of Rule 4006 includes an obligation "not to provide misleading documents or information in connection with the Board's inspection processes."[7]

Respondent's Violations of PCAOB Rules and Standards in Connection with the 2014 Board Inspection

4. The Board conducted an inspection of Deloitte Turkey in 2014. This was the first PCAOB inspection of Deloitte Turkey. On or about August 28, 2014, the Board's Division of Registration and Inspections ("Inspections") informed the Firm that its work in connection with three particular issuer audits would be inspected. At the time Inspections notified the Firm of the engagements it had selected for inspection, the documentation completion date for each of the audits had long passed.[8]

PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules, PCAOB Rel. No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized (Jan. 2017), https://pcaobus.org/Standards/Auditing/Documents/ReorganizedandPreReorganizedNumbering.pdf.*

[5] AS3 ¶ 15.

[6] See id. ¶ 16.

[7] *Deloitte Touche Tohmatsu Auditores Independentes*, PCAOB Rel. No. 105-2016-031, ¶ 62 (Dec. 5, 2016); *José Domingos do Prado*, PCAOB Rel. No. 105-2016-032, ¶ 55 (Dec. 5, 2016); *Arturo Vargas Arellano, CPC*, PCAOB Rel. No. 105-2016-045, ¶ 38 (Dec. 5, 2016).

[8] One issuer filed its Form 20-F with the U.S. Securities and Exchange Commission ("SEC") on March 21, 2014, and thus the document completion date for that audit was May 5, 2014. The other two issuers filed Form 10-Ks with the SEC on

ORDER

5. Following the PCAOB's notification of the engagements it had selected for inspection, Özata participated in a series of discussions with other senior members of the Firm regarding the upcoming inspection. During those discussions, a partner, who was senior to Özata, approved a plan concerning the audit documentation for the engagements selected for inspection (the "previously archived work papers"). Under that plan, the engagement teams would be given the opportunity, in advance of the PCAOB's inspection, to improperly alter the previously archived work papers without indicating to the PCAOB that any such alterations had occurred.

6. After the decision to provide the engagement teams with the opportunity to make improper alterations, the Firm's information technology ("IT") department downloaded the previously archived work papers for each of the three engagements onto a separate laptop computer. Each of the laptops was disconnected from the Deloitte Turkey network so that previously archived work papers could be improperly altered and the laptops' time and date settings could be backdated without detection. Özata provided one of the laptops to the engagement partner for one of the engagements that had been selected for inspection ("Engagement A").[9] He also participated in a test to ensure that any improper alterations could not be detected after the work papers were restored to Deloitte Turkey's network and returned to the Firm's work paper archiving system. After Özata confirmed that alterations could not be detected, the engagement partner for Engagement A improperly altered several previously archived work papers.[10]

7. Özata then facilitated the transfer of the file containing the improperly altered work papers for Engagement A to the Firm's IT department so that the file could be replaced on the Deloitte Turkey network and made available to the PCAOB's inspectors. During the PCAOB inspection, Özata had discussions with the PCAOB inspectors but did not inform them of the plan to provide engagement teams with the opportunity to improperly alter their previously archived work papers in advance of the inspection or inform them of the improper alterations to the previously archived work papers for Engagement A.

February 28, 2014 and June 5, 2014, respectively and thus the document completion dates for those audits were April 14, 2014 and July 20, 2014, respectively.

[9] In Engagement A, Deloitte Turkey had performed audit work for the Turkish subsidiary of an issuer for the fiscal year ended December 31, 2013.

[10] See *Şule Firuzment,* PCAOB Release No. 105-2017-052 (Dec. 19, 2017).

ORDER

8. Özata's actions violated PCAOB audit documentation standards and his duty to cooperate with Inspections.[11]

* * * * *

9. During the PCAOB's investigation of this matter, Ozata provided substantial assistance by, among other things, providing detailed information concerning the events relating to the alteration of the Engagement A work papers, including significant information concerning the actions of the Firm and its personnel in this matter.[12] The Board took that substantial assistance into account in ordering the sanctions under Section IV of this Order.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Berkman Özata is censured;

B. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(2), Berkman Özata is barred from being an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[13] and

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[11] See AS3 ¶ 16; PCAOB Rule 4006.

[12] See "Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations," Apr. 24, 2013.

[13] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Özata. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

C. After two (2) years from the date of this Order, Berkman Özata may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 19, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Şule Firuzment*, Respondent.	PCAOB Release No. 105-2017-052 December 19, 2017

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Şule Firuzment ("Firuzment" or "Respondent"); (2) suspending Firuzment from being an associated person of a registered public accounting firm for a period of one (1) year from the date of this Order; and (3) limiting her activities in connection with any "audit" as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for an additional period of one (1) year following the expiration of her suspension. The Board is imposing these sanctions on the basis of its findings that Firuzment failed to cooperate with a Board inspection and violated PCAOB audit documentation standards in connection with one engagement involving the Turkish subsidiary of one issuer.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over her and the subject matter of these proceedings, which are admitted, Respondent

ORDER

consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds[2] that:

A. Respondent

1. Şule Firuzment, 39, is a former partner of the registered public accounting firm DRT Bagimsiz Denetim ve Serbest Muhasebeci Mali Musavirlik A.Ş. ("Deloitte Turkey" or "Firm"). Firuzment served as the engagement partner on Deloitte Turkey's audit work on the Turkish subsidiary of an issuer for the year ended December 31, 2013 ("Engagement A"). On or about September 8, 2016, Firuzment was placed on administrative leave due to her participation in the improper alteration of work papers for Engagement A, as described herein, and on February 14, 2017, Firuzment separated from the Firm. At all relevant times, Firuzment was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondent Violated Applicable PCAOB Rules and Standards in Connection with a Board Inspection

Applicable PCAOB Rules and Standards

2. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[3] Auditing Standard No.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard.

[3] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a

ORDER

3, *Audit Documentation* ("AS3"), requires that the complete and final set of documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its report.[4] After the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding the documentation.[5]

3. PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. The cooperation requirement of Rule 4006 includes an obligation "not to provide misleading documents or information in connection with the Board's inspection processes."[6]

Respondent's Violations of PCAOB Rules and Standards in Connection with the 2014 Board Inspection

4. The Board conducted an inspection of Deloitte Turkey in 2014. This was the first PCAOB inspection of Deloitte Turkey. On or about August 28, 2014, the Board's Division of Registration and Inspections ("Inspections") informed the Firm that its work in connection with Engagement A would be one of the three engagements inspected. At

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topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Rel. No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized (Jan. 2017), https://pcaobus.org/Standards/Auditing/Documents/ReorganizedandPreReorganizedNumbering.pdf.*

[4] AS3 ¶ 15.

[5] See id. ¶ 16.

[6] *Deloitte Touche Tohmatsu Auditores Independentes*, PCAOB Rel. No. 105-2016-031, ¶ 62 (Dec. 5, 2016); *José Domingos do Prado*, PCAOB Rel. No. 105-2016-032, ¶ 55 (Dec. 5, 2016); *Arturo Vargas Arellano, CPC*, PCAOB Rel. No. 105-2016-045, ¶ 38 (Dec. 5, 2016).

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the time of that notification, the documentation completion date associated with Engagement A had long since passed.[7]

5. After being informed that the Engagement A audit work would be inspected, a senior partner at Deloitte Turkey ("Partner 1") informed Firuzment that deficiencies in the Engagement A work papers that had been assembled for retention (the "previously archived work papers") would lead the PCAOB to issue negative comments that could affect Firuzment's career and lead to monetary sanctions and reputational damage to the Firm.

6. In response to Partner 1's comments, Firuzment made several improper alterations to the previously archived work papers for Engagement A. Specifically, another senior partner at the Firm ("Partner 2")[8] provided Firuzment with a laptop containing the previously archived work papers for Engagement A. The laptop was disconnected from the Deloitte Turkey network so that the previously archived work papers could be improperly altered and the laptop's time and date settings could be backdated without detection.

7. After receiving the laptop, Firuzment altered the time and date settings to a period during which she had conducted work on Engagement A, and improperly altered several work papers. Specifically, Firuzment revised numerous memoranda concerning various topics including the accounting for a particular acquisition, goodwill impairment, the involvement of information technology specialists in the audit work for Engagement A, and a discussion of certain litigation.

8. After improperly altering the Engagement A work papers, Firuzment transferred the file containing the improperly altered work papers onto a USB drive and provided it to Partner 2 so that the file could be loaded onto the Deloitte Turkey network and made available to the PCAOB inspections team.

9. Before the Board's inspection field work began, Deloitte Turkey produced to the Board completed work sheets concerning Engagement A in a document entitled Public Company Accounting Oversight Board 2014 Inspection Period Substantial Role

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[7] With respect to the three engagements inspected, one issuer filed its Form 20-F with the U.S. Securities and Exchange Commission ("SEC") on March 21, 2014, and thus the document completion date for that audit was no later than May 5, 2014. The other two issuers filed Forms 10-K with the SEC on February 28, 2014 and June 5, 2014, respectively, and thus the document completion dates for those audits were no later than April 14, 2014 and July 20, 2014, respectively.

[8] See *Berkman Özata,* PCAOB Release No. 105-2017-051 (Dec. 19, 2017).

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and Referred Work Engagement Profile ("Engagement Profile"). Firuzment signed the completed work sheets in the Engagement Profile.

10. One of the questions in the Engagement Profile work sheets asked: "Have there been any changes made to the audit documentation subsequent to the document completion date? If yes, please explain . . . the nature of the changes and provide a summary log of when the changes were made, or attach a summary memo of any such alterations." In response to this question, the completed Engagement Profile work sheet stated "No." Firuzment knew that response was false when she signed the completed work sheets in the Engagement Profile, in light of the improper alterations she had made to the Engagement A work papers.

11. During the PCAOB inspection, Firuzment had discussions with the PCAOB inspectors but did not inform them of the improper alterations that she had made to the Engagement A work papers.

12. Firuzment's actions violated PCAOB audit documentation standards and her duty to cooperate with Inspections.[9]

* * * * *

13. During the PCAOB's investigation of this matter, Firuzment provided substantial assistance by, among other things, providing detailed information concerning the events relating to the alteration of the Engagement A work papers, including significant information concerning the actions of the Firm and its personnel in this matter.[10] The Board took that substantial assistance into account in ordering the sanctions under Section IV of this Order.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

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[9] See AS3 ¶ 16; PCAOB Rule 4006.

[10] See "Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations," Apr. 24, 2013.

ORDER

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Şule Firuzment is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), for a period of one (1) year from the date of this Order, Şule Firuzment shall be suspended from being an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[11] and

C. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for one (1) year following the expiration of the suspension ordered in paragraph B, Firuzment's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Firuzment shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's Auditing Standard No. 10 or AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's Auditing Standard No. 7 or AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to, but differently denominated from, engagement partner (such as "lead partner" or "practitioner-in-charge") or engagement quality reviewer (such as "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report or to consent to the use of a previously issued audit report for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's

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[11] As a consequence of the suspension imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Firuzment. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

Interim Auditing Standard AU Section 543 or AS 1205, *Part of the Audit Performed by Other Independent Auditors*.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 19, 2017

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2017-053
In the Matter of Edward Richardson Jr., CPA, and Edward Richardson Jr., CPA,	December 19, 2017
Respondents.	

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring registered public accounting firm Edward Richardson Jr., CPA (the "Firm") and permanently revoking the Firm's registration; and censuring Edward Richardson Jr., CPA ("Richardson") and permanently barring him from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings that the Firm and Richardson (collectively, "Respondents") violated PCAOB rules and standards in connection with the Firm's audits of seven broker-dealer clients during a period in which the United States Securities and Exchange Commission (the "Commission") had initiated proceedings against Respondents for similar violations.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Respondents admit the facts, findings, and violations

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set forth below, and consent to entry of this Order Making Findings, and Imposing Sanctions ("Order").[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **Edward Richardson Jr., CPA** is a sole proprietorship organized under the laws of the state of Michigan, and headquartered in Southfield, Michigan. The Firm registered with the Board on June 2, 2009, pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accountancy with the state of North Carolina (License No. 32591). At all relevant times, the Firm was the external auditor for the broker-dealers identified herein.

2. **Edward Richardson Jr., CPA,** age 69**,** is a certified public accountant licensed by the states of Michigan (License No. 1101013032), Illinois (License No. 065041283), Florida (License No. AC45098), New Jersey (License No. 20CC03751000), New York (License No. 111609), Ohio (License No. CPA.49693), and Washington (License No. 33689). Mr. Richardson is the owner of Edward Richardson Jr., CPA and, at all relevant times, was an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns the Firm's repeated failure to comply with Auditing Standard No. 1220, *Engagement Quality Review* ("AS 1220"), with respect to seven broker-dealer audit clients.[3] In the case of each client's audit, the Firm failed to obtain

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[1] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

[3] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31,

ORDER

an engagement quality review ("EQR") of each audit and attestation engagement even though it was required to be performed and despite a pending Commission litigation against Respondents for failures to obtain EQRs for other broker-dealer audit clients.

4. This matter also concerns Richardson's direct and substantial contribution to the Firm's violations of PCAOB rules and standards concerning the requirement for EQRs. With respect to each of the seven audit engagements in which the Firm failed to have an EQR during the Commission litigation, Richardson took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of PCAOB rules and standards.[4]

5. Finally, the Firm failed to disclose certain reportable events to the Board on Form 3, as required by PCAOB rules.[5]

C. The Firm Violated PCAOB Rules and Standards Relating to Engagement Quality Reviews

6. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6]

7. For audit engagements, reviews of interim financial information, and attestation engagements of broker-dealers for fiscal years ending on or after June 1, 2014, AS 1220 requires that an EQR be performed pursuant to PCAOB standards.[7] AS 1220 also provides that a firm may grant permission to a client to use the engagement

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2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017).

[4] See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

[5] See PCAOB Rule 2203, *Special Reports*.

[6] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[7] See AS 1220.01.

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report only after an engagement quality reviewer provides concurring approval of issuance.[8]

8. As described below, Respondents failed to comply with PCAOB rules and standards.

Commission Instituted Proceedings Against Respondents
For Failures to Obtain Engagement Quality Reviews

9. On February 24, 2017, the Commission instituted proceedings against Respondents, alleging, among other things, that the firm failed to obtain EQRs and concurring approvals of issuance, as required by PCAOB auditing standards, for the audits of one issuer client for fiscal years ended 2012 and 2013, and for dozens of broker-dealer clients for fiscal years ending after June 1, 2014 through December 31, 2015, in violation of federal securities laws.[9]

10. On June 14, 2017, based on the allegations set forth in February 2017, the Commission issued an Order against Respondents Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 4C and 21C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission's Rules of Practice.[10] The Commission found that Respondents failed to obtain engagement quality reviews and concurring approvals of issuance for an issuer client and dozens of broker-dealer clients. The Commission denied Respondents the privilege of appearing or practicing before the Commission as an accountant with the right to request reinstatement after seven years. The Commission also imposed a civil money penalty of $35,000 jointly and severally against Respondents. Respondents agreed to settle the charges without admitting or denying the findings.

11. While in litigation with the Commission for alleged engagement quality review violations, the Firm once again failed to obtain EQRs for seven audit and attestation engagements from April through May 2017 as set forth in the attached Appendix, even though PCAOB standards required an EQR to be performed. In each instance, the audit was of a "broker" and "dealer," as defined in Sections 110(3) and 110(4) of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii). And in each instance,

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[8] See id. at ¶¶ .13, .18, and .18C.

[9] *In the Matter of Edward Richardson Jr., CPA and Edward Richardson Jr.,* Exchange Act Rel. No. 80103 (Feb. 24, 2017).

[10] *In the Matter of Edward Richardson Jr., CPA and Edward Richardson Jr.,* Exchange Act Rel. No. 80918 (June 14, 2017).

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the Firm improperly permitted the issuance of its unqualified audit report and review report without obtaining an EQR and concurring approval of issuance. As a result, the Firm repeatedly violated AS 1220.

D. Richardson Contributed to the Firm's Violations of PCAOB Rules and Standards

12. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that firm of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.

13. Richardson, the sole owner and only member of the Firm, was principally responsible for the audits conducted by the Firm. Accordingly, Richardson had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Richardson knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 1220, described above. As a result, he violated PCAOB Rule 3502.

E. The Firm Failed to Disclose Certain Reportable Events to the Board in Violation of Board Rules

14. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[11] One such specified event occurs when a firm, "has become aware that, in a matter arising out of his or her conduct in the course of providing professional services for a client, a partner, shareholder, principal, owner, member, or audit manager of the Firm who provided at least ten hours of audit services for any issuer, broker, or dealer during the Firm's current fiscal year or its most recently completed fiscal year has become a defendant or respondent in a civil or alternative

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[11] See PCAOB Rule 2203. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

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dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[12]

15. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the Commission proceeding described above.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Edward Richardson Jr., CPA and Edward Richardson Jr., CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Edward Richardson Jr., CPA is permanently barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[13] and

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[12] PCAOB Form 3, at item 2.9 (italics in the original removed).

[13] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Richardson. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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C. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Edward Richardson Jr., CPA is permanently revoked.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 19, 2017

Appendix
Edward Richardson Jr., CPA
Audits & Attestations Not Performed in Accordance with AS 1220

Broker-Dealer	Fiscal Year Ended	Audit and Review Report Date	Date of SEC Filing
Liberty Associates, Inc.	1/31/17	4/13/17	7/20/17
Roberts & Ryan Investments Inc.	1/31/17	4/13/17	4/20/17
Integrated Trading and Investments, Inc.	3/31/17	5/30/17	6/1/17
KW Securities Corporation	3/31/17	5/24/17	6/5/17
Liberty Global Capital Services LLC	3/31/17	5/22/17	6/2/17
Petrogrowth Energy Advisors, LLC	3/31/17	5/22/17	5/23/17
Silicon Valley Securities, Inc.	3/31/17	5/24/17	5/24/17

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Grant Thornton LLP,* *Respondent.*	PCAOB Release No. 105-2017-054 December 19, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is: (1) censuring Grant Thornton LLP ("Grant Thornton," the "Firm," or "Respondent"), a registered public accounting firm; (2) imposing on Grant Thornton a civil money penalty in the amount of $1,500,000; and (3) requiring Grant Thornton to undertake certain remedial actions.

The Board is imposing these sanctions on the basis of its findings that (a) from 2013 to 2014, Grant Thornton violated PCAOB rules, quality control standards, and auditing standards related to assignment, monitoring, and supervision of personnel in connection with two audit engagements it conducted for issuer audit clients in the financial services sector out of its Philadelphia office; and (b) Grant Thornton violated PCAOB rules and auditing standards in connection with its integrated audit of The Bancorp Inc.'s December 31, 2013 financial statements and internal control over financial reporting ("ICFR").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted,

PCAOB
Public Company Accounting Oversight Board

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Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. Grant Thornton LLP is a limited liability partnership organized under the laws of the state of Illinois, and headquartered in Chicago, Illinois. It has offices in multiple locations, including in Philadelphia, Pennsylvania, and is licensed under the laws of the state of Pennsylvania, among others, to engage in the practice of public accounting (License No. AF000387L). Grant Thornton registered with the Board on September 24, 2003, pursuant to Section 102 of the Act and PCAOB rules.

B. Relevant Individual

2. The "Bancorp Engagement Partner" was an audit partner in Grant Thornton's Philadelphia office beginning in 1998, and served as the engagement partner on Grant Thornton's audit of the December 31, 2013 financial statements and ICFR of The Bancorp Inc. ("Bancorp" or the "Company") and Grant Thornton's reviews of Bancorp's March 31, 2014 and June 30, 2014 financial statements.[3] At all relevant times, the Bancorp Engagement Partner was an associated person of a registered public accounting firm as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). The Bancorp Engagement Partner retired from Grant Thornton effective July 31, 2016.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[2] The Board finds that Grant Thornton's conduct described in this Order constitutes (A) intentional or knowing conduct, including reckless conduct, that resulted in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard. See Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5).

[3] See *David M. Burns*, PCAOB Release No. 105-2017-055 (Dec. 19, 2017).

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C. Issuer

3. The Bancorp, Inc., the holding company for The Bancorp Bank (the "Bank"), is a corporation based in Delaware and a registered financial holding company. The Company's business is primarily conducted through its principal subsidiary, the Bank, a Delaware chartered commercial bank based in Wilmington, Delaware.

4. Bancorp is subject to supervision and regulation by the Federal Reserve, the Delaware Office of the State Bank Commissioner, and the Federal Deposit Insurance Corporation. At all relevant times, Bancorp's common stock was registered under Section 12(b) of the Securities Exchange Act of 1934 and was traded on the NASDAQ under the symbol TBBK. At all relevant times, Bancorp was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Grant Thornton has served as Bancorp's independent auditor since 2000.

D. Summary

5. This matter concerns Grant Thornton's violation of PCAOB quality control standards relating to personnel management during 2013 and 2014. Specifically, Grant Thornton violated PCAOB quality control standards by assigning two partners from its Philadelphia office, with known audit quality concerns, to serve as engagement partners on two separate fiscal year end 2013 issuer audits, without providing them sufficient support or monitoring. The Firm also failed to comply with PCAOB rules and standards in connection with its audits of Bancorp's December 31, 2013 financial statements and ICFR.

6. Prior to the Philadelphia office's year-end 2013 audits, Grant Thornton had significant concerns with the proficiency and technical competence of two engagement partners in its Philadelphia office's financial services group, including the Bancorp Engagement Partner and another financial services partner ("Partner B"). Those concerns led Grant Thornton to place Partner B on a performance improvement plan and to develop other remedial plans to address audit quality issues within the office. Despite those concerns, Grant Thornton failed to take sufficient steps to properly support or monitor the Bancorp Engagement Partner and Partner B when it assigned each to serve as an engagement partner on two separate 2013 issuer audits for financial services clients.

7. The Firm's failure to maintain effective quality controls contributed to Grant Thornton's violation of PCAOB rules and standards in connection with its 2013 integrated audit of Bancorp. Specifically, Grant Thornton, among other things, failed to exercise due professional care, including appropriate professional skepticism, and failed to obtain sufficient appropriate audit evidence concerning the reported value of

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Bancorp's net loans, the effectiveness of Bancorp's controls relating to its allowance for loan and lease losses ("ALLL"), and the reasonableness of Bancorp's ALLL – a known significant risk and significant accounting estimate. As a result of its failures to perform the audit in conformity with PCAOB standards, Grant Thornton failed to obtain sufficient appropriate audit evidence to support its audit opinions on Bancorp's financial statements and ICFR.

8. On April 1, 2015, Bancorp announced that its previously issued financial statements for the years ended December 31, 2012 and 2013 and the quarterly financial statements within those years and for the first three quarters of 2014 should no longer be relied on because certain provisions for loan losses related to commercial loans were taken in incorrect periods. Ultimately, the restatement resulted in a $141 million reduction in Bancorp's net loans as of December 31, 2013, as well as increases in Bancorp's provision for loan and leases losses of $28.9 million (or 98 percent) during 2013 and $90.5 million (or 403 percent) during 2012, respectively.[4]

E. Grant Thornton Violated PCAOB Rules and Standards in its Assignment, Support, and Monitoring of Personnel Assigned to Two Year-End 2013 Issuer Audits for Financial Services Clients.[5]

a. Applicable Standards

9. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and quality control standards.[6]

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[4] Although Bancorp initially announced that the restatement would impact only its December 31, 2012 and 2013 financial statements, the Company ultimately restated its December 31, 2010 and 2011 financial statements as well.

[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audit or review. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules,* PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017), https://pcaobus.org/Standards/Auditing/Documents/ReorganizedandPreReorganizedNumbering.pdf.

[6] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards;* PCAOB Rule 3400T, *Interim Quality Control Standards*.

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Among other things, PCAOB auditing standards require that auditors make "appropriate assignments of significant engagement responsibilities" and provide that the "knowledge, skill, and ability of engagement team members with significant engagement responsibilities should be commensurate with the assessed risk of material misstatement."[7] PCAOB auditing standards further require that auditors provide the "extent of supervision that is appropriate for the circumstances, including, in particular, the assessed risk of material misstatement."[8]

10. A firm's system of quality control provides a critical foundation and infrastructure for a firm's audit quality as it should "'ensure that services are competently delivered and adequately supervised.'"[9] PCAOB quality control standards require a registered firm to "have a system of quality control for its accounting and auditing practice,[10] including policies and procedures concerning personnel management.[11] With respect to personnel management, firms should consider the nature and extent of supervision to be provided when making assignments.[12] The more able and experienced the personnel assigned to a particular engagement, the less direct supervision required.[13] PCAOB quality control standards further require that firms "establish policies and procedures to provide the firm with reasonable assurance that …

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[7] See Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS No. 13"), ¶ 5; see also AU § 230.06, *Due Professional Care in the Performance of Work* ("Auditors should be assigned to tasks and supervised commensurate with their level of knowledge, skill, and ability so that they can evaluate the audit evidence they are examining.").

[8] See AS No. 13 ¶ 5.

[9] See QC § 20.02, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* (quoting AICPA Code of Professional Conduct, "Article VI—Scope and Nature of Services").

[10] See QC § 20.01.

[11] See QC §§ 20.11-.13.

[12] See QC § 20.11.

[13] See id.

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[w]ork is assigned to personnel having the degree of technical training and proficiency required under the circumstances."[14]

11. PCAOB quality control standards emphasize the "significant responsibilities" of individuals who supervise audit engagements and sign or authorize the issuance of audit reports.[15] In recognition of those significant responsibilities, firms are required to establish policies and procedures that "provide reasonable assurance that a practitioner-in-charge of an engagement possesses the competencies necessary to fulfill his or her engagement responsibilities."[16] Among the competencies expected is professional judgment, which typically "include[s] the ability to exercise professional skepticism and identify areas requiring special consideration including, for example, the evaluation of the reasonableness of estimates and representations made by management and the determination of the kind of report necessary in the circumstances."[17]

12. As described below, Grant Thornton failed to comply with PCAOB rules and standards in connection with the assignment of personnel to two issuer audits for financial services clients, including the 2013 Bancorp audit.

b. Grant Thornton was Aware of Audit Quality Problems with Partners in its Philadelphia Office in 2013-2014

13. Grant Thornton violated PCAOB quality control standards relating to personnel management by assigning two partners, with known audit quality concerns, to two separate year-end 2013 issuer audits without providing sufficient support or monitoring. Indeed, Grant Thornton knew that there were proficiency and audit quality problems with respect to the Bancorp Engagement Partner and Partner B. Among other

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[14] See QC § 20.13.

[15] See QC § 40.03, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement* (in light of such "significant responsibilities," a firm's policies and procedures "should be designed to provide a firm with reasonable assurance that such individuals possess the kind of competencies that are appropriate given the circumstances of individual client engagements").

[16] See QC § 40.06.

[17] See QC § 40.08.

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things, Grant Thornton knew that the Bancorp Engagement Partner and Partner B had failed to appropriately perform certain issuer audits in prior years. Nonetheless, the Firm, in violation of PCAOB quality control standards, assigned the Bancorp Engagement Partner and Partner B each to lead a 2013 audit engagement team without the degree of technical training and proficiency required under the circumstances and failed to provide sufficient support or monitoring to those teams.

i. The Bancorp Engagement Partner

14. As early as 2011, Grant Thornton, including individuals at top levels of Firm management, knew of significant audit quality issues with some of the Bancorp Engagement Partner's past audit work. Between 2010 and 2014, the Bancorp Engagement Partner served as the engagement partner or engagement quality reviewer on several audits that subsequently received "noncompliant" or "compliant with comments" ratings during Grant Thornton's audit practice reviews ("APR"s)[18] and/or were subject to a PCAOB inspection in which the inspection team identified deficiencies of such significance that it appeared that the Firm had not obtained sufficient appropriate audit evidence to support its opinion.

15. For one Grant Thornton issuer audit of a financial services client pre-dating the 2013 Bancorp audit, a PCAOB inspections team found that the Bancorp Engagement Partner and his engagement team had failed to obtain sufficient appropriate evidence to support the financial statement and ICFR opinions because the team failed to properly test the entity's ALLL-related controls and failed to perform sufficient substantive procedures over the entity's ALLL and loans receivable. For another pre-2013 audit on which the Bancorp Engagement Partner served as the engagement partner, Grant Thornton's APR team was "unable to conclude that the work was performed in accordance with PCAOB standards," finding that "there were significant departures from ... PCAOB standards, GAAP and/or firm policy." Additionally, both the PCAOB staff, through an inspection, and Grant Thornton, through an APR, ultimately concluded that there were quality issues with the Bancorp Engagement Partner's 2012 integrated audit of Bancorp. Moreover, the Bancorp Engagement

[18] As part of the APR process, an APR team reviews audit work papers for select audits that were completed during the prior year. The APR team assigns a rating to each audit it reviews based on the significance of its findings. Under the Firm's ratings, a "noncompliant" audit is one that failed to comply with PCAOB standards and/or firm policy. The Firm assigns a "compliant with comments" rating to audits that, in the Firm's view, complied with PCAOB standards but exhibited deficiencies in execution and/or documentation.

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Partner's 2012 performance appraisal included a negative comment from the National Professional Practice Department because of his overreliance on senior managers and failure to delve deeply enough into audit work papers.

16. In August 2013, Firm leadership attributed the Bancorp Engagement Partner's performance issues primarily to his overly burdensome workload. As a result, the Firm developed a plan to reduce his "gross charge hours supervised," i.e., the total number of hours charged by individuals he was responsible for supervising. Despite that plan, the Bancorp Engagement Partner's total workload was not significantly reduced. Indeed, between Grant Thornton's fiscal years 2012 and 2014,[19] the hours that he personally charged remained relatively consistent and his non-billable hours actually increased, particularly as related to marketing activities.

17. Despite the known risks concerning the Bancorp Engagement Partner, Grant Thornton assigned him to serve as the engagement partner on the 2013 Bancorp audit without appropriate support or monitoring. Specifically, Grant Thornton failed to assemble an engagement team for that 2013 Bancorp audit that possessed the degree of technical training and proficiency required to properly audit Bancorp's financial statements and ICFR. Indeed, notwithstanding the Bancorp Engagement Partner's above-described recent history, the Firm elected to pair him with a senior manager who, as the Firm knew, also had issues with the quality of his audit work. Further, for the 2013 audit, the Firm reduced both the number of engagement team members and the team's experience level, as compared to the 2012 engagement team. Indeed, the senior manager was aware that the junior staff lacked the experience to draw certain audit conclusions, as he acknowledged in an email to the Bancorp Engagement Partner during the audit: "[T]he staff in the field are too inexperienced to understand what they've already done in order to draw connections between the different procedures and risks."[20]

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[19] Grant Thornton's fiscal year runs from August 1 to July 31.

[20] The Firm's supervisory failures also included failing, through the Bancorp Engagement Partner, to properly assess the extent of supervision necessary for engagement team members to perform their work and form appropriate conclusions. See Auditing Standard No. 10, *Supervision of the Audit Engagement*, ¶¶ 5-6. Instead, Grant Thornton, through the Bancorp Engagement Partner, (a) failed to sufficiently review the work of the engagement team; (b) placed too much reliance on the senior manager; and (c) failed to develop an understanding of the instructions the senior manager provided to the staff.

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18. In addition, Grant Thornton failed to appropriately monitor the Bancorp Engagement Partner's work on the 2013 engagement in light of the Firm's knowledge of his history of poor audit quality. The Firm did not develop a plan sufficiently tailored to address its concerns with the quality of the Bancorp Engagement Partner's work or the risks inherent in the Bancorp engagement. It instead relied on the Firm's National Professional Practice Director Group ("NPPD") review process. Yet, although the Firm assigned an individual from its NPPD to review the engagement team's work on the 2013 Bancorp audit, that individual failed to complete his review of work papers he had requested concerning Bancorp's ALLL before authorizing the release of the Firm's audit report. Additionally, neither that individual nor anyone else at the Firm ever completed a separate, more detailed review of the audit required by the Firm's policies.

ii. Partner B

19. As it had done with the Bancorp Engagement Partner, Grant Thornton assigned Partner B, who had known audit quality issues, to a 2013 issuer audit for a financial services client, without providing Partner B appropriate support or monitoring.

20. By 2013, Partner B had served as the engagement partner on four issuer audits that were subject to PCAOB inspections, through which significant deficiencies were identified. As a result of the PCAOB inspection findings and other indicators of poor audit quality, the Firm placed Partner B on a performance improvement plan ("Performance Plan"). According to the Performance Plan, Grant Thornton expected "no substandard audit results during the APR scheduled for July 2013 or the upcoming PCAOB review cycle." The Performance Plan stated that, if Partner B failed to make sufficient progress against the plan, Partner B could be subject to removal from the Firm's partnership.

21. In mid-2013, the Firm selected one of Partner B's 2012 issuer audits for a financial services client for an APR. The APR team identified 17 deficiencies and ultimately concluded that the audit was noncompliant with Firm policies and professional standards.

22. Despite knowing of Partner B's audit quality issues, including the non-compliant APR results, Grant Thornton again assigned Partner B to lead the audit engagement of the same financial services client. Grant Thornton also teamed Partner B with an engagement quality reviewer for the audit, who had limited experience on audits of financial services issuers. For that audit, as with the Bancorp audit, Grant Thornton also reduced both the number of engagement team members and the team's experience level from the prior year.

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23. As it had with the Bancorp Engagement Partner in the 2013 Bancorp audit, Grant Thornton again failed to develop a specific plan to address its concerns with the quality of Partner B's work. Instead, Grant Thornton assigned an NPPD reviewer to perform a detailed review of the 2013 audit of Partner B's audit of the financial services client, yet that review was never conducted.

24. In mid-2014, that audit was, however, selected for a special review by a member of NPPD, who identified a significant number of concerns related to Partner B's audit work. Although Partner B's Performance Plan stated that failure to make sufficient progress in improving audit quality could result in removal of Partner B from the partnership, Grant Thornton did not remove Partner B. Instead, the Firm merely lowered Partner B's quality rating and permitted Partner B to continue serving as an engagement partner on audits, including issuer audits, until late 2015.

c. Grant Thornton's Violations

25. As described above, Grant Thornton was well aware that two partners in the financial services group in its Philadelphia office had significant and recent histories of failing to perform issuer audits in accordance with PCAOB standards. Yet the Firm continued to assign each of those two individuals as engagement partners on issuer audits without providing them sufficient support or monitoring. As a result, during 2013, the Firm violated PCAOB quality standards by failing to establish and implement policies and procedures to provide the Firm with reasonable assurance that (a) engagement partners possessed the competencies necessary to fulfill their responsibilities; (b) engagement teams possessed sufficient technical training and proficiency; and (c) its services were competently delivered and supervised.[21] In addition, the Firm violated PCAOB auditing standards by (a) assigning significant engagement responsibilities to engagement team members without the requisite knowledge and skill given the associated audit risks and (b) failing to provide appropriate supervision in the circumstances.[22]

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[21] See QC § 20.01, .11-.13; QC § 40.03, .06, .08.

[22] See AS No. 13 ¶ 5; AU § 230.06.

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F. Grant Thornton Violated PCAOB Rules and Auditing Standards in Performing the 2013 Audit of Bancorp's Financial Statements and ICFR.

a. Background

26. Prior to September 30, 2014, Bancorp, through the Bank, originated loans to commercial customers with whom it had established banking relationships. Those loans took the form of commercial term loans and lines of credit, commercial mortgages, and construction, acquisition, and development loans (collectively "Commercial Loans"). At December 31, 2013, Bancorp originally reported total assets of $4.7 billion, including $2.0 billion in loans. Commercial Loans constituted $1.3 billion or 68 percent of Bancorp's loan portfolio.

27. To reflect the inherent credit risk associated with its loan portfolio, Bancorp recorded an ALLL to cover probable losses that existed in the loan portfolio as of each period end. Bancorp's ALLL comprised two components, specific reserves based on potential losses on individually classified loans, and a general loss reserve for non-classified loans. Bancorp calculated the specific reserve portion of the ALLL by first identifying problem loans or leases through delinquency monitoring and loan file reviews. For loans risk rated special mention or below, Bancorp analyzed the "most probable sources of repayment and liquidation of collateral" to assess whether a reserve was required. To the extent the expected cash flows or fair value of collateral was less than the loan balance, Bancorp established an impairment reserve.[23]

28. Bancorp calculated its general reserve portion of the ALLL based on the application of historical loss experience and other factors to pools of loans with similar characteristics. Bancorp then adjusted the general reserve to reflect current economic conditions, current loan portfolio performance, loan concentrations, and other factors identified by management.[24] Grant Thornton understood that the loss experience or loss factors Bancorp used to calculate the general reserve were determined by calculating historical charge-off rates for each type of loan by risk rating. The Firm also understood that Bancorp's loan risk ratings were determined based on delinquency status and/or Bancorp's loan review process. In determining its ALLL, as well as for disclosure purposes, Bancorp needed to determine whether a loan should be classified as a troubled debt restructuring ("TDR"). Such a classification was appropriate if Bancorp, in

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[23] See Bancorp Form 10-K, at 51-52 (Mar. 17, 2014).

[24] See id.

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the course of restructuring a loan, "for economic or legal reasons related to the [borrower's] financial difficulties grant[ed] a concession to the [borrower] that it would not otherwise consider."[25] Accordingly, as Grant Thornton was aware, Bancorp relied on its loan review process, risk ratings, and appraisals to calculate and assess the sufficiency of its ALLL, including to determine whether a loan should be classified as a TDR.

29. At December 31, 2013, Bancorp originally reported an ALLL of $38.2 million, $35.6 million of which was allocated to Commercial Loans. For 2013, Bancorp originally reported a provision for loan losses, net interest income, and net income of $29.5 million, $95.8 million, and $25.1 million, respectively.

30. On April 1, 2015, Bancorp announced that its previously-issued financial statements for the years ended December 31, 2012 and 2013 and the quarterly financial statements within those years and for the first three quarters of 2014 should no longer be relied upon. On September 28, 2015, Bancorp filed restated financial statements, reducing its net loans by $141 million as of December 31, 2013. In addition, the Company's provision for loan and leases losses increased by $28.9 million during 2013 and $90.5 million during 2012. As a result of the increased provisions, Bancorp reported net losses for both 2013 and 2012.

31. In connection with its restatement, Bancorp also disclosed the following two material weaknesses in its ICFR: (i) "Credit file maintenance and evaluation – We did not properly maintain credit files, including the evaluation of loan collateral and industry-specific information, relevant in determining the appropriate risk-ratings of our loans, in identifying the ultimate occurrence of loss events, and in calculating impairment under ASC 310 'Receivables'"; and (ii) "Discontinued Operations – Our controls were not effective in identifying the appropriate classification of items to be included as discontinued operations."

b. Applicable Auditing Standards

32. An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[26] Among other things, PCAOB

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[25] See ASC 310-10-40. For a description of the criteria for assessing whether a loan restructuring should be classified a TDR, see ASC 310-10-40. Once a loan is deemed to be a TDR, that loan is accounted for as an impaired loan and must be measured for impairment at each reporting period. See ASC 310-10-35.

[26] See AU § 508.07, *Reports on Auditing Financial Statements*.

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standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[27]

33. Management representations "are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[28] Under PCAOB standards "[t]he auditor neither assumes that management is dishonest nor assumes unquestioned honesty. In exercising professional skepticism, the auditor should not be satisfied with less than persuasive evidence because of a belief that management is honest."[29]

34. In designing the audit procedures to be performed, PCAOB auditing standards require that the auditor "[o]btain more persuasive audit evidence the higher the auditor's assessment of risk."[30] PCAOB standards further require that an auditor evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[31] The "auditor should take into account all relevant audit evidence, regardless of whether it appears to corroborate or to contradict the assertions in the financial statements."[32] Further, if audit evidence obtained from one source is inconsistent with that obtained from another, the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the

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[27] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230.01; Auditing Standard No. 15 ¶ 4, *Audit Evidence* ("AS No. 15").

[28] See AU § 333.02, *Management Representations.*

[29] See AU § 230.09.

[30] See AS No. 13, ¶ 9; see also Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That Is Integrated With An Audit of Financial Statements* ("AS No. 5"), ¶ 46 ("As the risk associated with a control being tested increases, the evidence that the auditor should obtain also increases.").

[31] See Auditing Standard No. 14, *Evaluating Audit Results* ("AS No. 14"), ¶ 2.

[32] See AS No. 14 ¶ 3.

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audit.[33] PCAOB standards further require the auditor to modify the overall audit strategy and the audit plan "if circumstances change significantly during the course of the audit, including changes due to a revised assessment of the risks of material misstatement."[34]

35. Under PCAOB auditing standards, the auditor is required to assess the sufficiency of substantive tests of details. When planning a sample for a substantive test of details, the auditor should individually examine "those items for which, in his judgment, acceptance of some sampling risk is not justified."[35]

36. PCAOB standards require that the auditor form an opinion on the effectiveness of ICFR based on the auditor's evaluation of evidence obtained from all sources, including the auditor's testing of controls, misstatements detected during the financial statement audit, and any identified control deficiencies.[36] In conducting an integrated audit, the auditor should design his or her testing of controls to obtain sufficient evidence to support 1) the auditor's opinion on ICFR and 2) the auditor's control risk assessment for purposes of the financial statement audit.[37]

37. If an auditor plans to assess control risk at less than the maximum, and modifies the nature, timing, and extent of planned substantive procedures based on that lower assessment, "the auditor must obtain evidence that the controls selected for testing are designed effectively and operated effectively during the entire period of reliance."[38] An auditor's assessment of control risk should include an evaluation of

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[33] See AS No. 15 ¶ 29; see also AU § 333.04 ("If a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made. Based on the circumstances, the auditor should consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified.").

[34] See Auditing Standard No. 9, *Audit Planning* ("AS No. 9"), ¶ 15.

[35] See AU § 350.21, *Audit Sampling*.

[36] See AS No. 5 ¶ 71.

[37] See AS No. 5 ¶ 7.

[38] See AS No. 13 ¶ 16. "A deficiency in design exists when (a) a control necessary to meet the control objective is missing or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective

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"evidence obtained from all sources, including the auditor's testing of controls for the audit of internal control and the audit of financial statements, misstatements detected during the financial statement audit, and any identified control deficiencies."[39] Auditors should also incorporate knowledge obtained in past audits of the issuer's ICFR into the decision-making process for determining the testing required during the current year audit.[40]

38. Auditors are required to assess control risk at the maximum for relevant assertions when controls necessary to address the risk of material misstatement are missing or ineffective, or when the auditor has failed to obtain sufficient appropriate evidence to support a control risk assessment below the maximum.[41] When an auditor identifies control deficiencies, PCAOB standards require that the auditor evaluate the severity of those deficiencies, and revise the control risk assessment and modify planned substantive procedures as necessary.[42]

39. When planning and performing audit procedures to evaluate accounting estimates, PCAOB standards require the auditor to "consider, with an attitude of professional skepticism, both the subjective and objective factors" on which management's estimate is based.[43] When management's estimate involves fair value measurements, the auditor must comply with PCAOB auditing standards concerning the

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would not be met." AS No. 5 Appx. A ¶ A3. "A deficiency in operation exists when a properly designed control does not operate as designed, or when the person performing the control does not possess the necessary authority or competence to perform the control effectively." Id.

[39] See AS No. 13 ¶ 32.

[40] See AS No. 5 ¶ 57.

[41] See AS No. 13 ¶ 33.

[42] See AS No. 13 ¶ 34; see also AS No. 5 ¶ 48 ("When the auditor identifies deviations from the company's controls, he or she should determine the effect of any deviations on his or her assessment of the risk associated with the control . . . and the evidence to be obtained, as well as the operating effectiveness of the control.")*.* The auditor is further required to determine whether the identified control deficiencies, individually or in combination, are material weaknesses. See AS No. 5 ¶ 62.

[43] See AU § 342.04, *Auditing Accounting Estimates.*

auditing of fair value measurements and disclosures.[44] Under those standards, when a fair value measurement, such as an appraisal, is dated prior to the relevant financial reporting date, the auditor is required to obtain "evidence that management has taken into account the effects of events, transactions, and changes in circumstances occurring between the date of the fair value measurement and reporting date."[45] The auditor also evaluates whether "[m]anagement's assumptions are reasonable and reflect, or are not inconsistent with, market information" and whether "[m]anagement used relevant information that was reasonably available at the time."[46]

40. As described below, Grant Thornton failed to comply with these and other PCAOB auditing standards in connection with the audit procedures it performed and the opinions it issued on the 2013 Bancorp audit.

c. Grant Thornton Violated PCAOB Rules and Auditing Standards

41. In planning the 2013 audit, Grant Thornton identified inadequate ALLL as a significant risk. Grant Thornton also identified as fraud risks additional allowance-related risks, including "charge-offs used to conceal theft" and "non-performing loans concealed by manipulation of records." Grant Thornton's engagement team assessed the inherent risk for the ALLL as high based on the subjectivity associated with the estimates and the potential for management bias. Grant Thornton's guidance also identified the heightened risk associated with the ALLL, as well as the "critical" role loan reviews and appraisal evaluations play in assessing the ALLL.

42. In planning its 2013 audit of Bancorp, Grant Thornton adopted a controls reliance approach to evaluating the reasonableness of the valuation of Bancorp's ALLL. As the audit progressed, the Firm failed to obtain sufficient appropriate audit evidence to support its assertion that Bancorp's controls over the valuation of the ALLL were designed and operating effectively. Specifically, Grant Thornton failed to properly test the design and operating effectiveness of Bancorp's loan review and collateral monitoring controls, as well as the operating effectiveness of Bancorp's controls over the maintenance of loan files and identification and measurement of impairment.

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[44] See AU § 328, *Auditing Fair Value Measurements and Disclosures*; see also *In re John J. Aesoph, CPA and Darren M. Bennett, CPA*, Rel. No. 34-78490, 2016 WL 4176930 (SEC Aug. 5, 2016).

[45] See AU § 328.25.

[46] See AU § 328.26.

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43. Furthermore, because Grant Thornton failed through its insufficient testing to identify deficiencies in Bancorp's ALLL-related controls, the Firm failed to reassess the appropriateness of its controls reliance approach, failed to assess the impact on the Firm's risk assessment, and failed to appropriately expand the scope of its substantive procedures to mitigate the risk of material misstatement arising from those control deficiencies.

44. In addition, in performing substantive procedures to test net loans and the reasonableness of the ALLL, Grant Thornton failed to perform sufficient procedures to support its conclusions related to its substantive loan reviews. Specifically, Grant Thornton failed to perform substantive loan review procedures on non-impaired individually significant loans and loans with "qualitative risk factors," because the engagement team failed to identify any loans meetings these definitions. Moreover, with respect to the loans Grant Thornton did review, the Firm failed to identify and address red flags and other contrary evidence that called into question the collectability of the loans and management's TDR determinations.

45. As a result, Grant Thornton failed to obtain sufficient appropriate audit evidence to support its opinions on Bancorp's 2013 financial statements and on the effectiveness of Bancorp's ICFR.

i. Grant Thornton failed to assess adequately the design and operating effectiveness of ALLL-related controls

46. In performing procedures to support its financial statement and ICFR opinions, PCAOB standards required Grant Thornton to test both the design effectiveness and operating effectiveness of controls that were "important to the auditor's conclusion about whether the company's controls sufficiently address[ed] the assessed risk of misstatement to each relevant assertion."[47]

47. During the 2013 Bancorp audit, Grant Thornton failed to obtain sufficient appropriate evidence that specific controls over estimates for which there was a risk of material misstatement were designed and operating effectively. Specifically, Grant Thornton failed to obtain sufficient appropriate evidence to support its conclusions that (a) Bancorp's controls over loan file reviews and monitoring collateral were designed and operating effectively and (b) Bancorp's controls over maintaining loan files and identifying and measuring impairment were operating effectively. Moreover, Grant

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[47] See AS No. 5 ¶ 39. To satisfy this requirement, Grant Thornton identified key controls for testing.

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Thornton failed to obtain sufficient appropriate evidence to support the team's assessment that control risk was low.

48. With respect to Bancorp's controls over its loan review function, which were critical to the calculation of the ALLL, Grant Thornton failed to perform appropriate procedures to develop a sufficient understanding of the duties of individuals and departments associated with the loan review process. In particular, despite Firm guidance that emphasized the importance of an independent loan review function, Grant Thornton failed to sufficiently assess the potential impact that certain individuals within the Bank's lending function had on the process for assigning risk ratings.

49. Further, despite evidence from the engagement team's testwork suggesting potentially ineffective controls, Grant Thornton failed to perform sufficient procedures to assess:

- the adequacy of the timing and scope of Bancorp's loan review control;
- the completeness of Bancorp's loan files; and
- whether Bancorp complied with its own credit policy with respect to obtaining updated appraisals, obtaining timely information from borrowers and guarantors, and perfecting collateral rights.

50. Grant Thornton likewise failed to properly assess whether Bancorp's controls related to monitoring collateral were designed and operating effectively. Specifically, Grant Thornton:

- failed to obtain a sufficient understanding of whether the appraisal or valuation requirements set forth in Bancorp's credit policy were designed appropriately; and
- failed to properly evaluate contrary evidence, such as reliance on stale appraisals, indicating that Bancorp's control for monitoring and updating collateral values was not operating effectively.

51. Grant Thornton also failed to perform sufficient procedures to support its conclusions that the controls relating to Bancorp's measurement of impairment were operating effectively. Despite having raised concerns about management's use of unsupported discounts on aged appraisals during the 2012 audit, Grant Thornton failed to obtain sufficient evidence that management's practice did not continue to exist in 2013. In fact, in reviewing the impairment calculation for one loan, Grant Thornton noted

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that Bancorp rejected a recent appraisal of the loan's collateral and, instead, relied on a 2007 appraisal discounted by five percent. Grant Thornton, however, failed to sufficiently assess whether Bancorp's actions demonstrated management bias or a control deficiency.

52. In light of the deficiencies in Grant Thornton's testing of the design and operating effectiveness of Bancorp's ALLL-related controls, the Firm failed to obtain sufficient appropriate evidence to support its controls reliance approach and related risk assessment. As a result, Grant Thornton failed to obtain sufficient appropriate evidence to support its financial statement and ICFR opinions.

ii. Grant Thornton violated PCAOB standards in evaluating net loans and the ALLL.

53. Grant Thornton's procedures to evaluate the reasonableness of the valuation of net loans and the ALLL likewise fell short of complying with PCAOB standards. Specifically, the small number of loans Grant Thornton reviewed was insufficient to address the risks presented by Bancorp's loan portfolio. Further, Grant Thornton failed to sufficiently consider red flags or contrary evidence indicating that loans were impaired and/or TDRs and relied on management representations without obtaining relevant and reliable evidence to corroborate those representations. As a result, Grant Thornton failed to comply with PCAOB standards, including those requiring it to exercise due professional care and professional skepticism, obtain sufficient appropriate audit evidence, evaluate whether it obtained sufficient audit evidence, and perform procedures to resolve questions concerning inconsistent audit evidence.[48]

The Firm's Loan Review Scope Failed to Respond to Known Risks

54. Grant Thornton's substantive loan review procedures, which consisted of reviewing a random sample of 25 loans and four individually significant impaired loans, fell short of providing the Firm with sufficient appropriate evidence to conclude on the reasonableness of Bancorp's reported net loans and ALLL.[49]

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[48] See AU §§ 230.01, 09; AU §§ 333.03-.04; AU § 350.21; AS No. 5 ¶ 71; AS No. 14 ¶¶ 2-3, 32-36; AS No. 15 ¶¶ 4, 7, 10, 29.

[49] Moreover, Grant Thornton failed to ensure that the sample it selected was representative of the population of loans. Of the 25 loans that the engagement team reviewed as part of its random sample, 20 were direct finance leases or daily rental

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55. Among other things, during the 2013 audit, the Firm:

- Substantively reviewed fewer loans than the previous year even though the engagement team acknowledged that there had been no change in the risk associated with Bancorp's loans from 2012;

- Failed to review any non-impaired individually significant loans or loans based on qualitative risk factors (a) despite having reviewed 64 individually significant loans during the 2012 audit; (b) despite having identified certain risky loans that the engagement team characterized variously as "sticky," and "problematic;" (c) despite knowing that certain loans—in fact, 30 percent of Bancorp's portfolio of Commercial Loans—had been originated prior to the 2008 financial crisis and presented a different risk profile as compared to loans that were originated afterwards; and (d) despite the Firm's own guidance requiring review of "[l]oans that me[t] certain qualitative risk characteristics;" and

- Failed to properly evaluate multi-loan lending relationships, even when cross collateralization or cross default provisions were present, thus failing to consider factors necessary to conclude on the risks presented by Bancorp's multi-loan relationships and on any necessary allowance.[50]

The Firm Failed to Respond to Red Flags and Contrary Evidence During its Loan Review Procedures

56. In performing its loan review procedures, Grant Thornton failed to identify or give appropriate weight to contradictory evidence indicating that loans were

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lines of credit even though together they only represented $195 million or 9.75 percent of the $2.0 billion loan portfolio as of December 31, 2013.

[50] Cross collateralization is a provision in a loan agreement that gives the lender the right to use the collateral from one loan to secure another loan. Cross default is a provision in a loan agreement that states a borrower is in default on the loan if the borrower defaults on another loan.

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improperly risk rated, impaired, and/or TDRs. In fact, during its 2013 loan reviews, Grant Thornton was aware of the following information:[51]

- For one loan that was part of a $17.8 million lending relationship, Grant Thornton had information that the borrower had insufficient income to service the interest payments on the loans yet concluded that the loans were not impaired because they were current. Grant Thornton did so despite clear indicators that the borrower was drawing on his line of credit with Bancorp to service the interest only payments on that same line of credit.

- For a second loan relationship, Grant Thornton concluded that the loans were not impaired despite the fact that two-thirds of the collateral securing certain of the loans had been sold and the borrower had not repaid any of the principal on those loans.

- On that same loan relationship, Grant Thornton concluded that the loans were not TDRs because the loans had not been modified and the borrower was not in financial distress. The Firm reached this conclusion even though its own work papers noted that, over the lives of these loans including during 2013, the loans had been modified or extended at least seven times, the borrower was diverting proceeds from the sale of collateral to service other loans, and there had been 18 late payments on one or more of the loans in the relationship.

- On a third lending relationship, Grant Thornton failed to expand its procedures to include all loans in the relationship despite clear indicators that other loans might be impaired. Significantly, Grant Thornton knew that the guarantor of one of the loans, who was also the borrower and/or guarantor across all loans in the relationship, had made only minimal payments, had been convicted in July 2012 for his role in a kickback scheme, and was serving a five-year prison sentence. Grant Thornton was also aware, through its review of another loan, that the guarantor's wife intended to repay the loan as part of a restructuring of the borrower's debt. Despite this

[51] During the restatement audit, Grant Thornton relied on this same information, among other information, to concur in management's conclusion that Bancorp's ALLL needed to be restated.

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knowledge, Grant Thornton failed to sufficiently consider whether this information might impact other loans in the relationship.

- For one loan within another relationship, Bancorp relied on a stale pre-financial crisis appraisal to value a borrower's reported equity interest in a Las Vegas casino.[52] Grant Thornton was aware the borrower had significantly reduced the value of his reported equity interests in the casino from $66 million to $20 million, yet the Firm again failed to assess whether Bancorp's use of the stale valuation indicated a potential impairment or control deficiency. [53]

The Firm Inappropriately Relied on Management Representations in Concluding on its Loan Review Procedures

57. Although Grant Thornton identified concealment of nonperforming loans as a fraud risk, the Firm, during its loan reviews, relied on management representations without obtaining sufficient evidence to corroborate such representations, even when the risk of possible management bias was present:

- For example, in one lending relationship, Grant Thornton relied on management's representation that a third party intended to purchase buildings serving as collateral for three of the borrower's loans and that the proceeds would be sufficient to repay all remaining loans. The Firm, however, failed to obtain a copy of the purported offer or any other reliable evidence to support management's representations that there was a willing buyer or that the proceeds would indeed be sufficient to repay the loans.

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[52] Grant Thornton also failed to perform any procedures to test whether Bancorp had perfected its interest in the borrower's collateral. Had Grant Thornton done so it would have learned Bancorp's collateral rights were worthless as the company that owned the Las Vegas casino had folded in 2012 and filed for bankruptcy in 2013.

[53] Although PCAOB standards required Grant Thornton to evaluate control deficiencies identified during its substantive procedures, the Firm failed to identify and evaluate control deficiencies that were evident during its substantive procedures. See AS No. 5 ¶ 71 (auditors are required to evaluate evidence obtained from all sources, including any control deficiencies identified during the audit, when forming an opinion on the effectiveness of ICFR).

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- In another lending relationship, Bancorp, in measuring the necessary specific reserves, discounted a recovery strategy firm's valuation of commissions receivable (the collateral for the loans) by 30 percent. Grant Thornton concluded the specific reserves were reasonable yet failed to perform any procedures to assess the recovery strategy firm's valuation of the commissions receivable and further failed to obtain any evidence to corroborate management's 30 percent discount.[54]

The Firm Failed to Identify and Evaluate Potential TDRs

58. Grant Thornton likewise failed to design and perform audit procedures to sufficiently address the risk of misstatement posed by a previously recognized TDR-related control deficiency. Because of the associated heightened risk, Grant Thornton was required to obtain more persuasive evidence to support the completeness assertion associated with Bancorp's TDR disclosures.[55]

59. Grant Thornton, however, failed to identify and include any loans modified during the first nine months of 2013 in its population of loans subject to substantive TDR completeness procedures. Indeed, Grant Thornton limited the population of loans subject to test work because of the change in controls Bancorp implemented during

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[54] Even though Bancorp engaged the recovery strategy firm to provide a valuation, and then used that valuation for purposes of calculating a specific reserve that Grant Thornton also used as evidence to support the reserve, the Firm failed to identify the firm as a specialist. Accordingly, the Firm violated AU § 336, *Using the Work of a Specialist*, because it failed to (a) evaluate the professional qualifications of the recovery strategy firm engaged by Bancorp; (b) develop an understanding of the methods and assumptions used by the recovery strategy firm; and (c) test the data Bancorp provided to the recovery strategy firm. See AU §§ 336.08-.09, .12 (when an auditor uses the work of a specialist as audit evidence, the auditor is required, among other things, to "consider the ... professional qualifications of the specialist in determining that the specialist possesses the necessary skill or knowledge in the particular field," obtain an understanding of the methods and assumptions used by the specialist, and conduct "appropriate tests of data provided to the specialist").

[55] For a description of the requirements related to the design of auditing procedures to respond to the auditor's assessment of risk, see AS No. 13 ¶ 9; see also AS No. 5 ¶¶ 57-58.

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October 2013. Thus, Grant Thornton failed to performed sufficient substantive testing to ensure that Bancorp's identification of TDRs for 2013 was complete.

60. Grant Thornton also failed to appropriately evaluate whether there was evidence that certain loans should have been classified as TDRs. As discussed above, in performing its loan review procedures, Grant Thornton failed to appropriately evaluate whether there was evidence that certain loans should have been classified as TDRs.

iii. Grant Thornton violated audit documentation requirements

61. Grant Thornton also violated PCAOB auditing standards that required it to assemble for retention (referred to herein as "archive") a complete and final set of work papers (a) within 45 days of the release of its audit report; and (b) within 45 days of substantially completing field work for each of its quarterly reviews.[56] Specifically, Grant Thornton failed to (i) archive the first quarter 2012 and 2013 Bancorp quarterly review work papers and (ii) timely archive the 2013 Bancorp audit work papers. Then, Grant Thornton violated the Board's documentation standard by (a) making modifications to the 2013 audit work papers after the documentation completion date; and (b) making additions to the 2013 audit work papers after the documentation completion date, without properly identifying those additions in accordance with PCAOB standards.[57]

62. PCAOB standards also require that audit documentation contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to determine who performed the work and the date such work was

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[56] See Auditing Standard No. 3, *Audit Documentation*, ¶ 15; see also *Audit Documentation and Amendment to Interim Auditing Standards*, PCAOB Release 2004-006, at 9 (June 9, 2004).

[57] PCAOB audit documentation standards provide that, after the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding the documentation. See AS No. 3 ¶ 16. Although Grant Thornton's audit documentation software includes a report that is designed to identify all additions made to the work papers after the documentation completion date, the 2013 engagement team failed to timely input the report release date for the audit and, therefore, additions to the work papers were not properly documented in the Firm's report.

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completed.[58] To assist engagement team members in complying with this requirement, Grant Thornton's audit software permits more than one person to sign off as preparer for a work paper and permits individuals to sign off on behalf of someone else. Despite the requirements of PCAOB standards and the functionality of the Firm's software, the audit in-charge signed off as the sole preparer on a significant number of work papers for which she did not perform any procedures other than opening the work paper, skimming it to confirm it was complete, and attaching it to the audit file. Of particular significance, one engagement team member signed off as the sole preparer for all but four of the loan reviews performed as part of the Firm's control testing; however, she did not actually perform any procedures on those loan reviews beyond opening them and checking to see if they appeared complete and that the conclusions did not contradict the information she skimmed. Accordingly, Grant Thornton violated PCAOB audit documentation standards because certain 2013 audit work papers failed to accurately indicate who performed certain work.

iv. Grant Thornton failed to appropriately evaluate facts discovered subsequent to its 2013 integrated audit report.

63. PCAOB standards require an auditor to take certain steps when, after the auditor's report, the auditor becomes aware of information that relates to the financial statements and/or ICFR that it was not aware of at the time it issued an audit report and which is of such a nature and from a source that the auditor would have investigated it had it come to the auditor's attention during the course of the audit.[59] Grant Thornton violated these standards, during the first and third quarters of 2014.

64. Prior to the restatement, during the first quarter of 2014, Bancorp recorded provisions for loan and lease losses totaling $17.3 million primarily due to three large commercial loans. At that time, Grant Thornton learned, in connection with the first quarter provision taken for one relationship, that the borrower had entered into a settlement agreement with Bancorp. Grant Thornton, however, failed to sufficiently consider whether the facts related to the settlement agreement, which led to the provision, occurred prior to the audit report date. Indeed, during the first quarter review, Grant Thornton failed to sufficiently consider whether those newly learned facts should have caused an earlier impairment, particularly given that it had previously known that the borrower's wife had requested, prior to December 31, 2013, that the loan

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[58] See AS No. 3 ¶ 6.

[59] See AU §§ 561.04-.05, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*; AS No. 5 ¶ 98.

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relationship be restructured. Likewise, when Grant Thornton learned that Bancorp had received a new appraisal for collateral securing several of the loans, it failed to inquire as to when the appraisal was received and failed to sufficiently consider whether it was appropriate to record the additional provisions and related charge-offs prior to December 31, 2013.

65. Grant Thornton further violated PCAOB standards when it failed to sufficiently consider whether information presented in a third-party consultant report[60] indicated the existence of ALLL-related control deficiencies and possible unrecorded loan impairments as of December 31, 2013.[61] The report, which Grant Thornton obtained as part of its third quarter 2014 review procedures, noted that Bancorp's risk ratings tended to congregate too much in a specific Pass category, that the information in Bancorp's loan files was often incomplete, and that the amount of follow-up credit monitoring was limited in practice. The report recommended that a significant number of risk ratings be downgraded. The third-party that prepared the report ultimately calculated an expected material loss based primarily on the credit risk associated with the loans. Grant Thornton, however, failed to sufficiently assess whether the report's findings were based on facts that existed at or before December 31, 2013. Grant Thornton further failed to properly consider whether the report's conclusions were an indication that Bancorp's risk ratings as of December 31, 2013 were incorrect or that the ALLL might have been materially understated as of year-end.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. In determining to accept Respondent's Offer, the Board considered efforts that the Firm has taken since the assignments of the Bancorp Engagement Partner and Partner A to the two issuer audits discussed above to enhance its system of quality control, including but not limited to: implementing changes to its process for assigning professionals to engagements, including placing a greater emphasis on assessing individual workloads of engagement partners; establishing requirements and

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[60] Bancorp retained a third-party consultant to conduct a review and valuation of its commercial lending portfolio in connection with its decision in the third quarter of 2014 to discontinue its commercial lending operations.

[61] Under AS No. 5 ¶ 98, auditors are required, consistent with AU § 561, to evaluate subsequently discovered facts that may have impacted their ICFR report.

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guidance designed to improve partner involvement in critical aspects of audits; and installing professionals who formerly held quality-related roles in leadership positions in the Philadelphia office region. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Grant Thornton LLP is hereby censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,500,000 is imposed upon Grant Thornton LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Grant Thornton LLP shall pay the civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the payor as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), for a period of one year from the date of this order, Grant Thornton LLP shall arrange for a member of the Firm's National Professional Practice Department to conduct a pre-issuance quality control monitoring review of the audit work for each issuer audit for a financial services client in which the Firm's Philadelphia office prepares or issues an audit report or plays a substantial role in the preparation or issuance of an audit report.[62] The purpose of such pre-issuance review shall be to support the Firm in identifying deficiencies, if any, in the application of PCAOB rules or

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[62] For purposes of Grant Thornton's remedial actions, financial services client includes any bank, broker, dealer, asset management company, insurance company, real estate investment trust, or issuer with a material loan portfolio.

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standards, and adequately addressing those deficiencies prior to the issuance of the audit report; and

D. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), for a period of one year from the date of this order, Grant Thornton LLP shall assign a financial services designated engagement quality reviewer from an office other than Philadelphia to each issuer audit that the Firm's Philadelphia office performs for a financial services client; and

E. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(6), Grant Thornton LLP shall provide, within one year from the date of this order, additional financial services related professional education and training, covering among other topics the allowance for loan and lease losses, to associated persons in its Philadelphia office that are assigned to one or more financial services issuer audits; and

F. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Grant Thornton LLP is required within 400 days from the date of this Order, to have Grant Thornton LLP's Chief Executive Officer certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C through E above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 19, 2017

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of David M. Burns, CPA,* *Respondent.*	PCAOB Release No. 105-2017-055 December 19, 2017

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is: (1) censuring David M. Burns, CPA ("Burns" or "Respondent"); (2) barring Burns from being an associated person of a registered public accounting firm;[1] (3) if Burns is permitted to associate once again with any registered public accounting firm, limiting his activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), until two (2) years from the date of this Order, by prohibiting Burns from serving in certain capacities in any audit as described in Section IV herein; and (4) imposing on Burns a civil money penalty in the amount of $15,000.

The Board is imposing these sanctions on the basis of its findings that Burns violated PCAOB rules and auditing standards in connection with the integrated audit of The Bancorp, Inc.'s December 31, 2013 financial statements and internal control over financial reporting ("ICFR").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has

[1] Burns may petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. David M. Burns, age 58, of Glen Mills, Pennsylvania, is a certified public accountant licensed by the Pennsylvania State Board of Accountancy (License No. CA022856L). Burns joined Grant Thornton LLP ("Grant Thornton") in 1986 and became an audit partner in the Firm's Philadelphia office in 1998. Burns was the engagement partner on Grant Thornton's audit of the December 31, 2013 financial statements and ICFR of The Bancorp, Inc. ("Bancorp" or "Company") and its reviews of Bancorp's March 31, 2014 and June 30, 2014 financial statements. Burns, as engagement partner, authorized the issuance of Grant Thornton's audit report containing an unqualified opinion on Bancorp's December 31, 2013 financial statements and ICFR. At all relevant times, Burns was an audit partner in the Philadelphia office of Grant Thornton and an associated person of a registered public accounting firm as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Burns retired from Grant Thornton effective July 31, 2016.

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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B. Relevant Entities

2. Grant Thornton LLP is a limited liability partnership organized under the laws of the state of Illinois, and headquartered in Chicago, Illinois. Grant Thornton registered with the Board on September 24, 2003, pursuant to Section 102 of the Act and PCAOB rules.[4] Grant Thornton has served as Bancorp's independent auditor since 2000.

3. The Bancorp, Inc., the holding company for The Bancorp Bank (the "Bank"), is a corporation based in Delaware and a registered financial holding company. The Company's business is primarily conducted through its principal subsidiary, the Bank, a Delaware chartered commercial bank based in Wilmington, Delaware.

4. Bancorp is subject to supervision and regulation by the Federal Reserve, the Delaware Office of the State Bank Commissioner, and the Federal Deposit Insurance Corporation. At all relevant times, Bancorp's common stock was registered under Section 12(b) of the Securities Exchange Act of 1934 and was traded on the NASDAQ under the symbol TBBK. At all relevant times, Bancorp was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Burns's violations of PCAOB rules and auditing standards in connection with the audits of Bancorp's December 31, 2013 financial statements and ICFR ("2013 audit"). Specifically, Burns, among other things, failed to properly supervise the engagement team, failed to exercise due professional care, including appropriate professional skepticism, and failed to obtain sufficient appropriate audit evidence concerning the reported value of Bancorp's net loans, the effectiveness of Bancorp's controls relating to its allowance for loan and lease losses ("ALLL"), and the reasonableness of Bancorp's ALLL – a known significant risk and significant accounting estimate. As a result of his failure to perform the audit in conformity with PCAOB standards, Burns lacked an appropriate basis to authorize the issuance of Grant Thornton's unqualified opinion on Bancorp's 2013 financial statements and ICFR.

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[4] See *Grant Thornton LLP*, PCAOB Release No. 105-2017-054 (Dec. 19, 2017) (finding that Grant Thornton violated PCAOB rules, quality control standards, and auditing standards). Grant Thornton's violations of PCAOB rules and standards do not excuse Burns's failures in connection with the supervision and execution of the 2013 audit of Bancorp.

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6. On April 1, 2015, Bancorp announced that its previously issued financial statements for the years ended December 31, 2012 and 2013 and the quarterly financial statements within those years and for the first three quarters of 2014 should no longer be relied on because certain provisions for loan losses related to commercial loans were taken in incorrect periods. Ultimately, the restatement resulted in a $141 million reduction in Bancorp's net loans as of December 31, 2013, as well as increases in Bancorp's provision for loan and leases losses of $28.9 million (or 98 percent) during 2013 and $90.5 million (or 403 percent) during 2012, respectively.[5]

D. Burns Violated PCAOB Rules and Auditing Standards in Performing the 2013 Audit of Bancorp's Financial Statements and ICFR.[6]

a. Background

7. Prior to September 30, 2014, Bancorp, through the Bank, originated loans to commercial customers with whom it had established banking relationships. Those loans took the form of commercial term loans and lines of credit, commercial mortgages, and construction, acquisition, and development loans (collectively "Commercial Loans"). At December 31, 2013, Bancorp originally reported total assets of $4.7 billion, including $2.0 billion in loans. Commercial Loans constituted $1.3 billion or 68 percent of Bancorp's loan portfolio.

8. To reflect the inherent credit risk associated with its loan portfolio, Bancorp recorded an ALLL to cover probable losses that existed in the loan portfolio as of each period end. Bancorp's ALLL comprised two components, specific reserves based on potential losses on individually classified loans, and a general loss reserve for non-classified loans. Bancorp calculated the specific reserve portion of the ALLL by first

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[5] Although Bancorp initially announced that the restatement would impact only its December 31, 2012 and 2013 financial statements, the Company ultimately restated its December 31, 2010 and 2011 financial statements as well.

[6] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audit or review. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017), https://pcaobus.org/Standards/Auditing/Documents/ReorganizedandPreReorganizedNumbering.pdf.

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identifying problem loans or leases through delinquency monitoring and loan file reviews. For loans risk rated special mention or below, Bancorp analyzed the "most probable sources of repayment and liquidation of collateral" to assess whether a reserve was required. To the extent the expected cash flows or fair value of collateral was less than the loan balance, Bancorp established an impairment reserve.[7]

9. Bancorp calculated its general reserve portion of the ALLL based on the application of historical loss experience and other factors to pools of loans with similar characteristics. Bancorp then adjusted the general reserve to reflect current economic conditions, current loan portfolio performance, loan concentrations, and other factors identified by management.[8] Burns understood that the loss experience or loss factors Bancorp used to calculate the general reserve were determined by calculating historical charge-off rates for each type of loan by risk rating. Burns also understood that Bancorp's loan risk ratings were determined based on delinquency status and/or Bancorp's loan review process. In determining its ALLL, as well as for disclosure purposes, Bancorp needed to determine whether a loan should be classified as a troubled debt restructuring ("TDR"). Such a classification was appropriate if Bancorp, in the course of restructuring a loan, "for economic or legal reasons related to the [borrower's] financial difficulties grant[ed] a concession to the [borrower] that it would not otherwise consider."[9] Accordingly, as Burns was aware, Bancorp relied on its loan review process, risk ratings, and appraisals to calculate and assess the sufficiency of its ALLL, including to determine whether a loan should be classified as a TDR.

10. At December 31, 2013, Bancorp originally reported an ALLL of $38.2 million, $35.6 million of which was allocated to Commercial Loans. For 2013, Bancorp originally reported a provision for loan losses, net interest income, and net income of $29.5 million, $95.8 million, and $25.1 million, respectively.

11. On April 1, 2015, Bancorp announced that its previously issued financial statements for the years ended December 31, 2012 and 2013 and the quarterly financial statements within those years and for the first three quarters of 2014 should no

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[7] See Bancorp Form 10-K, at 51-52 (Mar. 17, 2014).

[8] See id.

[9] See ASC 310-10-40. For a description of the criteria for assessing whether a loan restructuring should be classified a TDR, see ASC 310-10-40. Once a loan is deemed to be a TDR, that loan is accounted for as an impaired loan and must be measured for impairment at each reporting period. See ASC 310-10-35.

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longer be relied upon. On September 28, 2015, Bancorp filed restated financial statements, reducing its net loans by $141 million as of December 31, 2013. In addition, the Company's provision for loan and leases losses increased by $28.9 million during 2013 and $90.5 million during 2012. As a result of the increased provisions, Bancorp reported net losses for both 2013 and 2012.

12. In connection with its restatement, Bancorp also disclosed the following two material weaknesses in its ICFR: (i) "Credit file maintenance and evaluation – We did not properly maintain credit files, including the evaluation of loan collateral and industry-specific information, relevant in determining the appropriate risk-ratings of our loans, in identifying the ultimate occurrence of loss events, and in calculating impairment under ASC 310 'Receivables'"; and (ii) "Discontinued Operations – Our controls were not effective in identifying the appropriate classification of items to be included as discontinued operations."

b. Applicable PCAOB Rules and Auditing Standards

13. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[10] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[11] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[12]

14. The engagement partner is responsible for the engagement and therefore is "responsible for proper supervision of the work of engagement team members and for compliance with PCAOB standards."[13] As part of those responsibilities, the engagement

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[10] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[11] See AU § 508.07, *Reports on Auditing Financial Statements*.

[12] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230.01, *Due Professional Care in the Performance of Work*; Auditing Standard No. 15 ¶ 4, *Audit Evidence* ("AS No. 15").

[13] See Auditing Standard No. 10, *Supervision of the Audit Engagement* ("AS No. 10"), ¶ 3.

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partner is required to (i) inform engagement team members of their responsibilities, (ii) direct engagement team members to bring significant accounting and auditing issues to his attention, and (iii) review the work of engagement team members to evaluate whether: (1) the work was performed and documented; (2) the objectives of the procedures were achieved; and (3) the results of the work supported the conclusions reached.[14] In determining the extent of supervision necessary, Burns was also required to take into account (i) the nature of the company, (ii) the nature of the assigned work, (iii) the risks of material misstatement, and (iv) the knowledge, skill, and ability of each engagement team member.[15]

15. Management representations "are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[16] Under PCAOB standards "[t]he auditor neither assumes that management is dishonest nor assumes unquestioned honesty. In exercising professional skepticism, the auditor should not be satisfied with less than persuasive evidence because of a belief that management is honest."[17]

16. In designing the audit procedures to be performed, PCAOB auditing standards require that the auditor "[o]btain more persuasive audit evidence the higher the auditor's assessment of risk."[18] PCAOB standards further require that an auditor evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[19] The "auditor should take into account all relevant audit evidence, regardless of

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[14] See AS No. 10 ¶ 5.

[15] See AS No. 10 ¶ 6.

[16] See AU § 333.02, *Management Representations.*

[17] See AU § 230.09.

[18] See Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement*, ¶ 9; see also Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That Is Integrated With An Audit of Financial Statements* ("AS No. 5"), ¶ 46 ("As the risk associated with a control being tested increases, the evidence that the auditor should obtain also increases.").

[19] See Auditing Standard No. 14, *Evaluating Audit Results* ("AS No. 14"), ¶ 2.

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whether it appears to corroborate or to contradict the assertions in the financial statements."[20] Further, if audit evidence obtained from one source is inconsistent with that obtained from another, the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit.[21] PCAOB standards further require the auditor to modify the overall audit strategy and the audit plan "if circumstances change significantly during the course of the audit, including changes due to a revised assessment of the risks of material misstatement."[22]

17. Under PCAOB auditing standards, the auditor is required to assess the sufficiency of substantive tests of details. When planning a sample for a substantive test of details, the auditor should individually examine "those items for which, in his judgment, acceptance of some sampling risk is not justified."[23]

18. PCAOB standards require that the auditor form an opinion on the effectiveness of ICFR based on the auditor's evaluation of evidence obtained from all sources, including the auditor's testing of controls, misstatements detected during the financial statement audit, and any identified control deficiencies.[24] In conducting an integrated audit, the auditor should design his or her testing of controls to obtain sufficient evidence to support 1) the auditor's opinion on ICFR and 2) the auditor's control risk assessment for purposes of the financial statement audit.[25]

19. If an auditor plans to assess control risk at less than the maximum, and modifies the nature, timing, and extent of planned substantive procedures based on that

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[20] See AS No. 14 ¶ 3.

[21] See AS No. 15 ¶ 29; see also AU § 333.04 ("If a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made. Based on the circumstances, the auditor should consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified.").

[22] See Auditing Standard No. 9, *Audit Planning* ("AS No. 9"), ¶ 15.

[23] See AU § 350.21, *Audit Sampling*.

[24] See AS No. 5 ¶ 71.

[25] See AS No. 5 ¶ 7.

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lower assessment, "the auditor must obtain evidence that the controls selected for testing are designed effectively and operated effectively during the entire period of reliance."[26] An auditor's assessment of control risk should include an evaluation of "evidence obtained from all sources, including the auditor's testing of controls for the audit of internal control and the audit of financial statements, misstatements detected during the financial statement audit, and any identified control deficiencies."[27] Auditors should also incorporate knowledge obtained in past audits of the issuer's ICFR into the decision-making process for determining the testing required during the current year audit.[28]

20. Auditors are required to assess control risk at the maximum for relevant assertions when controls necessary to address the risk of material misstatement are missing or ineffective, or when the auditor has failed to obtain sufficient appropriate evidence to support a control risk assessment below the maximum.[29] When an auditor identifies control deficiencies, PCAOB standards require that the auditor evaluate the severity of those deficiencies, and revise the control risk assessment and modify planned substantive procedures as necessary.[30]

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[26] See AS No. 13 ¶ 16. "A deficiency in design exists when (a) a control necessary to meet the control objective is missing or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met." AS No. 5 Appx. A ¶ A3. "A deficiency in operation exists when a properly designed control does not operate as designed, or when the person performing the control does not possess the necessary authority or competence to perform the control effectively." Id.

[27] See AS No. 13 ¶ 32.

[28] See AS No. 5 ¶ 57.

[29] See AS No. 13 ¶ 33.

[30] See AS No. 13 ¶ 34; see also AS No. 5 ¶ 48 ("When the auditor identifies deviations from the company's controls, he or she should determine the effect of any deviations on his or her assessment of the risk associated with the control . . . and the evidence to be obtained, as well as the operating effectiveness of the control.*")*. The auditor is further required to determine whether the identified control deficiencies, individually or in combination, are material weaknesses. See AS No. 5 ¶ 62.

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21. When planning and performing audit procedures to evaluate accounting estimates, PCAOB standards require the auditor to "consider, with an attitude of professional skepticism, both the subjective and objective factors" on which management's estimate is based.[31] When management's estimate involves fair value measurements, the auditor must comply with PCAOB auditing standards concerning the auditing of fair value measurements and disclosures.[32] Under those standards, when a fair value measurement, such as an appraisal, is dated prior to the relevant financial reporting date, the auditor is required to obtain" evidence that management has taken into account the effects of events, transactions, and changes in circumstances occurring between the date of the fair value measurement and reporting date."[33] The auditor also evaluates whether "[m]anagement's assumptions are reasonable and reflect, or are not inconsistent with, market information" and whether "[m]anagement used relevant information that was reasonably available at the time."[34]

22. As described below, Burns failed to comply with these and other PCAOB auditing standards in connection with the audit procedures performed and the opinions he authorized on the 2013 Bancorp audit.

c. Burns Violated PCAOB Rules and Auditing Standards

23. In planning the 2013 audit, Burns identified inadequate ALLL as a significant risk. Burns also identified as fraud risks additional allowance related risks, including "charge-offs used to conceal theft" and "non-performing loans concealed by manipulation of records." Burns assessed the inherent risk for the ALLL as high based on the subjectivity associated with the estimates and the potential for management bias. Grant Thornton's guidance also identified the heightened risk associated with the ALLL, as well as the "critical" role loan reviews and appraisal evaluations play in assessing the ALLL.

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[31] See AU § 342.04, *Auditing Accounting Estimates.*

[32] See AU § 328, *Auditing Fair Value Measurements and Disclosures*; see also *In re John J. Aesoph, CPA and Darren M. Bennett, CPA*, Rel. No. 34-78490, 2016 WL 4176930 (SEC Aug. 5, 2016).

[33] See AU § 328.25.

[34] See AU § 328.26.

ORDER

24. In planning the 2013 audit of Bancorp, Burns adopted a controls reliance approach to auditing the reasonableness of the valuation of Bancorp's ALLL. As the audit progressed, Burns failed to obtain sufficient appropriate audit evidence to support his assertion that Bancorp's controls over the valuation of the ALLL were designed and operating effectively. Specifically, Burns failed to properly test, or ensure the engagement team properly tested, the design and operating effectiveness of Bancorp's loan review and collateral monitoring controls, as well as the operating effectiveness of Bancorp's controls over the maintenance of loan files and identification and measurement of impairment.

25. Furthermore, because Burns failed through its insufficient testing to identify deficiencies in Bancorp's ALLL-related controls, he failed to reassess the appropriateness of his controls reliance approach, failed to assess the impact on his risk assessment, and failed to appropriately expand the scope of the substantive procedures to mitigate the risk of material misstatement arising from those control deficiencies.

26. In addition, in performing substantive procedures to test net loans and the reasonableness of the ALLL, Burns failed to perform, or ensure the engagement team performed, sufficient procedures to support his conclusions related to the substantive loan reviews. Specifically, Burns failed to perform, or ensure his staff performed, substantive loan review procedures on non-impaired individually significant loans and loans with qualitative risk factors," because the engagement team failed to identify any loans meetings these definitions. Moreover, with respect to the loans Burns and the engagement team did review, Burns failed to identify and address red flags and other contrary evidence that called into question the collectability of the loans and management's TDR determinations.

27. Burns's violations stemmed from, among other things, his failure to reasonably supervise and review the work of engagement team members. Burns delegated many of his supervisory responsibilities to the senior manager, yet failed to develop a sufficient understanding as to how the senior manager carried out those duties. Burns then failed to properly review the work of inexperienced team members.

28. As a result, Burns failed to obtain sufficient appropriate audit evidence to support Grant Thornton's opinions on Bancorp's 2013 financial statements and on the effectiveness of Bancorp's ICFR. Burns's substantial audit experience, which spanned

three decades, makes his failure to conduct the 2013 Bancorp audit in accordance with PCAOB standards especially troubling.[35]

i. Assignment of Significant Engagement Responsibilities

29. Burns violated PCAOB auditing standards by failing to properly supervise and review the work of the engagement team.[36] Burns, as engagement partner, was responsible for the assignment of tasks to, and supervision of, the members of the engagement team and, as permitted, Burns sought the assistance of the senior manager on the engagement in fulfilling those responsibilities. Among other tasks, Burns delegated to the senior manager the responsibility for assigning test work to the staff on the engagement. Burns, however, failed to properly supervise the senior manager and failed to develop a sufficient understanding of who was performing which audit procedures or the skills of the individuals performing the procedures.

30. Despite the risks associated with Bancorp's ALLL and ALLL-related controls, the senior manager assigned the responsibility for performing test work over highly subjective areas, including the assignment of risk ratings, the identification and quantification of impairment, the identification of TDRs, and the evaluation of appraisals, to staff with little to no prior experience in auditing the ALLL for a financial services company. Indeed, the senior manager was aware that the junior staff lacked experience to draw certain audit conclusions, as he acknowledged in an email to Burns during the audit: "[T]he staff in the field are too inexperienced to understand what they've already done in order to draw connections between the different procedures and risks."

31. Burns further violated PCAOB auditing standards because he failed to inform engagement team members of their responsibilities. Burns did not instruct the staff as to which procedures to perform, the objectives of those procedures, or how the procedures should be performed. Instead, Burns again relied on the senior manager but failed to develop a sufficient understanding of the instructions the senior manager provided to the staff.

32. Burns also violated PCAOB standards by failing to properly assess the extent of supervision necessary for engagement team members to perform their work

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[35] See *In re Gregory M. Dearlove, CPA*, Rel. No. 34-57244, 2008 WL 281105, at *30 and n. 119 (SEC Jan. 31, 2008).

[36] See AS No. 10 ¶¶ 3, 5, 6.

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and form appropriate conclusions.[37] Specifically, Burns failed to adequately take into account the knowledge, skill, and ability of each engagement team member, the nature of the assigned work, and the risks of material misstatement. In particular, Burns failed to appropriately increase his level of supervision in response to the relative inexperience of the engagement team.[38]

33. Burns then failed to sufficiently review the work of the engagement team to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[39] In fact, Burns failed to document that he performed any review of control test work over the ALLL, even though he had identified it as a significant risk. Moreover, to the extent Burns did review work papers, he failed to review them at a level sufficient to identify the significant problems that the 2013 audit work papers contained, including factual inaccuracies, conclusions not supported by sufficient appropriate evidence, various red flags, contrary audit evidence, and indications that audit procedures had not been properly performed.

34. Burns's failure to properly supervise and review the work of staff on the 2013 audit occurred despite his having previously received criticism for similar failures. In his fiscal year 2012 performance appraisal, Burns received negative comments from a member of Grant Thornton's National Professional Practice Director Group, who criticized him for over-relying on his senior managers and for failing to delve deeply enough into audit work papers.[40] As a result, in Burns's fiscal year 2014 performance goals, the Audit Practice Leader identified increased supervision and more in-depth and timely review as areas of focus for Burns. Accordingly, Burns knew of the need to improve his supervision of staff and his review of audit work papers, but failed to do so. Indeed, Burns reviewed only a small number of work papers until late in the audit and did not take sufficient time to complete his work paper review.

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[37] See AS No. 10 ¶ 6.

[38] During the prior year audit, the Bancorp engagement team included an experienced senior manager, experienced manager, and experienced in-charge who had been on the audit since 2008. In contrast, the 2013 engagement team included the experienced senior manager but no manager and a brand new in-charge who had never served as an in-charge on a completed audit of either a public company or a bank.

[39] See AS No. 10 ¶ 5.

[40] Grant Thornton's fiscal year runs from August 1 to July 31.

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35. Burns's failure to properly supervise and review the work of the engagement team contributed significantly to the audit failures described below.

ii. Burns Failed to Assess Adequately the Design and Operating Effectiveness of ALLL-Related Controls

36. In performing procedures to support the financial statement and ICFR opinions, PCAOB standards required Burns to test both the design effectiveness and operating effectiveness of controls that were "important to the auditor's conclusion about whether the company's controls sufficiently address[ed] the assessed risk of misstatement to each relevant assertion."[41]

37. During the 2013 Bancorp audit, Burns failed to obtain sufficient appropriate evidence that specific controls over estimates for which there was a risk of material misstatement were designed and operating effectively. Specifically, Burns failed to obtain sufficient appropriate evidence to support his conclusions that (a) Bancorp's controls over loan file reviews and monitoring collateral were designed and operating effectively and (b) Bancorp's controls over maintaining loan files and identifying and measuring impairment were operating effectively. Moreover, Burns failed to obtain sufficient appropriate evidence to support the team's assessment that control risk was low.

38. With respect to Bancorp's controls over its loan review function, which were critical to the calculation of the ALLL, Burns failed to ensure that the engagement team performed appropriate procedures to develop a sufficient understanding of the duties of individuals and departments associated with the loan review process. In particular, despite Firm guidance that emphasized the importance of an independent loan review function, Burns failed to sufficiently assess the potential impact that certain individuals within the Bank's lending function had on the process for assigning risk ratings.

39. Further, despite evidence from the engagement team's testwork suggesting potentially ineffective controls, Burns failed to perform, or ensure the engagement team performed, sufficient procedures to assess:

- the adequacy of the timing and scope of Bancorp's loan review control;

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[41] See AS No. 5 ¶ 39. To satisfy this requirement, Burns and the engagement team identified key controls for testing.

ORDER

- the completeness of Bancorp's loan files; and

- whether Bancorp complied with its own credit policy with respect to obtaining updated appraisals, obtaining timely information from borrowers and guarantors, and perfecting collateral rights.

40. Burns likewise failed to properly assess whether Bancorp's controls related to monitoring collateral were designed and operating effectively. Specifically, Burns:

- failed to obtain a sufficient understanding of whether the appraisal or valuation requirements set forth in Bancorp's credit policy were designed appropriately; and

- failed to properly evaluate contrary evidence, such as reliance on stale appraisals, indicating that Bancorp's control for monitoring and updating collateral values was not operating effectively.

41. Burns and the engagement team also failed to perform sufficient procedures to support their conclusions that the controls relating to Bancorp's measurement of impairment were operating effectively. Despite having raised concerns about management's use of unsupported discounts on aged appraisals during the 2012 audit, Burns and the engagement team failed to obtain sufficient evidence that management's practice did not continue to exist in 2013. In fact, in reviewing the impairment calculation for one loan, the engagement team noted that Bancorp rejected a recent appraisal of the loan's collateral and, instead, relied on a 2007 appraisal discounted by five percent. Burns and the engagement team, however, failed to sufficiently assess whether Bancorp's actions demonstrated management bias or a control deficiency.

42. In light of the deficiencies in the testing of the design and operating effectiveness of Bancorp's ALLL-related controls, Burns failed to obtain, or ensure the engagement team obtained, sufficient appropriate evidence to support the team's controls reliance approach and related risk assessment. As a result, Burns failed to obtain sufficient appropriate evidence to support Grant Thornton's financial statement and ICFR opinions.

iii. Burns Violated PCAOB Standards in Evaluating Net Loans and the ALLL

43. The engagement team's procedures to evaluate the reasonableness of the valuation of net loans and the ALLL likewise fell short of complying with PCAOB

ORDER

standards. Specifically, the small number of loans Burns and the engagement team reviewed was insufficient to address the risks presented by Bancorp's loan portfolio.

44. Further, Burns failed to sufficiently consider red flags or contrary evidence indicating that loans were impaired and/or TDRs and relied on management representations without obtaining relevant and reliable evidence to corroborate those representations. As a result, Burns failed to comply with PCAOB standards, including those requiring him to exercise due professional care and professional skepticism, obtain sufficient appropriate audit evidence, evaluate whether he obtained sufficient audit evidence, and perform procedures to resolve questions concerning inconsistent audit evidence.[42]

The Loan Review Scope Failed to Respond to Known Risks

45. Burns, as engagement partner, was responsible for the design and execution of audit procedures. The engagement team's substantive loan review procedures, which consisted of reviewing a random sample of 25 loans and four individually significant impaired loans, fell short of providing Burns with sufficient appropriate evidence to conclude on the reasonableness of Bancorp's reported net loans and ALLL.[43]

46. Among other things, during the 2013 audit, the engagement team, with Burns's approval:

- Substantively reviewed fewer loans than the previous year even though Burns acknowledged that there had been no change in the risk associated with Bancorp's loans from 2012;

- Failed to review any non-impaired individually significant loans or loans based on qualitative risk factors, (a) despite having reviewed 64 individually significant loans during the 2012 audit; (b) despite having

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[42] See AU §§ 230.01, 09; AU §§ 333.03-.04; AU § 350.21; AS No. 5 ¶ 71; AS No. 14 ¶¶ 2-3, 32-36; AS No. 15 ¶¶ 4, 7, 10, 29.

[43] Moreover, Burns and the engagement team failed to select their sample to ensure that the sample was representative of the relevant population. Of the 25 loans that the engagement team reviewed as part of its random sample, 20 were direct finance leases or daily rental lines of credit even though together they only represented $195 million or 9.75 percent of the $2.0 billion loan portfolio as of December 31, 2013.

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identified certain risky loans that the engagement team characterized variously as "sticky," and "problematic;" (c) despite knowing that certain loans—in fact, 30 percent of Bancorp's portfolio of Commercial Loans—had been originated prior to the 2008 financial crisis and presented a different risk profile as compared to loans that were originated afterwards; and (d) despite Grant Thornton's own guidance requiring review of "[l]oans that me[t] certain qualitative risk characteristics;" and

- Failed to properly evaluate multi-loan lending relationships, even when cross collateralization or cross default provisions were present, thus failing to consider factors necessary to conclude on the risks presented by Bancorp's multi-loan relationships and on any necessary allowance. [44]

Burns Failed to Respond to Red Flags and Contrary Evidence During the Loan Review Procedures

47. In reviewing the loan review procedures, Burns and the engagement team failed to identify or give appropriate weight to contradictory evidence indicating that loans were improperly risk rated, impaired, and/or were TDRs. In fact, during the 2013 loan reviews, Burns and the engagement team were aware of the following information:[45]

- For one loan that was part of a $17.8 million lending relationship, Burns had information that the borrower had insufficient income to service the interest payments on the loans yet concluded that the loans were not impaired because they were current. Burns did so despite clear indicators that the borrower was drawing on his line of credit with Bancorp to service the interest only payments on that same line of credit.

- For a second loan relationship, Burns concluded that the loans were not impaired despite the fact that two-thirds of the collateral securing certain of

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[44] Cross collateralization is a provision in a loan agreement that gives the lender the right to use the collateral from one loan to secure another loan. Cross default is a provision in a loan agreement that states a borrower is in default on the loan if the borrower defaults on another loan.

[45] During the restatement audit, Grant Thornton relied on this same information, among other information, to concur in management's conclusion that Bancorp's ALLL needed to be restated.

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the loans had been sold and the borrower had not repaid any of the principal on those loans.

- On that same loan relationship, Burns concluded that the loans were not TDRs because the loans had not been modified and the borrower was not in financial distress. Burns reached this conclusion even though his team's work papers noted that, over the lives of these loans including during 2013, the loans had been modified or extended at least seven times, the borrower was diverting proceeds from the sale of collateral to service other loans, and there had been 18 late payments on one or more of the loans in the relationship.

- On a third lending relationship Burns failed to instruct the engagement team to expand its procedures to include all loans in the relationship despite clear indicators that other loans might be impaired. Significantly, Burns knew that the guarantor of one of the loans, who was also the borrower and/or guarantor across all loans in the relationship, had made only minimal payments, had been convicted in July 2012 for his role in a kickback scheme, and was serving a five-year prison sentence. Burns was also aware, through his review of another loan, that the guarantor's wife intended to repay the loan as part of a restructuring of the borrower's debt. Despite this knowledge, Burns failed to sufficiently consider whether this information might impact other loans in the relationship.

- For one loan within another relationship, Bancorp relied on a stale pre-financial crisis appraisal to value a borrower's reported equity interest in a Las Vegas casino.[46] Burns was aware the borrower had significantly reduced the value of his reported equity interests in the casino from $66 million to $20 million, yet Burns again failed to assess whether Bancorp's use of the stale valuation indicated a potential impairment or control deficiency.[47]

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[46] Burns also failed to perform or ensure the engagement team performed any procedures to test whether Bancorp had perfected its interest in the borrower's collateral. Had Burns done so he would have learned Bancorp's collateral rights were worthless as the company that owned the Las Vegas casino had folded in 2012 and filed for bankruptcy in 2013.

[47] Although PCAOB standards required Burns to evaluate control deficiencies identified during substantive procedures, Burns failed to identify and

ORDER

Burns Inappropriately Relied on Management Representations in Concluding on his Loan Review Procedures

48. Although Burns and the engagement team identified concealment of nonperforming loans as a fraud risk, Burns, during the engagement team's loan reviews, relied on management representations without obtaining or ensuring the engagement team obtained sufficient evidence to corroborate such representations, even when the risk of possible management bias was present:

- For example, in one lending relationship, Burns relied on management's representation that a third party intended to purchase buildings serving as collateral for three of the borrower's loans and that the proceeds would be sufficient to repay all remaining loans. Burns, however, failed to obtain or ensure the engagement team obtained a copy of the purported offer or any other reliable evidence to support management's representations that there was a willing buyer or that the proceeds would indeed be sufficient to repay the loans.

- In another lending relationship, Bancorp, in measuring the necessary specific reserves, discounted a recovery strategy firm's valuation of commissions receivable (the collateral for the loans) by 30 percent. Burns concluded the specific reserves were reasonable yet failed to perform any procedures to assess the recovery strategy firm's valuation of the commissions receivable and further failed to obtain any evidence to corroborate management's 30 percent discount.[48]

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evaluate control deficiencies that were evident during the engagement team's substantive procedures. See AS No. 5 ¶ 71 (auditors are required to evaluate evidence obtained from all sources, including any control deficiencies identified during the audit, when forming an opinion on the effectiveness of ICFR).

[48] Even though Bancorp engaged the recovery strategy firm to provide a valuation, and then used that valuation for purposes of calculating a specific reserve that Burns and the engagement team also used as evidence to support the reserve, Burns failed to identify the firm as a specialist. Accordingly, Burns violated AU § 336, *Use of a Specialist*, because Burns failed to perform or ensure the engagement team performed any procedures to (a) evaluate the professional qualifications of the recovery strategy firm engaged by Bancorp; (b) develop an understanding of the methods and assumptions used by the recovery strategy firm; and (c) test the data Bancorp provided to the recovery strategy firm. See AU §§ 336.08-.09, .12 (when an auditor uses the work

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Burns Failed to Identify and Evaluate Potential TDRs

49. Burns likewise failed to design and perform, or ensure the engagement team performed, audit procedures to sufficiently address the risk of misstatement posed by a previously recognized TDR-related control deficiency. Because of the heightened risk associated with unidentified TDRs, Burns and the engagement team were required to obtain more persuasive evidence to support the completeness assertion associated with Bancorp's TDR disclosures.[49]

50. Burns and the engagement team, however, failed to identify and include any loans modified during the first nine months of 2013 in its population of loans subject to substantive TDR completeness procedures. Indeed, Burns and the engagement team limited the population of loans subject to test work because of the change in controls Bancorp implemented during October 2013. Thus, Burns and the engagement team failed to perform sufficient substantive testing to ensure that Bancorp's identification of TDRs for 2013 was complete.

51. Burns also failed to appropriately evaluate whether there was evidence that certain loans should have been classified as TDRs. As discussed above, in performing his review of the engagement team's loan review procedures, Burns failed to appropriately evaluate whether there was evidence that certain loans should have been classified as TDRs.

iv. Burns Violated Audit Documentation Requirements

52. Burns also violated PCAOB auditing standards that required the auditor to assemble for retention (referred to herein as "archive") a complete and final set of work papers (a) within 45 days of the release of its audit report; and (b) within 45 days of its

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of a specialist as audit evidence, the auditor is required, among other things, to "consider the ... professional qualifications of the specialist in determining that the specialist possesses the necessary skill or knowledge in the particular field," obtain an understanding of the methods and assumptions used by the specialist, and conduct "appropriate tests of data provided to the specialist").

[49] For a description of the requirements related to the design of auditing procedures to respond to the auditor's assessment of risk, see AS No. 13 ¶ 9; see also AS No. 5 ¶¶ 57-58.

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substantially completing field work for each of its quarterly reviews.[50] Specifically, Burns failed to (i) archive, or ensure his team archived, the first quarter 2012 and 2013 Bancorp quarterly review work papers and (ii) timely archive, or ensure his team timely archived, the 2013 Bancorp audit work papers.

53. PCAOB standards also require that audit documentation contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to determine who performed the work and the date such work was completed.[51] To assist engagement team members in complying with this requirement, Grant Thornton's audit software permits more than one person to sign off as preparer for a work paper and permits individuals to sign off on behalf of someone else. Despite the requirements of PCAOB standards and the functionality of the Firm's audit software, the audit in-charge signed off as the sole preparer on a significant number of work papers for which she did not perform any procedures other than opening the work paper, skimming it to confirm it was complete, and attaching it to the audit file. Of particular significance, the in-charge signed off as the sole preparer for all but four of the loan reviews performed as part of the Firm's control testing; however, she did not actually perform any procedures on those loan reviews beyond opening them and checking to see if they appeared complete and that the conclusions did not contradict the information she skimmed. Accordingly, Burns, as the engagement partner, violated PCAOB audit documentation standards by failing to ensure that the 2013 audit work papers accurately indicated who performed the work.

v. Burns Failed to Appropriately Evaluate Facts Discovered Subsequent to Grant Thornton's 2013 Integrated Audit Report.

54. PCAOB standards require an auditor to take certain steps when, after the auditor's report, the auditor becomes aware of information that relates to the financial statements and/or ICFR that it was not aware of at the time it issued an audit report and which is of such a nature and from a source that the auditor would have investigated it

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[50] See Auditing Standard No. 3, *Audit Documentation*, ¶ 15; see also *Audit Documentation and Amendment to Interim Auditing Standards*, PCAOB Release 2004-006, at 9 (June 9, 2004).

[51] See AS No. 3 ¶ 6.

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had it come to the auditor's attention during the course of the audit.[52] Burns violated these standards, during the first and third quarters of 2014.

55. Prior to the restatement, during the first quarter of 2014, Bancorp recorded provisions for loan and lease losses totaling $17.3 million primarily due to three large commercial loans. At that time, Burns learned in connection with the first quarter provision taken for one relationship, that the borrower had entered into a settlement agreement with Bancorp. Burns, however, failed to sufficiently consider whether the facts related to the settlement agreement, which led to the provision, occurred prior to audit report date. Indeed, during the first quarter review, Burns failed to sufficiently consider whether those newly learned facts should have caused an earlier impairment, particularly given that he had previously known that the borrower's wife had requested, prior to December 31, 2013, that the loan relationship be restructured. Likewise, when Burns learned that Bancorp had received a new appraisal for collateral securing several of the loans, he failed to inquire as to when the appraisal was received and failed to sufficiently consider whether it was appropriate to record the additional provisions and related charge-offs prior to December 31, 2013.

56. Burns further violated PCAOB standards when he failed to sufficiently consider whether information presented in a third-party consultant report[53] indicated the existence of ALLL-related control deficiencies and possible unrecorded loan impairments as of December 31, 2013.[54] The report, which Burns obtained as part of the third quarter 2014 review procedures, noted that Bancorp's risk ratings tended to congregate too much in a specific Pass category, that the information in Bancorp's loan files was often incomplete, and that the amount of follow-up credit monitoring was limited in practice. The report recommended that a significant number of risk ratings be downgraded. The third-party that prepared the report ultimately calculated an expected material loss based primarily on the credit risk associated with the loans. Burns, however, failed to sufficiently assess whether the report's findings were based on facts that existed at or before December 31, 2013. Burns further failed to properly consider whether the report's conclusions were an indication that Bancorp's risk ratings as of

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[52] See AU §§ 561.04-.05, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*; AS No. 5 ¶ 98.

[53] Bancorp retained a third-party consultant to conduct a review and valuation of its commercial lending portfolio in connection with its decision in the third quarter of 2014 to discontinue its commercial lending operations.

[54] Under AS 5 ¶ 98, auditors are required, consistent with AU § 561, to evaluate subsequently discovered facts that may have impacted their ICFR report.

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December 31, 2013 were incorrect or that the ALLL might have been materially understated as of year-end.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), David M. Burns, CPA, is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), David M. Burns, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[55]

C. After one (1) year from the date of this Order, David M. Burns, CPA, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

D. If David M. Burns, CPA, is permitted to associate once again with a registered public accounting firm, pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(3), for a period of two (2) years from the date of this Order, his role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Burns shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's Auditing Standard No. 10 or AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's Auditing Standard No. 7 or AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to, but differently denominated from, engagement partner (such

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[55] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Burns. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

as "lead partner" or "practitioner-in-charge") or engagement quality reviewer (such as "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's Interim Auditing Standard AU Section 543 or AS 1205, *Part of the Audit Performed by Other Independent Auditors*; or (6) serve, or supervise the work of another individual serving as a professional practice director; and

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 payable by David M. Burns is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. David M. Burns, CPA, shall pay this civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies David M. Burns, CPA as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 19, 2017

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Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Tarvaran Askelson & Company, LLP, Eric Askelson, and Patrick Tarvaran,* *Respondents.*	PCAOB Release No. 105-2018-001 February 27, 2018

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring Tarvaran Askelson & Company, LLP ("TAC" or "Firm"), revoking the registration of the Firm,[1] and imposing a civil money penalty in the amount of $15,000 on the Firm; (2) censuring Eric Askelson ("Askelson"), barring him from being an associated person of a registered public accounting firm,[2] and imposing a civil money penalty of $5,000 on him; and (3) censuring Patrick Tarvaran ("Tarvaran"), barring him from being an associated person of a registered public accounting firm,[3] and imposing a civil money penalty of $5,000 on him.

The Board is imposing these sanctions on the basis of its findings that: (a) the Firm, Askelson, and Tarvaran (collectively, "Respondents") violated PCAOB rules and standards in connection with the audit and examination engagement for Alpine Securities Corporation ("Alpine"), a broker-dealer, for the fiscal year ending ("FYE") September 30, 2015; (b) Askelson and the Firm violated PCAOB rules and standards in connection with the audit of the financial statements of Terra Tech Corp. ("Terra Tech"), an issuer, for the year ending December 31, 2015, and (c) Tarvaran and the Firm violated PCAOB rules and standards in connection with the audit of the financial statements of FitLife Brands, Inc. ("FitLife"), an issuer, for the year ending December 31, 2015.

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[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Askelson may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

[3] Tarvaran may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

ORDER

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents each consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds that:[5]

A. Respondents

1. **Tarvaran Askelson & Company, LLP** is a limited liability partnership organized under the laws of the state of California, and is headquartered in Dana Point, California. The Firm is licensed by the California Board of Accountancy (license no. 7104). The Firm is registered with the Board pursuant to Section 102 of the Act and

[4] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

PCAOB rules. The Firm currently does not serve as the principal auditor[6] for any issuer[7] audit clients or broker-dealer[8] audit clients and does not currently play a substantial role[9] in any issuer audits or broker-dealer audits. The Firm has two partners and four employees.

2. **Eric Askelson**, age 48, of Irvine, California, is, and at all relevant times was, a partner of the Firm and a registered public accountant licensed under the laws of California (license no. 78383). Askelson is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Askelson served as: (a) the engagement partner for the audit and examination of Alpine for FYE September 30, 2015, and (b) the engagement partner for the audit of Terra Tech for the year ending December 31, 2015.

3. **Patrick Tarvaran**, age 48, of Laguna Niguel, California, is, and at all relevant times was, a partner of the Firm and a registered public accountant licensed under the laws of California (license no. 76414). Tarvaran is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Tarvaran served as: (a) the engagement quality reviewer for the audit and examination of Alpine for FYE September 30, 2015, and (b) the engagement partner for the audit of FitLife for the year ending December 31, 2015.

B. Summary

4. This matter concerns Respondents' repeated violations of PCAOB rules and standards in connection with (a) Respondents' audit of the supporting schedules accompanying Alpine's financial statements for FYE September 30, 2015 (the "Alpine Audit"), (b) Askelson and the Firm's audit of Terra Tech for the year ending December 31, 2015 (the "Terra Tech Audit"), and (c) Tarvaran and the Firm's audit of FitLife for the

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[6] See AU § 543, *Part of Audit Performed by Other Independent Auditors* (describing role of the principal auditor).

[7] See Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii) (containing definition of "issuer").

[8] See PCAOB Rule 1001(b)(iii) (containing definition of "broker"); see also PCAOB Rule 1001(d)(iii) (containing definition of "dealer").

[9] See PCAOB Rule 1001(p)(ii) (containing definition of "play a substantial role in the preparation or furnishing of an audit report").

ORDER

year ending December 31, 2015 (the "FitLife Audit"). As detailed below, Respondents failed to exercise due professional care and professional skepticism, and failed to obtain sufficient appropriate audit evidence, in connection with these audits. Among other violations, Askelson and the Firm relied solely on information produced by Alpine to audit the supplemental schedules Alpine was required to file regarding its compliance with the U.S. Securities and Exchange Commission's ("Commission") net capital and reserve requirements without testing that information for completeness and accuracy, or testing the Alpine controls over the completeness and accuracy of that information.

5. This matter also concerns Askelson and the Firm's violations of Attestation Standard No. 1 ("AT 1"), *Examination Engagements Regarding Compliance Reports of Brokers and Dealers*, when performing their examination of the statements made by Alpine, a "carrying broker-dealer,"[10] in its FYE September 30, 2015 compliance report (the "Examination") prepared pursuant to Securities Exchange Act of 1934 ("Exchange Act") Rule 17a-5, 17 C.F.R. § 240.17a-5 ("Rule 17a-5"). In particular, Askelson and the Firm failed to identify and test Alpine's internal controls over compliance with Commission rules for safeguarding certain customer assets held by Alpine.

6. Additionally, in connection with the Alpine Audit and Examination, Tarvaran violated Auditing Standard No. 7, *Engagement Quality Review* ("AS 7") by providing his concurring approval of issuance without performing the required engagement quality review with due professional care.

C. Respondents Violated PCAOB Rules and Standards in Connection with the Alpine Audit and Examination

Askelson and the Firm Violated PCAOB Audit Standards in Connection with Auditing Supplemental Information Accompanying the Alpine Financial Statements

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[11] For audits of

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[10] "Carrying broker-dealer" means a broker-dealer that carries customer or broker or dealer accounts and receives or holds funds or securities for those customers. See *Broker-Dealer Reports,* SEC Release No. 34-70073, p. 307 (July 30, 2013).

[11] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*.

ORDER

fiscal years ending on or after June 1, 2014, Rule 17a-5(g) requires that audits of broker-dealers be performed in accordance with PCAOB standards. An auditor may express an unqualified opinion on financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[12] Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism in performing the audit, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for an opinion regarding the financial statements.[13]

8. PCAOB standards require that the auditor evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[14] As part of the evaluation of the presentation of the financial statements, the auditor should evaluate whether the financial statements contain the information essential for a fair presentation of the financial statements in conformity with the applicable financial reporting framework.[15]

9. PCAOB standards require that the auditor properly plan the audit, including performing risk assessment procedures sufficient to provide a reasonable basis for identifying and assessing the risk of material misstatement, whether due to

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All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017), https://pcaobus.org/Standards/Auditing/Documents/ReorganizedandPreReorganizedNumbering.pdf.

[12] See AU § 508.07, *Reports on Audited Financial Statements.*

[13] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; and Auditing Standard No. 15, *Audit Evidence* ("AS 15").

[14] See Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), ¶ 30.

[15] Id. ¶ 31.

ORDER

error or fraud, and designing further audit procedures.[16] The auditor should identify and assess the risks of material misstatement at the financial statement level and the assertion level, and design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[17] PCAOB standards provide that factors that should be evaluated in determining which risks are significant risks include whether the risk is a fraud risk.[18] The auditor's identification of fraud risks should include the risk of management override of controls.[19] Specifically, the auditor should design procedures to test the appropriateness of journal entries recorded in the general ledger and other adjustments made in the preparation of the financial statements for evidence of possible material misstatement due to fraud.[20] When an auditor has identified a significant risk, the auditor should perform substantive procedures, including tests of details, that are specifically responsive to the assessed risk.[21]

10. PCAOB standards require that, when the auditor is engaged to perform audit procedures and report on supplemental information accompanying the financial statements of the audit client, the auditor should perform audit procedures to obtain appropriate audit evidence that is sufficient to support the auditor's opinion regarding whether the supplemental information is fairly stated, in all material respects, in relation to the financial statements as a whole.[22] In doing so, the auditor should perform procedures to test the completeness and accuracy of the information presented in the

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[16] See Auditing Standard No. 9, *Audit Planning* ("AS 9"), ¶ 4; Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"), ¶¶ 4-58.

[17] See AS 12 ¶ 59; Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"), ¶ 8.

[18] See AS 12 ¶ 71.b.

[19] See AS 12 ¶ 69.

[20] See AU §§ 316.58 - .62, *Consideration of Fraud in a Financial Statement Audit*.

[21] See AS 13 ¶ 11.

[22] See Auditing Standard No. 17, *Auditing Supplemental Information Accompanying Audited Financial Statements* ("AS 17"), ¶ 3.

ORDER

supplemental information to the extent that it was not tested as part of the audit of financial statements.[23] PCAOB standards also provide that the auditor should take into account relevant evidence from the audit of the financial statements and, for audits of brokers or dealers, the attestation engagements, in planning and performing audit procedures related to the supplemental information and in evaluating the results of the audit procedures to form the opinion on the supplemental information.[24]

11. PCAOB standards provide that the auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment procedures.[25]

12. PCAOB standards also provide that, if an auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the financial statements as a whole are free of material misstatement, the auditor should express a qualified opinion or a disclaimer of opinion.[26]

13. As described below, Askelson and the Firm failed to comply with PCAOB rules and standards in connection with auditing the supplemental information accompanying Alpine's financial statements.

Audit of Alpine's 2015 Financial Statements

14. At all relevant times, Alpine was a Utah corporation headquartered in Salt Lake City, Utah. Alpine's public filings disclose that it is registered with the Commission as a broker-dealer. At all relevant times, Alpine was a "broker" and "dealer," as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii). At all relevant times, Alpine was a "carrying broker-dealer," that is, it was a broker-dealer that maintained custody of customer funds and securities.

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[23] Id. ¶ 4(e).

[24] See AS 17 ¶ 3c, Note.

[25] See Auditing Standard No. 16, *Communications with Audit Committees,* ¶ 9 ("AS 16").

[26] See AS 14 ¶ 35; see also AU §§ 508.22-.34 (containing requirements regarding audit scope limitations).

ORDER

15. On November 27, 2015, Alpine filed with the Commission a Form X-17A-5 Part III for FYE September 30, 2015. Included in that filing was the Firm's FY 2015 audit report dated November 20, 2015 ("Alpine Audit Report"). Askelson authorized the Firm's issuance of the Alpine Audit Report, which expressed an unqualified opinion on Alpine's financial statements and supporting schedules, and stated, among other things, that the Firm's audit was conducted in accordance with PCAOB standards. Tarvaran, as the engagement quality reviewer, provided concurring approval of issuance of the Alpine Audit Report. As of FYE September 30, 2015, Alpine reported assets of approximately $4.3 million, revenue of approximately $13.6 million, and net income of approximately $6.3 million.

Supplemental Information in Alpine's Supporting Schedules

16. Rule 17a-5 required Alpine to file certain supporting schedules that are audited by a PCAOB-registered firm.[27] Askelson and the Firm failed to obtain sufficient appropriate audit evidence regarding the supplemental information in the supporting schedules that accompanied Alpine's FYE 2015 financial statements.

17. One of Alpine's supporting schedules reported on its compliance with a Commission rule requiring Alpine to, among other things, maintain a reserve of funds or qualified securities in an account at one or more banks for the exclusive benefit of customers (the "Reserve Requirements Rule").[28] Another Alpine supporting schedule reported on its compliance with a Commission rule requiring it to, among other things, maintain a sufficient amount of net capital liquidity to satisfy claims promptly ("Net Capital Rule").[29]

18. In its supporting schedules, Alpine reported net capital of approximately $1.2 million, which it reported was about $951,000 in excess of its minimum net capital requirement. Alpine also reported cash segregated for the exclusive benefit of its customers of approximately $221,000, which it reported was about $221,000 in excess of its reserve requirement. Askelson and the Firm's procedures concerning these supporting schedules relied solely on information produced by Alpine without testing

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[27] See Rule 17a-5(d)(1)(i)(A), (C) and (g).

[28] See 17 C.F.R. § 240.15c3-3, *Customer Protection – Reserves and Custody of Securities* ("Rule 15c3-3"). Rule 15c3-3, known as the Customer Protection Rule, contains the Reserve Requirements Rule at 15c3-3(e).

[29] See 17 C.F.R. § 240.15c3-1, *Net Capital Requirements for Brokers or Dealers* ("Rule 15c3-1").

ORDER

that information for completeness and accuracy, or testing the Alpine controls over the completeness and accuracy of that information. Consequently, Askelson and the Firm violated PCAOB standards by failing to obtain sufficient appropriate audit evidence that the supplemental information in the supporting schedules was fairly stated, in all material respects, in relation to the financial statements as a whole.[30]

Askelson and the Firm Violated PCAOB Attestation Standard No. 1 in Their Examination of Alpine's FYE 2015 Compliance Report

Certain Commission Reporting Requirements for Alpine

19. Under the Commission's "financial responsibility rules,"[31] Alpine had to satisfy certain requirements relating to net capital and the protection of customer assets.[32] Additionally, Rule 17a-5 required Alpine to file with the Commission an annual report containing a) a financial report that included financial statements and supporting schedules,[33] b) a compliance report concerning, among other things, the effectiveness of Alpine's internal controls over compliance with the financial responsibility rules;[34] and c) a report by a PCAOB-registered firm based on an examination of Alpine's financial and compliance reports.[35] Rule 17a-5 also required that the audit of the financial report

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30 See AS 17 ¶¶ 2-4.

31 The term "financial responsibility rules" includes Rule 15c3-1; Rule 15c3-3; 17 C.F.R. § 240.17a-13, *Quarterly Security Counts to be Made by Certain Exchange Members, Brokers, and Dealers*; and any rule of a broker's or dealer's designated examining authority that requires account statements to be sent to the customers of the broker or dealer. The financial responsibility rules are the same as the rules cited in Rule 17a-5(d)(3)(ii).

32 Although some broker-dealers qualify for exemption from one of the financial responsibility rules, Rule 15c3-3, Alpine as a carrying broker-dealer did not qualify for exemption.

33 See Rule 17a-5(d)(1)(i)(A), (d)(2).

34 See Rule 17a-5(d)(1)(i)(B)(1), (d)(3).

35 See Rule 17a-5(d)(1)(i) and (g).

ORDER

and the examination of the compliance report be performed in accordance with PCAOB standards.[36]

20. In the compliance report, Alpine had to make certain statements ("assertions") about its compliance with the financial responsibility rules, including that: a) its Internal Control Over Compliance[37] ("ICOC") was effective during the most recent fiscal year; b) its ICOC was effective as of the end of the most recent fiscal year; and c) it was in compliance with Rule 15c3-1 and Rule 15c3-3(e) as of the end of the most recent fiscal year.[38]

PCAOB Attestation Standard No. 1

21. AT 1 provides that, in performing an examination of the assertions made by a broker or dealer in a compliance report, the auditor's objective is to express an opinion regarding whether the assertions made by the broker or dealer in the compliance report are fairly stated, in all material respects.[39] AT 1 also provides that, to express such opinion, the auditor must plan and perform the examination to obtain appropriate evidence that is sufficient to obtain reasonable assurance about whether: 1) one or more material weaknesses[40] existed during the most recent fiscal year specified in the broker's or dealer's assertion; 2) one or more material weaknesses existed as of the end of the most recent fiscal year specified in the broker's or dealer's assertion; and

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[36] See Rule 17a-5(g).

[37] Rule 17a-5(d)(3)(ii) provides: "The term *Internal Control Over Compliance* means internal controls that have the objective of providing the broker or dealer with reasonable assurance that non-compliance with §240.15c3-1, §240.15c3-3, §240.17a-13, or any rule of the designated examining authority of the broker or dealer that requires account statements to be sent to the customers of the broker or dealer (an 'Account Statement Rule') will be prevented or detected on a timely basis."

[38] See Rule 17a-5(d)(3)(i)(A).

[39] See AT 1 ¶ 3.

[40] A "material weakness" is a deficiency, or a combination of deficiencies, in ICOC such that there is a reasonable possibility that non-compliance with the Net Capital Rule or Reserve Requirements Rule will not be prevented or detected on a timely basis or that non-compliance to a material extent with Rule 15c3-3 (except for the Reserve Requirements Rule element), among other things, will not be prevented or detected on a timely basis. See AT 1, Appendix A ¶ A4.

ORDER

3) one or more instances of non-compliance with the Net Capital Rule or the Reserve Requirements Rule existed as of the end of the most recent fiscal year specified in the broker's or dealer's assertion.[41] As noted in AT 1, the auditor's examination should evaluate the effectiveness of ICOC with each financial responsibility rule during, and as of the end of, the most recent fiscal year.[42]

22. AT 1 also provides that the auditor must exercise due professional care, which includes application of professional skepticism, in planning and performing the examination engagement, and that the engagement partner is responsible for proper planning of the examination, proper supervision of the work of engagement team members, and compliance with the requirements of AT 1.[43] Additionally, when planning the examination of the compliance report, the auditor should obtain an understanding of the broker-dealer's processes regarding compliance with the financial responsibility rules, which includes evaluating the design of controls relevant to the examination and determining whether the controls have been implemented.[44] When performing the examination, the auditor must test the controls that are important to his or her conclusion about whether the broker-dealer has maintained effective ICOC for each financial responsibility rule during the fiscal year and at fiscal year-end, and must obtain evidence that the tested controls are designed effectively and operated effectively during the fiscal year and at fiscal year-end.[45] AT 1 further requires the auditor to conduct tests to determine whether the broker-dealer was in compliance with the Net Capital Rule and Reserve Requirements Rule at fiscal year-end; the auditor does this by, among other things, testing the accuracy and completeness of the information that the broker-dealer used to compute its compliance with those rules at fiscal year-end.[46]

23. As described below, Askelson and the Firm failed to comply with applicable PCAOB rules and standards in connection with their examination of the assertions made by Alpine in its FYE September 30, 2015 compliance report.

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41 See AT 1 ¶ 4.

42 Id. ¶ 4, Note.

43 Id. ¶¶ 6(d), 7.

44 Id. ¶ 9(b) and Note.

45 Id. ¶ 11.

46 Id. ¶ 21.

ORDER

Askelson and the Firm's Examination of Alpine's 2015 Compliance Report

24. On November 27, 2015, Alpine filed Form X-17A-5 Part III for FY 2015 with the Commission. Included in that filing was Alpine's FY 2015 compliance report dated November 20, 2015 ("Compliance Report"). On November 20, 2015, Askelson authorized the Firm's issuance of its examination report concerning Alpine's Compliance Report ("Examination Report"), and Tarvaran, as the engagement quality reviewer, provided concurring approval of issuance of the Examination Report. The Examination Report expressed Respondents' opinion that Alpine's assertions in the Compliance Report were fairly stated, in all material respects, and the Examination Report stated, among other things, that the Examination was conducted in accordance with PCAOB standards.

25. Askelson and the Firm failed to plan and perform the Examination to obtain appropriate evidence sufficient to provide reasonable assurance about whether there were material weaknesses in Alpine's ICOC, as required by AT 1.[47] In particular, other than reviewing Alpine's Written Supervisory Procedures Manual, Askelson and the Firm failed to perform any procedures to obtain an understanding of Alpine's ICOC.[48] In addition, Askelson and the Firm failed to perform any procedures to test ICOC controls and obtain evidence that they were designed effectively and operating effectively, as required by AT 1.[49]

26. Askelson and the Firm also failed to perform any procedures to test the accuracy and completeness of the information that Alpine used to compute its compliance with the Net Capital Rule and Reserve Requirements Rule at FYE September 30, 2015.[50]

27. As a result of the above deficiencies, Askelson and the Firm lacked a sufficient basis for their opinion that Alpine's assertions in its 2015 Compliance Report were fairly stated, in all material respects. Consequently, Askelson and the Firm violated AT 1.

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47 Id. ¶ 4; Appendix A ¶ A4.

48 Id. ¶ 9(b) and Note.

49 Id. ¶¶ 9(b), 11.

50 Id. ¶ 21.

ORDER

Tarvaran Violated PCAOB Rules and Standards in Connection with the Engagement Quality Reviews for the Alpine Audit and Examination

28. AS 7 requires that an engagement quality review be performed on all audits and certain attestation engagements conducted pursuant to PCAOB standards.[51] AS 7 also provides that a firm may grant permission to an audit client to use the firm's audit report or examination report only after an engagement quality reviewer provides concurring approval of issuance of the report.[52]

29. An engagement quality reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[53] In performing an engagement quality review for an audit, the engagement quality reviewer should, among other things, evaluate the engagement team's assessment of, and audit responses to, significant risks, including fraud risks, identified by the engagement team or other significant risks identified by the engagement quality reviewer.[54] The engagement quality reviewer should also evaluate whether the engagement documentation that he or she reviewed indicates that the engagement team responded appropriately to significant risks and whether the engagement documentation that he or she reviewed supports the conclusions reached by the engagement team with respect to matters reviewed.[55] Finally, the engagement quality reviewer should review the engagement completion document and other relevant information.[56]

30. In connection with the Alpine Audit, Tarvaran failed to evaluate the significant judgments made by the engagement team and the related conclusions reached regarding the supplemental information in the supporting schedules. Tarvaran similarly failed to evaluate the significant judgments made by the engagement team and the related conclusions reached regarding the testing of Alpine's ICOC and the testing

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51 See AS 7 ¶ 1.

52 Id. ¶¶ 13, 18C.

53 Id. ¶¶ 9, 18A.

54 Id. ¶ 10(b).

55 Id. ¶ 11.

56 Id. ¶¶ 10(e), 18A.

ORDER

of Alpine's compliance with the Net Capital Rule and Reserve Requirements Rule at fiscal year-end.

31. Tarvaran provided his concurring approvals of issuance without performing the engagement quality reviews with due professional care, and accordingly Tarvaran violated AS 7.

D. Askelson and the Firm Violated PCAOB Rules and Standards in Connection with the Terra Tech Audit

32. At all relevant times, Terra Tech was a Nevada corporation headquartered in Newport Beach, California. Terra Tech's public filings disclose that, among other things, it was involved in the design, marketing and sale of hydroponic equipment for the cultivation of indoor agriculture. At all relevant times, it was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

33. Askelson, as engagement partner, authorized the issuance of an audit report, dated March 29, 2016, expressing an unqualified opinion on Terra Tech's financial statements for the year ending December 31, 2015. The audit report was included in Terra Tech's Form 10-K filed with the Commission on March 29, 2016.

34. In connection with the Terra Tech Audit, Askelson and the Firm failed to exercise due professional care, including professional skepticism, and failed to perform the audit in accordance with PCAOB standards. Specifically, Askelson and the Firm failed to perform procedures to identify and test journal entries recorded in the general ledger and other adjustments made in the preparation of the financial statements for evidence of possible material misstatement due to fraud to address the risk of management override of controls.[57]

35. Terra Tech disclosed in its 2015 Form 10-K a derivative liability of approximately $743,000, or approximately 26% of total liabilities, and short-term debt of approximately $917,000, or approximately 32% of total liabilities. The short-term debt was comprised of convertible promissory notes issued during 2015 and 2014 ("convertible debt"). The derivative liabilities related to embedded conversion options and warrants associated with the convertible debt.

36. Other than obtaining management representations, Askelson and the Firm failed to perform other procedures to evaluate whether Terra Tech had appropriately accounted for its convertible debt and warrants. Specifically, Askelson and the Firm

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[57] See AU §§ 316.58 - .62.

failed to evaluate whether the embedded conversion options and warrants, which were deemed by Terra Tech to be derivative liabilities, were appropriately accounted for in accordance with U.S. GAAP.[58]

37. In addition, Askelson and the Firm failed to perform sufficient procedures to test the valuation of the derivative liabilities. Specifically, Askelson and the Firm failed to perform procedures to evaluate the reasonableness of the significant assumptions used by management, including the expected volatility rates used by Terra Tech to determine the fair value estimates at date of issuance and year end.[59] As a result, Askelson and the Firm failed to exercise due professional care, including professional skepticism, during the Terra Tech Audit, and failed to obtain sufficient appropriate audit evidence to support the audit opinion.[60]

38. Askelson and the Firm also failed to communicate to Terra Tech's audit committee an overview of the overall audit strategy or any significant risks identified during the Firm's risk assessment procedures for the Terra Tech Audit. As a result, Askelson and the Firm violated AS 16.[61]

E. Tarvaran and the Firm Violated PCAOB Rules and Standards in Connection with the FitLife Audit

39. At all relevant times, FitLife was a Nevada corporation headquartered in Omaha, Nebraska. FitLife's public filings disclose that it was a provider of innovative and proprietary nutritional supplements for health conscious consumers. At all relevant times, it was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

40. Tarvaran, as engagement partner, authorized the issuance of an audit report, dated April 14, 2016, expressing an unqualified opinion on FitLife's financial statements for the year ending December 31, 2015. The audit report was included in FitLife's Form 10-K filed with the Commission on April 14, 2016.

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[58] See AS 14 ¶¶ 30, 31; see also FASB ASC Topic 480, *Distinguishing Liabilities from Equity*, and FASB ASC Subtopic 815, *Derivatives and Hedging*.

[59] See AU §§ 328.26 and .28, *Auditing Fair Value Measurements and Disclosures*.

[60] See AU § 230.02; see also AS 15 ¶ 4.

[61] See AS 16 ¶ 9.

ORDER

41. FitLife reported total assets, total revenue, and a net loss of approximately $17.6 million, $17.9 million, and $1.2 million, respectively, as of and for the year ending December 31, 2015.

42. In connection with the FitLife Audit, Tarvaran and the Firm violated PCAOB rules and standards by failing to: a) test a significant portion of FitLife's consolidated revenue; b) properly evaluate an acquisition by FitLife; and c) make all of the required communications to FitLife's audit committee.

43. PCAOB standards require that sample items should be selected in such a way that the sample can be expected to be representative of the population. Therefore, all items in the population should have an opportunity to be selected.[62]

44. FitLife earned its revenue in 2015 through two subsidiaries, NDS Nutrition Products, Inc. ("NDS") and iSatori, Inc. ("iSatori"). To test revenue, Tarvaran and the Firm selected only sales transactions above specific dollar amounts for NDS and iSatori. These transactions, however, were not representative of the entire population because this approach did not allow transactions below the dollar amounts an opportunity to be selected. Because this approach did not constitute audit sampling, Tarvaran and the Firm excluded approximately 81% of FitLife's consolidated revenue from an opportunity to be selected for testing.

45. During 2015, FitLife disclosed that it acquired iSatori for approximately $4.6 million, or approximately 26% of total assets at year end. FitLife disclosed that the acquisition resulted in the recognition of goodwill and other intangible assets, which in the aggregate, represented approximately 35% of FitLife's total assets at year end, and other acquired assets and assumed liabilities, which represented approximately 19% of total assets and 67% of total liabilities, respectively, at year end.

46. Although the engagement team discussed this acquisition during its team planning meeting, Tarvaran and the Firm failed to evaluate the risk of material misstatement at the financial statement level and the assertion level for this acquisition.[63]

47. Tarvaran and the Firm also failed to perform sufficient procedures to test the acquisition. Specifically, Tarvaran and the Firm failed to perform sufficient procedures to: a) test the fair value of the common shares, options, and warrants

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[62] See AU § 350.24, *Audit Sampling*.

[63] See AS 12 ¶ 59; AS 13 ¶ 8.

issued as part of the consideration for the acquisition; b) test the fair value of the acquired identified intangible assets; c) test the existence of the other assets acquired and the completeness of the liabilities assumed in connection with the acquisition; and d) evaluate the reasonableness of the fair values disclosed in FitLife's financial statements for certain other assets acquired. As a result, Tarvaran and the Firm violated PCAOB standards.[64]

48. In addition, in auditing the accounting for the acquisition, Tarvaran and the Firm read a FitLife-engaged specialist's valuation report that valued the acquired identified intangible assets using information provided by FitLife, including historical data and financial projections. The information provided by the specialist included the fair values of certain other assets acquired, which differed significantly from the fair values disclosed in FitLife's financial statements. Despite being aware of this inconsistent information, Tarvaran and the Firm failed to perform audit procedures necessary to resolve the matter and to determine the effect, if any, on other aspects of the audit.[65] As a result, Tarvaran and the Firm failed to exercise due professional care, including professional skepticism, during the FitLife Audit, and failed to obtain sufficient appropriate audit evidence to support the audit opinion.[66]

49. Finally, Tarvaran and the Firm failed to communicate to FitLife's audit committee an overview of the overall audit strategy or any significant risks identified during the Firm's risk assessment procedures for the FitLife Audit. As a result, Tarvaran and the Firm violated AS 16.[67]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

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[64] See AU §§ 328.03, .15, .26, and .28; AU § 336.12, *Using the Work of a Specialist*; AS 13 ¶ 8; AS 14 ¶ 31.

[65] See AS 15 ¶ 29.

[66] See AU § 230.02; see also AS 15 ¶ 4.

[67] See AS 16 ¶ 9.

ORDER

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Tarvaran Askelson & Company, LLP, Eric Askelson, and Patrick Tarvaran are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Tarvaran Askelson & Company, LLP is revoked;

C. After two (2) years from the date of this Order, Tarvaran Askelson & Company, LLP may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Eric Askelson is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[68]

E. After two (2) years from the date of this Order, Eric Askelson may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

F. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Patrick Tarvaran is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[69]

G. After one (1) year from the date of this Order, Patrick Tarvaran may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

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[68] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Askelson. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[69] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act, discussed *supra*, at n. 68, will apply with respect to Tarvaran.

ORDER

H. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), civil money penalties in the amount of $15,000 payable by Tarvaran Askelson & Company, LLP, $5,000 payable by Eric Askelson, and $5,000 payable by Patrick Tarvaran are imposed. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Tarvaran Askelson & Company, LLP, Eric Askelson, and Patrick Tarvaran shall pay these civil money penalties within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter which identifies Tarvaran Askelson & Company, LLP, Eric Askelson, or Patrick Tarvaran as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

February 27, 2018

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Baum & Company, P.A. and Joel S. Baum, CPA,* *Respondents.*	PCAOB Release No. 105-2018-002 February 27, 2018

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Baum & Company, P.A. ("Firm"), a registered public accounting firm; revoking the Firm's registration,[1] and imposing a civil money penalty in the amount of $10,000 on the Firm; and (2) censuring Joel S. Baum, CPA ("Baum") and barring him from being an associated person of a registered public accounting firm.[2] In ordering these sanctions, the Board took into account Respondents' extraordinary cooperation in this matter, as described in more detail below.

The Board is imposing these sanctions on the basis of its findings that the Firm and Baum (collectively, "Respondents") violated PCAOB rules and standards by improperly adding, backdating, and otherwise altering audit documentation in two issuer audits prior to a Board inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondents.

[1] The Firm may reapply for registration after one (1) year from the date of this Order.

[2] Baum may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

ORDER

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Baum & Company, P.A. is, and at all relevant times was, a corporation organized under the laws of Florida and is headquartered in Miami Beach, Florida. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accounting by the Florida Board of Accountancy (License No. AD0016605). At all relevant times, the Firm was the external auditor for the issuers discussed below.

2. Joel S. Baum, CPA, age 66, of Miami Beach, Florida is a certified public accountant licensed by the Florida Board of Accountancy (License No. AC0011883). Baum is, and at all relevant times was, the sole partner of the Firm and the Firm's sole accountant. Baum is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[3] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

B. Summary

3. This matter concerns Respondents' failure to cooperate in a Board inspection and failure to adhere to the Board's standards concerning audit documentation. Respondents violated Board rules and auditing standards by adding, backdating, and otherwise altering numerous audit work papers in advance of the Board's 2017 inspection of the Firm. During the two weeks leading up to the inspection, Respondents added, backdated, or otherwise altered at least 54 work papers for the audit of Issuer A's 2016 financial statements more than eight months after the applicable documentation completion date. Respondents also added, backdated, or otherwise altered at least 5 work papers for the audit of Issuer B's 2016 financial statements after having represented to the Board's inspection staff that they had already assembled a complete and final set of audit documentation, and that the audit was therefore available to be inspected. At the start of the inspection, when providing the Board's inspection staff with the audit documentation for the selected audits, Respondents self-reported their conduct to the inspection staff but were unable to specify exactly what changes they had made to the work papers.

4. Through their conduct, Respondents violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, because they interfered with the Board's ability to inspect the work that Respondents had originally performed and documented before learning of the inspection. Respondents also violated AS 1215, *Audit Documentation* (formerly Auditing Standard No. 3),[5] because, after the documentation completion date, they (1) added documentation to the work papers without indicating the date the documentation was added, the person who prepared the additional documentation, or the reason for the additional documentation, and (2) backdated and otherwise altered audit documentation.

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[5] All references herein to PCAOB auditing standards are to the versions of those standards that were applicable at the time of the conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (March 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards.

ORDER

C. Respondents Violated PCAOB Rules and Standards

5. Issuer A and Issuer B are each an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). In May 2017, the Board inspected the Firm's audit of Issuer A's financial statements for the year ended April 30, 2016 and the Firm's audit of Issuer B's financial statements for the year ended December 31, 2016.

6. PCAOB rules require that registered public accounting firms and their associated persons "shall cooperate with the Board in the performance of any Board inspection."[6] This cooperation obligation includes an obligation not to provide misleading documents or information in connection with, or otherwise to interfere in, the Board's inspection processes.[7]

7. PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[8] AS 1215 requires that "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[9] After the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but it

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[6] PCAOB Rule 4006.

[7] See, e.g., *Kabani & Company, Inc.*, SEC Release No. 80201, at 14 (Mar. 10, 2017) (sustaining Board finding that respondents failed to cooperate with inspection where improper work paper alterations "interfered with the PCAOB's ability to fulfill its regulatory function of ensuring that auditors comply with their professional responsibilities"); *Dale Arnold Hotz, CPA, Jyothi Nuthulaganti Manohar, CPA, and Michael Jared Fadner, CPA*, PCAOB Release No. 105-2012-008, ¶ 7 (Nov. 13, 2012); see also *Gately & Associates, LLC*, SEC Release No. 34-62656, at 22-23 (Aug. 5, 2010) (sustaining Board finding that respondents failed to cooperate with inspection).

[8] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[9] AS 1215.15. The "report release date" is "the date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements." AS 1215.14.

ORDER

may be added as long as the auditor documents the date it was added, the name of the person who prepared it, and the reason for adding it.[10]

8. As described below, Respondents violated PCAOB Rule 4006 and AS 1215.

The Issuer A and Issuer B Audits

9. The Firm audited Issuer A's financial statements for the year ended April 30, 2016 ("Issuer A audit"). Baum served as the engagement partner for the Issuer A audit.

10. The Firm's audit report for the Issuer A audit stated that the audit was conducted in accordance with PCAOB standards. The audit report further stated that Issuer A's financial statements presented fairly, in all material respects, the company's financial position, results of operations, and cash flows in conformity with U.S. Generally Accepted Accounting Principles ("U.S. GAAP"). The audit report was included in Issuer A's annual report filed with the U.S. Securities and Exchange Commission ("Commission").

11. The report release date for the Issuer A audit was June 16, 2016. Accordingly, the documentation completion date for the Issuer A audit was no later than July 31, 2016.

12. The Firm audited Issuer B's financial statements for the year ended December 31, 2016 ("Issuer B audit"). Baum served as the engagement partner for the Issuer B audit.

13. The Firm's audit report for the Issuer B audit stated that the audit was conducted in accordance with PCAOB standards. The audit report further stated that Issuer B's financial statements presented fairly, in all material respects, the company's financial position, results of operations, and cash flows in conformity with U.S. GAAP. The audit report was included in Issuer B's annual report filed with the Commission.

14. The report release date for the Issuer B audit was March 24, 2017. Accordingly, the documentation completion date for the Issuer B audit was no later than May 8, 2017. As discussed below, Respondents' representations subsequently established that the documentation completion date had occurred as of March 30, 2017.

[10] AS 1215.16.

ORDER

Steps Taken in Advance of the Board's Inspection

15. On or before January 18, 2017, the Board notified Respondents that the Board's Division of Registration and Inspections ("Inspections") would inspect the firm. Inspection fieldwork was scheduled to begin on May 1, 2018. The Act "requires the Board to conduct a 'continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons . . . with [the Act], the rules of the Board, the rules of the Commission, or professional standards."[11]

16. The documentation completion date for the Issuer A audit, which was no later than July 31, 2016, passed more than five months before Respondents were notified of the upcoming inspection, and nine months before the inspection was scheduled to begin.

17. In contrast, the Firm had until May 8, 2017—seven days after the inspection was scheduled to begin—to assemble the complete and final set of documentation for the Issuer B audit. Nonetheless, on March 30, 2017, Respondents represented to the Inspections staff that a complete and final set of audit documentation had already been assembled for the Issuer B audit, and that the audit was therefore available to be inspected. Accordingly, the documentation completion date for the Issuer B audit had occurred as of March 30, 2017.

18. During the last two weeks of April 2017, Respondents prepared for the inspection by gathering the Issuer A and Issuer B audit work papers. During this same timeframe, Respondents also added, backdated, or otherwise altered at least 54 work papers for the Issuer A audit and added, backdated, or otherwise altered at least 5 work papers for the Issuer B audit. The audit engagement files did not contain any documentation identifying the information added, the date the information was added, the person who prepared the additional documentation, or the reason for the additional documentation. At the time they made the alterations, Respondents intended to provide the added, backdated, and altered work papers to Inspections without disclosing the fact that they had made alterations in anticipation of the inspection.

19. By the time that fieldwork for the inspection began on May 1, 2017, however, Respondents had a change of heart. Upon providing the Board's Inspections staff with the work papers, Baum told the Inspections staff that he had altered the work papers and did not feel right about what he had done. Baum said that he had not kept

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[11] *Gately & Associates, LLC*, SEC Release No. 34-62656 at 2 n.3, 2010 SEC LEXIS 2535, 2 n.3 (quoting Section 104(a) of the Act).

ORDER

track of the changes he had made to the work papers, but that he would attempt to recreate some documentation of the changes.

20. Respondents subsequently provided the Board's Inspections staff with a list identifying those work papers that they remembered altering and describing the alterations in general terms, with notations indicating, for example, that Respondents had "update[d]" or "revise[d]" certain work papers. Respondents were unable to provide additional detail concerning the nature of such updates and revisions. Thus, Respondents' actions frustrated the ability of the Board's Inspections staff to determine what work Respondents had performed and documented during the Issuer A and Issuer B audits, before Respondents added to, backdated, and otherwise altered the work papers in anticipation of the inspection. This interference with the Board's inspection processes violated PCAOB Rule 4006.

21. As noted previously, when information is added to audit documentation after the documentation completion date, AS 1215 requires the auditor to document the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.[12] Respondents, after the documentation completion date, failed to indicate the dates that the additions were made to the audit documentation, the name of the person who made the additions, and the reason for making the additions after the documentation completion date, and backdated and otherwise altered audit documentation. This conduct failed to comply with AS 1215.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. In considering appropriate sanctions, the Board took into account Respondents' extraordinary cooperation. Specifically, Respondents voluntarily and timely self-reported the entirety of the misconduct described in this Order. Absent that extraordinary cooperation, the Board would have imposed significantly greater sanctions. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Baum & Company, P.A. and Joel S. Baum, CPA are hereby censured;

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[12] AS 1215.16.

ORDER

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Baum & Company, P.A. is revoked;

C. After one (1) year from the date of this Order, Baum & Company, P.A. may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Baum & Company, P.A. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Baum & Company, P.A. shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Joel S. Baum, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[13] and

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[13] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Baum. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

F. After one (1) year from the date of this Order, Joel S. Baum, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 27, 2018

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Shedjama Inc. and Edward Opperman, CPA,* *Respondents.*	PCAOB Release No. 105-2018-003 March 13, 2018

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is (1) censuring Shedjama Inc. ("Firm"), a registered public accounting firm, revoking the Firm's registration,[1] and imposing a civil money penalty in the amount of $10,000 upon the Firm; and (2) censuring Edward Opperman, CPA ("Opperman") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Opperman (collectively "Respondents") violated PCAOB rules and standards in connection with the Firm's audits and attestation engagements of 23 broker-dealer clients for the fiscal year 2015 and 30 broker-dealer clients for the fiscal year 2016.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Respondents admit the facts, findings, and violations

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Opperman may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

ORDER

set forth below, and consent to entry of this Order Making Findings, and Imposing Sanctions ("Order").[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Shedjama Inc. d/b/a Edward Opperman, CPA is a registered public accounting firm located in Lafayette, Indiana. At all relevant times, the Firm was licensed by the Indiana Professional Licensing Agency (license no. FP 50700038) and by the State of Connecticut (CPAP No. 0005359), the State of Florida (Lic. No. AD69786), the Illinois Department of Financial and Professional Regulation (Lic. No. 066004494) and the State of Michigan Department of Licensing and Regulatory Affairs (Lic. No. 1102003894). The Firm has been registered with the Board since 2009 pursuant to Section 102 of the Act and Board rules. On October 15, 2015, the Board sanctioned the Firm for its failure to comply with the auditor independence requirements.[5] At all relevant times, the Firm was the external auditor for each of the broker-dealers identified in the attached Appendix.

2. Edward Opperman, CPA, age 49, is, and at all relevant times was, the sole owner of the Firm and a certified public accountant licensed by the State of Indiana (Lic. No. CP19700406). Opperman is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[5] SHEDJAMA, Inc., PCAOB Release No. 105-2015-037 (Oct. 15, 2015).

ORDER

B. Summary

3. This matter concerns the Firm's repeated failure to comply with AS 1220 (formerly, Auditing Standard No. 7), *Engagement Quality Review*, with respect to the audit and attestation engagements[6] of 23 broker-dealer clients in fiscal year 2015 and 30 broker-dealer clients in fiscal year 2016.[7] With respect to each broker-dealer audit and attestation engagement identified in the Appendix, the Firm failed to obtain an engagement quality review and concurring approval of issuance as required by AS 1220.

4. In addition, Opperman violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, because he took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of PCAOB rules and standards.

C. The Firm Violated PCAOB Rules and Standards Relating to Engagement Quality Reviews

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional standards.[8]

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[6] The Firm issued review reports pursuant to Attestation Standard No. 2, *Review Engagements Regarding Exemption Reports of Brokers and Dealers*, based on reviews of the statements made by a broker or dealer in an exemption report prepared pursuant to Exchange Act Rule 17a-5, 17 C.F.R. § 240.17a-5.

[7] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits and reviews. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards.

[8] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Standards.*

ORDER

6. AS 1220 requires an engagement quality review and concurring approval of issuance for audit and attestation engagements of broker-dealers for fiscal years ending on or after June 1, 2014.[9] AS 1220 further provides that a firm may grant permission to a client to use the engagement reports from such audits and attestation engagements only after an engagement quality reviewer provides concurring approval of issuance.[10]

7. Each broker-dealer identified in the Appendix is a "broker" or "dealer" as defined in Sections 110(3) and 110(4) of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii). For each broker-dealer, the Firm failed to obtain an engagement quality review for the audit and attestation engagement as described in the Appendix even though PCAOB standards required an engagement quality review to be performed. And in each instance, the Firm improperly permitted the issuance of its unqualified audit report and review report without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm repeatedly violated AS 1220.

D. Opperman Contributed to the Firm's Violations of PCAOB Rules and Standards

8. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that firm of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.

9. Opperman was the sole owner of the Firm and the engagement partner for all of the audits identified in the Appendix. For each audit engagement, Opperman was responsible for ensuring that the Firm complied with PCAOB rules and standards. Opperman knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 1220, as described above. As a result, Opperman violated PCAOB Rule 3502.

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[9] AS 1220.01.

[10] AS 1220.13, .18C.

ORDER

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Shedjama Inc. and Edward Opperman CPA, are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Shedjama Inc. is revoked;

C. After two (2) years from the date of this Order, Shedjama Inc. may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Shedjama Inc. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Shedjama Inc. shall pay the civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the payor as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Edward Opperman, CPA is barred from being an associated person of a

ORDER

registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[11] and

F. After two (2) years from the date of this Order, Edward Opperman, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 13, 2018

[11] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Opperman. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

APPENDIX
Shedjama, Inc.
Audits & Attestations Not Performed in Accordance with AS 1220
Fiscal Year: 2015

No.	Broker-Dealer Name	Fiscal Year-end Reported on by the Firm	BD Engagement Partner	EQR Partner
1	Alaska Capital Management Corporation dba Aurora Securities	12/31/2015	E. Opperman	E. Opperman
2	Bull & Bear Brokerage Services, Inc.	12/31/2015	E. Opperman	E. Opperman
3	Cascade Partners BD, LLC	12/31/2015	E. Opperman	E. Opperman
4	Cornerstone Financial Services, Inc.	12/31/2015	E. Opperman	E. Opperman
5	Downer & Company, LLC	12/31/2015	E. Opperman	E. Opperman
6	EBH Securities, Inc.	12/31/2015	E. Opperman	E. Opperman
7	Economy Securities, Inc.	12/31/2015	E. Opperman	E. Opperman
8	Edelman & Co., LTD.	12/31/2015	E. Opperman	E. Opperman
9	Fenwick Securities, Inc.	12/31/2015	E. Opperman	E. Opperman
10	Indiana Securities, LLC	12/31/2015	E. Opperman	E. Opperman
11	Koehler Financial, LLC	12/31/2015	E. Opperman	E. Opperman
12	LocalStake Marketplace LLC	12/31/2015	E. Opperman	E. Opperman
13	Midwestern Securities Trading Co., LLC	12/31/2015	E. Opperman	E. Opperman
14	Money Management Advisory, Inc.	12/31/2015	E. Opperman	E. Opperman
15	Newcastle Distributors LLC	12/31/2015	E. Opperman	E. Opperman

No.	Broker-Dealer Name	Fiscal Year-end Reported on by the Firm	BD Engagement Partner	EQR Partner
16	Periculum Advisors, LLC	12/31/2015	E. Opperman	E. Opperman
17	Powder Point Financial LLC	12/31/2015	E. Opperman	E. Opperman
18	Regional Investment Services, Inc.	12/31/2015	E. Opperman	E. Opperman
19	SCH Enterprises, Inc.	12/31/2015	E. Opperman	E. Opperman
20	Sikich Corporate Finance LLC	12/31/2015	E. Opperman	E. Opperman
21	Sycamore Financial Group	12/31/2015	E. Opperman	E. Opperman
22	TrustFirst, Inc.	12/31/2015	E. Opperman	E. Opperman
23	WEA Investment Services, Inc.	12/31/2015	E. Opperman	E. Opperman

Shedjama, Inc.
Audits & Attestations Not Performed in Accordance with AS 1220
Fiscal Year: 2016

No.	Broker-Dealer Name	Fiscal Year-end Reported on by the Firm	BD Engagement Partner	EQR Partner
1	Abacus Investments, Inc.	9/30/2016	E. Opperman	E. Opperman
2	Allen C. Ewing & Co.	12/31/2016	E. Opperman	E. Opperman
3	Alaska Capital Management Corporation dba Aurora Securities	12/31/2016	E. Opperman	E. Opperman
4	Bull & Bear Brokerage Services, Inc.	12/31/2016	E. Opperman	E. Opperman
5	Confidential Management Financial Services, Inc.	6/30/2016	E. Opperman	E. Opperman
6	Cornerstone Financial Services, Inc.	12/31/2016	E. Opperman	E. Opperman
7	Coventry Capital, Inc.	9/30/2016	E. Opperman	E. Opperman
8	Alantra, LLC (formerly, Downer & Company, LLC)	12/31/2016	E. Opperman	E. Opperman
9	EBH Securities, Inc.	12/31/2016	E. Opperman	E. Opperman
10	Economy Securities, Inc.	12/31/2016	E. Opperman	E. Opperman
11	Edelman & Co., LTD.	12/31/2016	E. Opperman	E. Opperman
12	General Securities Corp	7/31/2016	E. Opperman	E. Opperman
13	Indiana Securities, LLC	12/31/2016	E. Opperman	E. Opperman
14	InvestShares Inc.	12/31/2016	E. Opperman	E. Opperman
15	Koehler Financial, LLC	12/31/2016	E. Opperman	E. Opperman

No.	Broker-Dealer Name	Fiscal Year-end Reported on by the Firm	BD Engagement Partner	EQR Partner
16	LocalStake Marketplace LLC	12/31/2016	E. Opperman	E. Opperman
17	Midwestern Securities Trading Co., LLC	12/31/2016	E. Opperman	E. Opperman
18	Money Management Advisory, Inc.	12/31/2016	E. Opperman	E. Opperman
19	Morris Group, Inc.	3/31/2016	E. Opperman	E. Opperman
20	Newcastle Distributors LLC	12/31/2016	E. Opperman	E. Opperman
21	Pactolus Securities, LLC	6/30/2016	E. Opperman	E. Opperman
22	Periculum Advisors, LLC	12/31/2016	E. Opperman	E. Opperman
23	Powder Point Financial LLC	12/31/2016	E. Opperman	E. Opperman
24	Regional Investment Services, Inc.	12/31/2016	E. Opperman	E. Opperman
25	SCH Enterprises, Inc.	12/31/2016	E. Opperman	E. Opperman
26	Sikich Corporate Finance LLC	12/31/2016	E. Opperman	E. Opperman
27	Sycamore Financial Group	12/31/2016	E. Opperman	E. Opperman
28	TrustFirst, Inc.	12/31/2016	E. Opperman	E. Opperman
29	WEA Investment Services, Inc.	12/31/2016	E. Opperman	E. Opperman
30	William C. Burnside & Co., Inc.	6/30/2016	E. Opperman	E. Opperman

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Ömer Tanriöver*, Respondent.	PCAOB Release No. 105-2018-007 May 9, 2018

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Ömer Tanriöver ("Tanriöver" or "Respondent"); and (2) barring Tanriöver from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings that Tanriöver failed to cooperate with a Board investigation by refusing to provide information in response to an Accounting Board Demand.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(3) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

PCAOB
Public Company Accounting Oversight Board

ORDER

III.

On the basis of Respondent's Offer, the Board finds[2] that:

A. Respondent

1. Ömer Tanriöver, age 53, is a former partner of DRT Bagimsiz Denetim ve Serbest Muhasebeci Mali Musavirlik A.Ş. ("Deloitte Turkey" or "Firm").[3] From 2004 through June 2007, and from April 2010 through May 2016, Tanriöver served as Risk and Reputation Leader for Deloitte Turkey. In that capacity, Tanriöver was a contact between the Firm and the PCAOB during the Board's 2014 inspection of Deloitte Turkey. On August 19, 2016, the Firm placed Tanriöver on administrative leave, and he resigned from Deloitte Turkey as of January 1, 2017, in accordance with the Firm's partnership agreement. At all relevant times, Tanriöver was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondent Failed to Cooperate with a Board Investigation

Applicable PCAOB Rules

2. Section 105(b)(3)(A) of the Act authorizes the Board to sanction an associated person of a registered public accounting firm for "refus[ing] to…cooperate with the Board in connection with an investigation[.]"[4] Board rules include procedures for implementing that authority.[5] Noncooperation with a Board investigation includes "fail[ing] to comply with an accounting board demand ['ABD']."[6]

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[2] The sanctions that the Board is imposing on Respondent in this Order are imposed pursuant to Section 105(b)(3) of the Act, 15 U.S.C. § 7215(b)(3), and PCAOB Rule 5300(b).

[3] The Firm registered with the Board on September 15, 2004, pursuant to Section 102 of the Act and PCAOB Rules.

[4] 15 U.S.C. § 7215(b)(3)(A).

[5] See PCAOB Rule 5110, *Noncooperation with an Investigation*; PCAOB Rule 5200(a)(3), *Commencement of Disciplinary Proceedings*.

[6] PCAOB Rule 5110(a)(1).

ORDER

Background

3. Beginning in July 2016, the PCAOB Division of Enforcement and Investigations (the "Division") conducted an informal inquiry and, beginning on December 20, 2016, a formal investigation of Deloitte Turkey concerning whether former members of Deloitte Turkey management devised and then implemented an improper audit document alteration plan in advance of the PCAOB's 2014 inspection, culminating in the Firm's making documentation available to PCAOB inspectors without revealing that improper alterations had been made ("Improper Alteration Plan").[7]

Respondent Refused to Provide Information in Response to an Accounting Board Demand

4. On February 14, 2017, the Division issued an ABD to Tanriöver requiring him to provide information to the Division by February 28, 2017. The ABD sought, among other things, information concerning Tanriöver's possible knowledge of, or possible involvement in, the Improper Alteration Plan.

5. On April 13, 2017, Tanriöver informed the Division through his counsel that he would not provide responses to any of the demands for information included in the ABD. By not complying with the ABD, Tanriöver failed to cooperate with a Board investigation.[8]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(iii) of the Act and PCAOB Rule 5300(b)(1), Ömer Tanriöver is censured; and

B. Pursuant to Section 105(b)(3)(A)(i) of the Act and PCAOB Rule 5300(b)(1), Ömer Tanriöver is barred from being an associated person of

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[7] See *DRT Bagimsiz Denetim ve Serbest Muhasebeci Mali Musavirlik A.Ş.*, PCAOB Rel. No. 105-2017-050 (Dec. 19, 2017); *Berkman Özata*, PCAOB Rel. No. 105-2017-051 (Dec. 19, 2017); *Şule Firuzment*, PCAOB Rel. No. 105-2017-052 (Dec. 19, 2017).

[8] See PCAOB Rule 5110(a).

ORDER

a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[9]

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 9, 2018

[9] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Ömer Tanriöver. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Hüseyin Gürer*, *Respondent.*	PCAOB Release No. 105-2018-005 May 9, 2018

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Hüseyin Gürer ("Gürer" or "Respondent"); (2) barring Gürer from being an associated person of a registered public accounting firm;[1] and (3) imposing a civil money penalty in the amount of $25,000 on Gürer. The Board is imposing these sanctions on the basis of its findings that Gürer directly and substantially contributed to a registered public accounting firm's (1) failure to cooperate with a Board inspection; and (2) violation of PCAOB quality control standards related to personnel performing professional responsibilities with integrity and in compliance with professional standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent

[1] Gürer may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

ORDER

consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Hüseyin Gürer, 57, is a former partner of the registered public accounting firm DRT Bagimsiz Denetim ve Serbest Muhasebeci Mali Musavirlik A.Ş. ("Deloitte Turkey" or "Firm"). Gürer served as the Firm's Chief Executive Officer and the Chairman of the Firm's Executive Committee from 2007 to May 2016. In those roles, Gürer's responsibilities encompassed the management of the Deloitte Turkey partnership, including the development and implementation of policies and procedures to provide reasonable assurance that the Firm's audit engagement personnel met applicable professional standards, including PCAOB standards, and that engagement personnel performed all professional responsibilities with integrity.

2. On or about September 8, 2016, the Firm placed Gürer on administrative leave due to the conduct described in this Order, and effective October 30, 2016, he retired from the Firm. At all relevant times, Gürer was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5)(A) of the Act, which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard.

ORDER

B. Respondent Directly and Substantially Contributed to Deloitte Turkey's Failure to Cooperate with a Board Inspection and to the Firm's Violation of PCAOB Quality Control Standards

Applicable PCAOB Rules and Standards

3. PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board.[4] The cooperation requirement of Rule 4006 includes an obligation "not to provide misleading documents or information in connection with the Board's inspection processes."[5]

4. PCAOB rules also require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[6] Auditing Standard No. 3, *Audit Documentation* ("AS 3"), requires that the complete and final set of documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its report.[7] After the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date the information was added,

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[4] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules,* PCAOB Rel. No. 2015-002 (Mar. 31, 2015).

[5] *DRT Bagimsiz Denetim ve Serbest Muhasebeci Mali Musavirlik A.Ş.*, PCAOB Rel. No. 105-2017-050 (Dec. 19, 2017); *Berkman Özata*, PCAOB Rel. No. 105-2017-051 (Dec. 19, 2017); *Şule Firuzment*, PCAOB Rel. No. 105-2017-052 (Dec. 19, 2017).

[6] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[7] AS 3 ¶ 15.

ORDER

the name of the person who prepared the additional documentation, and the reason for adding the documentation.[8]

5. PCAOB rules further require that a registered public accounting firm comply with the Board's quality control standards.[9] PCAOB quality control standards require that a registered public accounting firm "have a system of quality control for its accounting and auditing practice."[10] As part of its system of quality control, a firm should establish policies and procedures to provide the firm with reasonable assurance that (1) "personnel … perform all professional responsibilities with integrity;"[11] and (2) "the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[12]

6. Finally, PCAOB rules also prohibit associated persons of registered public accounting firms from taking or omitting to take any action "knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of," among other things, PCAOB rules or standards.[13]

Respondent Violated PCAOB Rule 3502 in Connection with the Board's 2014 Inspection of Deloitte Turkey

7. The Board conducted its first inspection of Deloitte Turkey in 2014. On or about August 28, 2014, the Board's Division of Registration and Inspections ("Inspections") informed the Firm that its work in connection with three particular issuer audits would be inspected. At the time Inspections notified the Firm of the engagements it had selected for inspection, the documentation completion date for each of the audits

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[8] See id. ¶ 16.

[9] See PCAOB Rule 3400T, *Interim Quality Control Standards.*

[10] QC § 20.02, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[11] QC § 20.09.

[12] QC § 20.17.

[13] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

ORDER

had long since passed, and a complete and final set of documentation had been assembled for retention ("archived").[14]

8. Following the PCAOB's notification of the engagements it had selected for inspection, Gürer was informed by certain senior partners of the Firm that "preparations" would need to be made in connection with the PCAOB's inspection. In furtherance of those "preparations," one of the senior partners requested that Gürer approve the use of three laptop computers with administrative rights.[15] Gürer approved the request with the understanding that it was being made in connection with an effort to potentially improperly alter the previously archived work papers for the three engagements the PCAOB had selected for inspection.

9. As an experienced auditor and the Firm's CEO, Gürer knew that, if improper alterations were made to the previously archived work papers, that conduct would violate PCAOB audit documentation standards. He also knew that, if improperly altered documentation was made available to PCAOB inspectors, that conduct would violate the Firm's obligation to cooperate with the PCAOB's inspection. As the individual ultimately responsible for the Firm's system of quality control, Gürer also was aware that his approval of a project pursuant to which Firm personnel might engage in such conduct was inconsistent with the Firm's obligation to implement policies and procedures to provide reasonable assurance that personnel performed their professional responsibilities with integrity and in compliance with professional standards.

10. Following Gürer's approval of the use of three computers with administrative rights, and in advance of the PCAOB's inspection, the lead partner for one of the engagements the PCAOB had selected for inspection did, in fact, improperly alter the previously archived work papers for that engagement. Moreover, she

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[14] One issuer filed its Form 20-F with the U.S. Securities and Exchange Commission ("SEC") on March 21, 2014, and thus the documentation completion date for that audit was no later than May 5, 2014. The other two issuers filed Forms 10-K with the SEC on February 28, 2014 and June 5, 2014, respectively, and thus the documentation completion dates for those audits were no later than April 14, 2014 and July 20, 2014, respectively.

[15] Firm policy required CEO approval for the release of computers with administrative rights.

ORDER

subsequently made those improperly altered work papers available to Inspections, without revealing that the alterations had occurred.[16]

11. As a result of the conduct described above, Deloitte Turkey (a) violated its duty to cooperate with Inspections; and (b) violated PCAOB quality control standards requiring the Firm to establish and maintain policies and procedures to provide it with reasonable assurance that its personnel "perform all professional responsibilities with integrity" and that "the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[17]

12. Through the conduct described above, Gürer took or omitted to take actions knowing, or recklessly not knowing, that his acts and/or omissions would directly and substantially contribute to the Firm's violation of its duty to cooperate with Inspections and its violations of PCAOB quality control standards. Gürer thereby violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Hüseyin Gürer is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Hüseyin Gürer is barred from being an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[18]

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[16] See *Şule Firuzment*, PCAOB Rel. No. 105-2017-052 (Dec. 19, 2017).

[17] QC §§ 20.09, 17.

[18] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Gürer. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a

ORDER

C. After three (3) years from the date of this Order, Hüseyin Gürer may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon Hüseyin Gürer. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Gürer shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Gürer as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

May 9, 2018

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financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Gökhan Alpman*, *Respondent.*	PCAOB Release No. 105-2018-006 May 9, 2018

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Gökhan Alpman ("Alpman" or "Respondent"); and (2) barring Alpman from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings that Alpman directly and substantially contributed to a registered public accounting firm's violation of PCAOB quality control standards related to personnel performing professional responsibilities with integrity and in compliance with professional standards in connection with a plan that resulted in the improper alteration of work papers related to one engagement involving one issuer.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent

[1] Alpman may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

ORDER

consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Gökhan Alpman, 46, is a former partner of the registered public accounting firm DRT Bagimsiz Denetim Ve Serbest Muhasebeci Mali Musavirlik A.Ş. ("Deloitte Turkey" or "Firm"). Alpman served as Audit Business Leader for Deloitte Turkey between June 1, 2012 and May 31, 2016, and was a member of the Firm's Executive Committee from March 2010 to August 17, 2016. In those roles, Alpman had responsibilities for implementing and maintaining certain aspects of the Firm's system of quality control. Among other things, Alpman had responsibility for Deloitte Turkey's overall audit business, and, together with other senior members of the Firm, had certain responsibilities for implementing policies and procedures to provide reasonable assurance that the work of audit engagement personnel met applicable professional standards, including PCAOB standards, and that engagement personnel performed all professional responsibilities with integrity.

2. On June 1, 2016, Alpman became the Chief Executive Officer of Deloitte Turkey, but on or about August 17, 2016, he was placed on administrative leave due to the conduct described in this Order, and effective January 1, 2017, he separated from the Firm. At all relevant times, Alpman was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act.

ORDER

B. Respondent Violated PCAOB Rule 3502 by Directly and Substantially Contributing to Deloitte Turkey's Violation of PCAOB Quality Control Standards

Applicable PCAOB Rules and Standards

3. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[4] PCAOB quality control standards require that a registered public accounting firm "have a system of quality control for its accounting and auditing practice."[5] As part of its system of quality control, a firm should establish policies and procedures to provide the firm with reasonable assurance that (1) "personnel … perform all professional responsibilities with integrity;"[6] and (2) "the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[7]

4. PCAOB rules also prohibit associated persons of registered public accounting firms from taking or omitting to take any action "knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of," among other things, PCAOB rules or standards.[8]

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[4] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules,* PCAOB Rel. No. 2015-002 (Mar. 31, 2015).

[5] QC § 20.02, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[6] QC § 20.09.

[7] QC § 20.17.

[8] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

ORDER

Other Relevant PCAOB Rules and Standards

5. PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[9] Auditing Standard No. 3, *Audit Documentation* ("AS 3"), requires that the complete and final set of documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its report.[10] After the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but it may be added as long as the auditor documents the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding the documentation.[11]

6. In addition, PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. The cooperation requirement of Rule 4006 includes an obligation "not to provide misleading documents or information in connection with the Board's inspection processes."[12]

Respondent Violated PCAOB Rule 3502 in Connection with the Board's 2014 Inspection of Deloitte Turkey

7. The Board conducted an inspection of Deloitte Turkey in 2014. This was the first PCAOB inspection of Deloitte Turkey. On or about August 28, 2014, the Board's Division of Registration and Inspections ("Inspections") informed the Firm that its work in connection with three particular issuer audits would be inspected. Alpman was the lead partner for two of the three engagements. At the time Inspections notified the Firm

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[9] See PCAOB Rule 3100.

[10] AS 3 ¶ 15.

[11] See id. ¶ 16.

[12] *DRT Bagimsiz Denetim ve Serbest Muhasebeci Mali Musavirlik A.Ş.*, PCAOB Rel. No. 105-2017-050 (Dec. 19, 2017); *Berkman Özata*, PCAOB Rel. No. 105-2017-051 (Dec. 19, 2017); *Şule Firuzment*, PCAOB Rel. No. 105-2017-052 (Dec. 19, 2017).

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of the engagements it had selected for inspection, the documentation completion date for each of the audits had long since passed.[13]

8. Following the PCAOB's notification of the engagements it had selected for inspection, Alpman participated in one or more discussions among senior members of the Firm to address various issues, including the upcoming inspection. During one of those discussions, another partner, who was senior to Alpman, approved a plan concerning the audit documentation for the engagements selected for inspection (the "previously archived work papers"). Under that plan, the engagement teams would be given the opportunity, in advance of the PCAOB's inspection, to improperly alter the previously archived work papers without indicating to the PCAOB that any such alterations had occurred (the "Improper Alteration Plan"). Although Alpman did not make any improper alterations of the work papers for the two engagements on which he served as the lead partner, he left the meeting believing that the partner for the other engagement selected for inspection ("Partner A") might make improper alterations to the previously archived work papers for that engagement and did not raise any objections to the Improper Alteration Plan.

9. As an experienced auditor and the Firm's Audit Leader, Alpman knew that, if improper alterations were made to any audit documentation, that conduct would violate PCAOB audit documentation standards and that to the extent that documentation was subject to the PCAOB's 2014 inspection, that conduct would violate the Firm's obligation to cooperate with the PCAOB inspections. In addition, Alpman was aware that the development and any execution of the Improper Alteration Plan were inconsistent with the Firm's obligation to establish and maintain quality control policies and procedures related to personnel performing professional responsibilities with integrity and in compliance with professional standards, including PCAOB standards.

10. Following the discussions described above, and in advance of the PCAOB's inspection, Partner A, with the help of others, in fact, carried out the Improper Alteration Plan with respect to the engagement on which Partner A had served.

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[13] One issuer filed its Form 20-F with the U.S. Securities and Exchange Commission ("SEC") on March 21, 2014, and thus the documentation completion date for that audit was no later than May 5, 2014. The other two issuers filed Forms 10-K with the SEC on February 28, 2014 and June 5, 2014, respectively, and thus the documentation completion dates for those audits were no later than April 14, 2014 and July 20, 2014, respectively.

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Specifically, Partner A improperly altered the previously archived work papers for that engagement and subsequently made those improperly altered work papers available to Inspections, without revealing that the alterations had occurred.[14]

11. Alpman himself did not make improper alterations or otherwise participate in the implementation of the Improper Alteration Plan. Alpman did, however, as discussed above, participate in discussions in which the Improper Alteration Plan was formulated and had the impression that Partner A might make improper alterations. Yet Alpman did not raise objections to the Improper Alteration Plan and never took any steps to halt the plan. Further, during the 2014 inspection, Alpman interacted with PCAOB inspectors in both his role as lead partner for two of the engagements inspected and in his role as a member of Firm Leadership responsible for implementing and maintaining certain aspects of the Firm's system of quality control, but he never informed any of the PCAOB inspectors of the Improper Alteration Plan.

12. As a result of the conduct described above, Deloitte Turkey violated PCAOB quality control standards requiring the Firm to establish and maintain policies and procedures to provide it with reasonable assurance that its personnel "perform all professional responsibilities with integrity" and that "the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[15]

13. As described above, Alpman participated in discussions that led to the Improper Alteration Plan, had the impression that Partner A might make improper alterations to previously archived work papers, and had responsibility for implementing and maintaining certain aspects of the Firm's system of quality control related to integrity and engagement performance. Despite that knowledge and those responsibilities, Alpman took or omitted to take actions knowing, or recklessly not knowing, that his acts and/or omissions would directly and substantially contribute to the Firm's violation of PCAOB quality control standards. Alpman thereby violated PCAOB Rule 3502.[16]

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[14] See *Şule Firuzment*, PCAOB Rel. No. 105-2017-052 (Dec. 19, 2017); *Berkman Özata*, PCAOB Rel. No. 105-2017-051 (Dec. 19, 2017).

[15] QC §§ 20.09, 17.

[16] See PCAOB Rule 3502.

ORDER

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Gökhan Alpman is censured; and

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Gökhan Alpman is barred from being an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[17]

C. After two (2) years from the date of this Order, Gökhan Alpman may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 9, 2018

[17] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Alpman. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Elliot D. Kim, CPA,* *Respondent.*	PCAOB Release No. 105-2018-010 May 23, 2018

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Elliot D. Kim, CPA ("Kim" or "Respondent"); (2) barring Kim from being an associated person of a registered public accounting firm;[1] and (3) requiring Kim to complete, before filing any petition for Board consent to associate with a registered public accounting firm, forty (40) hours of continuing education, at least twenty (20) hours of which shall be in the subject of ethics and the remainder of which shall be in subjects that are directly related to the audits of issuer financial statements under PCAOB standards. The Board is imposing these sanctions on the basis of its findings that Kim violated PCAOB rules and standards by improperly altering audit documentation for one issuer audit in connection with a Board inspection and failing to disclose the alterations to the Board's inspection team.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Respondent admits to the facts, findings, and violations set forth

[1] Kim may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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below, and consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. Elliot D. Kim, CPA, age 29, of Cypress, California, is a certified public accountant licensed under the laws of California (License No. 134403). Kim was employed by KPMG LLP ("KPMG" or "Firm") between October 2013 and December 2017. He was a senior associate on KPMG's audit of the 2016 year-end financial statements and internal control over financial reporting of an issuer ("Issuer A"). At all relevant times, Kim was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Kim's failure to cooperate in a Board inspection and to adhere to the Board's standards concerning audit documentation. During the Board's inspection of KPMG's audit of Issuer A, and after the documentation completion date, Respondent (1) added information to a control testing document without indicating the date the information was added, the person who prepared the additional documentation, or the reason for the additional documentation, (2) provided a screenshot of metadata that inaccurately indicated that the control testing document had last been modified during the audit, and (3) failed to disclose the alterations during a discussion with the Board's inspection staff concerning the control testing document.

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

ORDER

C. Respondent Violated PCAOB Rules and Standards

3. At all relevant times, Issuer A was an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). In July and August 2017, the Board's Division of Registration and Inspections ("Inspections") inspected the Firm's audit of Issuer A's financial statements for the year ended December 31, 2016 ("Issuer A audit").

4. PCAOB rules require that registered public accounting firms and their associated persons comply with the Board's auditing and related professional practice standards.[4] AS 1215, *Audit Documentation* (formerly, Auditing Standard No. 3), requires that "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[5] After the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but additional documentation may be added as long as the auditor documents the date the information was added, the name of the person who prepared the information, and the reason for adding it.[6]

5. PCAOB rules require that registered public accounting firms and their associated persons "shall cooperate with the Board in the performance of any Board inspection."[7] This cooperation obligation includes an obligation not to provide

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[4] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules,* PCAOB Rel. No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards: Reorganized and Pre-Reorganized Numbering* (Jan. 2017).

[5] AS 1215.15. The "report release date" is "the date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements." AS 1215.14.

[6] AS 1215.16.

[7] PCAOB Rule 4006, *Duty to Cooperate With Inspectors.*

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misleading documents or information in connection with, or otherwise to interfere in, the Board's inspection processes.[8]

6. Kim served as a senior associate on the Issuer A audit. KPMG's audit report release date was February 27, 2017. The Firm was required to assemble a complete and final set of audit documentation within 45 days of the audit report release date—*i.e.*, by April 13, 2017.[9]

7. Kim first learned of the Board's inspection in July 2017, when a senior manager ("Senior Manager A") on the Issuer A audit asked him to compile certain audit documentation that had not been included in the Firm's final, archived audit file. Among the documentation that Kim compiled was a control testing document that did not include documentation of certain procedures that Kim performed at the time of the audit.

8. On July 15, 2017, Kim added language to the control testing document concerning the procedures he had performed and sent the altered document to a second senior manager ("Senior Manager B") on the Issuer A audit. Kim knew that the altered document could be provided to the Board's Inspections staff, but did not tell Senior Manager B or anyone else about the alterations. Nor did Kim prepare any documentation identifying the information added to the control testing document, the date the information was added, the person who prepared the additional documentation, or the reason for the additional documentation.

9. On July 20, 2017, Kim sent Senior Manager A a screenshot of metadata for the control testing document that misleadingly appeared to show that the document had last been modified on January 16, 2017. Kim knew that the screenshot could be provided to the Board's Inspections staff, but did not tell Senior Manager A or anyone else that the last modified date indicated by the screenshot was inaccurate or that he had actually modified the document only five days earlier.

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[8] See, e.g., *Kabani & Company, Inc.*, SEC Release No. 34-80201, at 14 (Mar. 10, 2017) (sustaining Board finding that respondents failed to cooperate with inspection where improper work paper alterations "interfered with the PCAOB's ability to fulfill its regulatory function of ensuring that auditors comply with their professional responsibilities"); *Dale Arnold Hotz, CPA, Jyothi Nuthulaganti Manohar, CPA, and Michael Jared Fadner, CPA*, PCAOB Release No. 105-2012-008, ¶ 7 (Nov. 13, 2012); see also *Gately & Associates, LLC*, SEC Release No. 34-62656, at 22-23 (Aug. 5, 2010) (sustaining Board finding that respondents failed to cooperate with inspection).

[9] See AS 1215.15.

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10. On July 25, 2017, the Firm provided the Board's Inspections staff with a set of eleven documents that it represented had inadvertently not been included in the final, archived audit file. The eleven documents included the control testing document that Kim had altered. The other ten documents had not been altered.

11. On August 2, 2017, Kim, Senior Manager B, and certain other Firm personnel participated in a meeting with the Board's Inspections staff. The Inspections staff was shown the altered control testing document, and Kim walked them through the procedures that he had added to the document on July 15. When the Inspections staff asked if the control testing document they had been shown was the original document from the time of the audit, Senior Manager B responded affirmatively and the Inspections staff was shown the screenshot from Kim that inaccurately indicated the document had not been modified since January 2017. Kim did not correct Senior Manager B or otherwise disclose that the screenshot was inaccurate, that the control testing document he had just discussed was not the original document, or that he had altered the document approximately two weeks previously.

12. The Firm subsequently discovered that Kim had improperly altered the control testing document. Upon making this discovery, the Firm terminated Kim and reported the issue to the Board's staff.

13. As a result of the conduct described above, Kim violated PCAOB Rule 4006 and AS 1215.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Elliot D. Kim, CPA is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Elliot D. Kim, CPA is barred from being an associated person of a

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registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[10]

C. After one (1) year from the date of this Order, Elliot D. Kim, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Elliot D. Kim, CPA is required to complete, before filing any petition for Board consent to associate with a registered public accounting firm, forty (40) hours of continuing education, at least twenty (20) hours of which shall be in the subject of ethics and the remainder of which shall be in subjects that are directly related to the audits of issuer financial statements under PCAOB standards (such hours shall be in addition to, and shall not be counted in, the continuing professional education he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 23, 2018

[10] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Kim. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS

In the Matter of Deloitte & Touche LLP,

Respondent.

PCAOB Release No. 105-2018-008

May 23, 2018

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Deloitte & Touche LLP ("Deloitte" or "Respondent" or "Firm"), a registered public accounting firm, and imposing on Deloitte a civil money penalty in the amount of $500,000. The Board is imposing these sanctions on the basis of its findings that Deloitte violated PCAOB rules and standards in connection with its integrated audits of Jack Henry & Associates, Inc. ("Jack Henry" or "Company") for the fiscal years ("FY") ended June 30, 2014, 2013, and 2012.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

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III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Deloitte & Touche LLP, a Delaware limited liability partnership with headquarters in New York, New York, registered with the Board on October 20, 2003. The Firm is licensed to practice public accounting in multiple jurisdictions, including Missouri (License No. C1071F). Deloitte served as Jack Henry's independent auditor from May 1997 to December 2015. Originally based in the Firm's St. Louis, Missouri office, the Jack Henry engagement was transferred to Deloitte's Kansas City, Missouri office in 2010.

B. Issuer

2. Jack Henry & Associates, Inc. is a Delaware corporation with headquarters in Monett, Missouri. Jack Henry provides integrated computer systems, software, transaction processing, business process automation, and other products and services for banks, credit unions, and other financial institutions. The Company's common stock is registered pursuant to Section 12(b) of the Securities Exchange Act of 1934 and is listed on NASDAQ under the symbol "JKHY." Jack Henry is an issuer within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

3. This case is about Deloitte's failures in auditing Jack Henry's recognition of software license revenue from multiple-element software arrangements. In each of the FY14, FY13, and FY12 audits, Deloitte's engagement teams specifically identified risks of material misstatement (including fraud risks) concerning software license revenue. Due to its high gross profit margins, software license revenue could have had a material impact on Jack Henry's reported net income and earnings per share, even though it represented about five percent of the Company's total revenue.

4. Deloitte's engagement teams planned and performed audit procedures intended to address the significant risks associated with software license revenue. As executed, however, those procedures did not adequately address certain of the identified and assessed risks of material misstatement. As a result, the engagement teams failed to, among other things, obtain sufficient appropriate evidence to support the Firm's unqualified opinions on Jack Henry's financial statements and management's assessments of the effectiveness of internal control over financial reporting ("ICFR") in

the FY14, FY13, and FY12 audits. The engagement teams also failed to exercise the requisite due professional care and professional skepticism in those audits.

5. The audit deficiencies described in this Order came to light after Deloitte received notice from the PCAOB that the Jack Henry FY14 audit would be reviewed during the Board's 2015 annual inspection of the Firm. After getting the notice, the then engagement partner asked another Deloitte partner, who had more auditing experience in the software industry, to review certain FY14 revenue work papers to help anticipate questions that might be asked during the PCAOB inspection. That partner's review raised questions about the Company's accounting for software license revenue, which led Deloitte to examine the Company's accounting and the audit more closely. As a result, the Firm identified a number of audit and accounting issues concerning Jack Henry's recognition of software license revenue. Deloitte promptly reported those issues (which are the subjects of paragraphs 29-37 below) to the PCAOB inspection team before the inspection field work began.

6. After the audit and accounting issues were identified, Deloitte performed remedial audit procedures that ultimately led to Jack Henry restating its FY14, FY13, and FY12 financial statements in June 2015. As the Company disclosed, the restatement corrected historical errors concerning its accounting for multiple-element software arrangements. Due to those errors, Jack Henry had recognized software license revenue before it was allowed to under the then-applicable U.S. generally accepted accounting principles ("GAAP").

7. Various factors contributed to the deficiencies in the FY14, FY13, and FY12 Jack Henry audits, but it was the Firm's actions and inactions—beyond those of its engagement personnel—that make it primarily responsible for the violations of PCAOB standards described in this Order. Deloitte did not include as part of the Jack Henry engagement teams an auditor who possessed sufficient industry-specific experience and knowledge (including of the relevant GAAP) to properly evaluate and audit the Company's accounting for software license revenue. In addition, although this Order concerns Deloitte's FY14, FY13, and FY12 Jack Henry audits, the Firm failed to appropriately act on two earlier opportunities to identify and correct some of the same audit deficiencies described in this Order.

D. Background

Relevant Aspects of Jack Henry's Software Business

8. At all relevant times, Jack Henry disclosed that it was a leading provider of technology solutions and payment processing services for financial institutions. The majority of its revenue was derived from recurring transaction processing fees,

outsourcing fees, and support and service fees. The Company also sold software licenses for several, functionally-distinct core processing systems and more than 100 complementary software products and services to purchasers of its core systems.

9. Jack Henry's customers could opt for in-house installation of the Company's software or they could outsource their transaction and information processing to Jack Henry using Company-hosted systems. The Company's software license revenue came from customers who entered into software license agreements for in-house installations. In-house installation customers licensed Jack Henry's proprietary software based on initial license fees. Many in-house customers also contracted for annual software maintenance and support services (known as "postcontract customer support" or "PCS"). They also often purchased implementation services ("implementation") in connection with their systems. A complete core system implementation typically included detailed planning, project management, data conversion, and testing by Jack Henry personnel.

Recognizing Revenue from Multiple-Element Software Arrangements

10. Jack Henry's software license agreements often included multiple licensed software products whose deliveries were staggered, sometimes over the course of a year or more. In most instances, the Company bundled the software with related implementation and PCS, and delivered the software before other elements. At all relevant times, Jack Henry purported to account for these multiple-element software arrangements in accordance with FASB Accounting Standards Codification ("ASC") 985-605, *Software—Revenue Recognition*, which provided authoritative guidance on the timing and amount of revenue recognized in connection with such arrangements.[2]

11. Under ASC 985-605, Jack Henry was required to allocate the total arrangement fee to all elements based on "vendor-specific objective evidence of fair value"[3] (or "VSOE"), regardless of how those elements were separately priced in

[2] ASC 985-605 codified Statement of Position 97-2, *Software Revenue Recognition*, which was released in October 1997. Effective for public company annual reporting periods beginning after December 15, 2017, ASC 985-605 was superseded by ASC 606, *Revenue from Contracts with Customers*.

[3] Under ASC 985-605-25-6, vendor-specific objective evidence of fair value was limited to: (a) the price charged when the same element was sold separately, or (b) for an element that was not yet being sold separately, the price established by management, provided it was probable that the price, once established, would not change before the separate introduction of the element into the marketplace.

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customer contracts. Subject to certain exceptions, if Jack Henry was unable to establish VSOE for all elements of an arrangement (i.e., all software licenses, implementations, initial PCS terms, and other products and services sold in the arrangement), ASC 985-605 required the Company to defer all revenue from the arrangement until all elements had been delivered.

12. ASC 985-605 provided an exception to revenue deferral when a seller could establish VSOE for all undelivered elements in an arrangement, but could not establish VSOE for one or more delivered elements. Under this exception—known as the residual method—the total arrangement fee was first allocated to the undelivered elements based on those elements' VSOE, and the remainder of the fee, if any, was allocated to the delivered elements for which no VSOE existed.[4] The revenue allocated to the delivered elements was recognized upon delivery (i.e., up-front) while the revenue allocated to the undelivered elements was deferred.

13. At all relevant times, Jack Henry asserted that it had established and maintained (a) VSOE for implementation services based on the pricing used when those services were sold separately, and (b) VSOE for PCS based on stated contractual renewal rates. The Company further asserted that it used the residual method to recognize revenue from software licenses (which lacked VSOE) when the software was delivered to customers in advance of implementation and PCS; revenue from the undelivered implementation and PCS elements was deferred.

14. Under ASC 985-605, Jack Henry had to satisfy several preconditions to properly recognize software license revenue up-front using the residual method. Those preconditions required Jack Henry to, among other things: (a) properly define the arrangement; (b) properly identify all deliverables (i.e., elements) in the arrangement; (c) properly establish and maintain VSOE for all undelivered elements (including implementation and PCS); and (d) properly allocate the total arrangement fee to all deliverables based on the VSOE of the undelivered elements.

Jack Henry Restated its FY14, FY13, and FY12 Financial Statements Due to Errors in its Accounting for Multiple-Element Software Arrangements

15. In June 2015, Jack Henry restated its FY14, FY13, and FY12 consolidated financial statements. In connection with the restatement, the Company disclosed that management had "identified historical accounting errors relating to its accounting for

[4] See ASC 985-605-25-10e.

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certain software license, maintenance [i.e., PCS] and service agreements."[5] The prior period errors primarily related to the Company's accounting for multiple-element software arrangements.[6]

16. The errors, which caused Jack Henry to prematurely recognize software license revenue, largely concerned the Company's failures to satisfy one or more of the preconditions noted above regarding use of the residual method.[7] For instance, in FY14, FY13, FY12, and earlier years, Jack Henry failed to properly define its multiple-element arrangements and identify all deliverables (i.e., elements) in those arrangements.

17. To use an example, in accounting for a software license agreement that sold four software products (e.g., a core system and three complementary products) delivered at different times, Jack Henry erroneously treated that contract as containing four separate arrangements (each comprised of a software product with related implementation and PCS), and improperly recognized license revenue each time a software product was delivered.[8] Under ASC 985-605, that contract should have been accounted for as a single arrangement containing multiple software licenses and other deliverables. Even if the Company had established VSOE for all other deliverables

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[5] See Jack Henry Form 10-K/A (June 25, 2015), at 49.

[6] Due to the errors, previously reported revenue for FY14, FY13, and FY12 was overstated by $36.8 million (3 percent), $21.9 million (2 percent), and $9.4 million (1 percent), respectively. Previously reported net income for FY14, FY13, and FY12 was overstated by $14.4 million (7 percent), $9 million (5 percent), and $2.9 million (2 percent), respectively. Total previously reported deferred revenue (current and non-current) was understated by $171.8 million (54 percent), $135 million (44 percent), and $113.1 million (38 percent) as of June 30, 2014, 2013, and 2012, respectively.

[7] See *Jack Henry & Associates, Inc.*, SEC Rel. No. 34-79650 (Dec. 21, 2016), at 3-5 (Jack Henry consented, without admitting or denying the findings except as to jurisdiction, to a cease-and-desist order that (1) found that it violated the reporting, books and records, and internal control provisions of the federal securities laws, namely Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Securities Exchange Act of 1934, and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder, during FY14, FY13, and FY12; and (2) imposed a civil money penalty of $780,000).

[8] See id. at 4.

(which it had not), no revenue should have been recognized on the contract until all licenses, for which no VSOE existed, were delivered.[9]

18. Also in FY14, FY13, FY12, and earlier years, Jack Henry erred in concluding that it had properly established and maintained VSOE for implementation and PCS. Because the Company could not establish VSOE for implementation and PCS, it should have deferred recognition of all revenue from multiple-element software arrangements until every element had been delivered or until the only undelivered element was PCS.[10]

E. Deloitte Violated PCAOB Rules and Standards in its Integrated Audits of Jack Henry for FY 2014, FY 2013, and FY 2012

19. In each of the FY14, FY13, and FY12 integrated audits of Jack Henry (collectively, the "Audits"), Deloitte performed an audit of management's assessment of the effectiveness of ICFR that was integrated with its audit of Jack Henry's financial statements. Deloitte issued audit reports expressing unqualified opinions on Jack Henry's financial statements and ICFR at the end of each Audit.

20. In planning the Audits, Deloitte's engagement teams identified and assessed a number of risks of material misstatement (including fraud risks) regarding Jack Henry's recognition of license revenue from multiple-element software arrangements. In performing the Audits, however, Deloitte violated PCAOB standards when its engagement teams failed to adequately execute their planned responses to those risks.

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[9] See id.

[10] If the only undelivered element was PCS, the entire arrangement fee should have been recognized ratably over the remaining initial PCS term. See, e.g., ASC 985-605-25-10a.

ORDER

21. PCAOB rules[11] require that a registered public accounting firm and its associated persons comply with the Board's auditing standards.[12] An auditor may express an unqualified opinion on an issuer's financial statements only when that opinion has been formed on the basis of an audit performed in accordance with PCAOB standards.[13] Among other things, PCAOB standards require auditors to design and implement audit responses that address the risks of material misstatement identified and assessed by the auditors.[14] They must also evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[15] Moreover, PCAOB standards require auditors to exercise due professional care and professional skepticism in planning and performing financial statement and ICFR audits.[16] For the reasons set forth below, Deloitte failed to comply with these and other PCAOB auditing standards in connection with the audit procedures it performed concerning software license revenue and the reports it issued in the Audits.

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[11] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audit. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards.

[12] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[13] See AU § 508.07, *Reports on Audited Financial Statements*.

[14] Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"), ¶ 3.

[15] Auditing Standard No. 14, *Evaluating Audit Results*, ¶ 2; see also Auditing Standard No. 15, *Audit Evidence*, ¶ 3.

[16] See AU § 230, *Due Professional Care in the Performance of Work*; Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That is Integrated with An Audit of Financial Statements* ("AS 5"), ¶ 4.

ORDER

Deloitte's Engagement Teams Identified Fraud Risks and Other Significant Risks of Material Misstatement Relating to Software License Revenue

22. Jack Henry's software license revenue was approximately $53 million in FY14 and $55 million in each of FY13 and FY12. In each of those years, software license revenue represented about five percent of Jack Henry's total revenue. Though relatively small compared to total revenue, Deloitte's engagement teams concluded in each Audit that license revenue was both quantitatively and qualitatively material to Jack Henry's financial statements. The engagement teams also identified software license revenue as a fraud risk based on, among other things, gross profit margins of about ninety percent.

23. Due to its high profitability, an overstatement of license revenue (whether by fraud or error) could have materially inflated the net income and earnings per share ("EPS") reported by Jack Henry. As Deloitte's engagement teams knew, Jack Henry's common stock was covered by multiple securities analysts, resulting in quarterly consensus estimates of the Company's EPS,[17] and management routinely discussed earnings guidance in quarterly calls with analysts.

24. In each Audit, the engagement teams also identified software license revenue as a "significant account," meaning there was "a reasonable possibility that the account…could contain a misstatement that, individually or when aggregated with others, has a material effect on the financial statements…."[18] As to that account, Deloitte identified the occurrence and accuracy of license revenue as "relevant assertions," meaning those financial statement assertions had "a reasonable possibility of containing a misstatement or misstatements that would cause the financial statements to be materially misstated."[19]

25. Part of identifying significant accounts and their relevant assertions is determining the likely sources of potential misstatements that could cause the financial

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[17] For example, Jack Henry originally reported diluted EPS that met or exceeded consensus estimates for six of the eight quarters in FY14 and FY13. In four of those six quarters, the Company's 2015 restatement reduced diluted EPS below both the originally reported numbers and the consensus estimates.

[18] AS 5 ¶ A10; Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"), ¶ 59e.

[19] AS 5 ¶ A9; AS 12 ¶ 59e.

statements to be materially misstated.[20] In each Audit, Deloitte's engagement teams identified several risks of material misstatement ("RoMMs") concerning Jack Henry's use of the residual method to recognize software license revenue.

26. The RoMMs identified by the engagement teams largely related to risks that Jack Henry might fail to satisfy one or more of the preconditions identified in paragraph 14 above regarding use of the residual method. For example, the RoMMs included risks that Jack Henry management (a) might not appropriately define its arrangements and identify all deliverables (i.e., elements) in those arrangements; (b) might fail to establish or maintain VSOE for implementations; (c) might fail to establish or maintain VSOE for PCS; and (d) might fail to properly allocate revenue among the various elements in an arrangement on the basis of VSOE. In numerous cases, the engagement teams assessed these RoMMs as significant risks and/or fraud risks.[21]

Deloitte's Engagement Teams Failed to Respond Appropriately to the Risks of Material Misstatement Regarding Jack Henry's Software License Revenue

27. In designing and implementing appropriate responses to the RoMMs, the auditor's objective is "to address the risks of material misstatement through appropriate overall audit responses and audit procedures." [22] The auditor should design and implement overall responses to address the assessed RoMMs by, among other things, making appropriate assignments of significant engagement responsibilities to persons whose knowledge, skill, and ability are commensurate with the assessed risks of material misstatement. [23] In addition, PCAOB standards provide that "[a]uditors should be assigned to tasks…commensurate with their level of knowledge, skill, and ability so that

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[20] See AS 5 ¶ 30; AS 12 ¶ 61.

[21] A significant risk is "[a] risk of material misstatement that requires special audit consideration." AS 12 ¶ A5. In determining whether an identified and assessed risk is significant, "the auditor should evaluate whether the risk requires special audit consideration because of the nature of the risk or the likelihood and potential magnitude of misstatement related to the risk." Id. ¶ 70. Identified fraud risks are also significant risks. Id. ¶ 71 & note.

[22] AS 13 ¶ 2.

[23] See id. ¶ 5a.

they can evaluate the audit evidence they are examining."[24] In connection with the Audits, Deloitte violated these PCAOB standards when it did not include as part of the engagement teams an auditor who possessed sufficient industry-specific experience and knowledge (including of the relevant GAAP) to properly evaluate and audit the Company's accounting for software license revenue.

28. In addition to overall audit responses, auditors "should design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure."[25] Moreover, when addressing fraud risks in the audit of the financial statements, "the auditor should perform substantive procedures, including tests of details, that are specifically responsive to the assessed fraud risks."[26] In each Audit, Deloitte's engagement team planned and performed substantive procedures, including tests of details, intended to address the RoMMs they identified and assessed concerning Jack Henry's up-front recognition of software license revenue. For the reasons set forth below, however, those procedures failed to adequately address those risks.[27]

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[24] AU § 230.06.

[25] AS 13 ¶ 8.

[26] Id. ¶ 13. Auditors should also perform substantive procedures, including tests of details, that are specifically responsive to significant risks. See id. ¶ 11.

[27] Deloitte also failed to adequately address those risks in auditing management's assessment of the effectiveness of ICFR. The internal controls identified and tested by the engagement teams in FY14, FY13, and FY12 were not designed to adequately address the identified and assessed RoMMs concerning Jack Henry's software license revenue. As a result, Deloitte's engagement teams did not, as required by AS 5, obtain reasonable assurance about whether material weaknesses existed as of the dates of the Company's ICFR assessments. In its 2015 restatement, Jack Henry identified a material weakness based on ICFR deficiencies that included the Company's failure to design and implement appropriate controls concerning multiple-element software arrangements. See Jack Henry Form 10-K/A (June 25, 2015), at 26. Consequently, the Company concluded, and Deloitte revised its ICFR audit report to conclude, that Jack Henry did not maintain effective ICFR as of June 30, 2014.

ORDER

Insufficient License Revenue Contract Testing

29. In each Audit, Deloitte's engagement team performed a test of details that included reviewing a sample of Jack Henry's software license agreements ("contract testing"). In performing the testing, engagement team members first selected a sample of software license revenue transactions from the Company's general ledger and commission sale logs, and then obtained contracts, invoices, payment support, and other evidence of the transactions. They also discussed each selected transaction with the appropriate implementation manager and others at Jack Henry.

30. By means of the contract testing in each Audit, Deloitte's engagement teams obtained audit evidence showing, among other things: (a) that Jack Henry's contracts often included multiple software products whose deliveries occurred at different times; (b) that Jack Henry treated such contracts as containing not one, but several, multiple-element arrangements, each comprised of a software product plus implementation and PCS; and (c) that Jack Henry separately recognized license revenue on delivery of each software product. As the Company disclosed in its 2015 restatement, that practice of separating software contracts into multiple arrangements did not comply with ASC 985-605, and caused Jack Henry to prematurely recognize license revenue. During the Audits, the engagement teams failed to recognize that the Company's practice was not compliant with GAAP. As a result, the contract testing failed to address a number of RoMMs, including the risk that the Company might fail to appropriately identify all deliverables in its multiple-element software arrangements.

Insufficient Testing of VSOE for PCS

31. Establishing and maintaining VSOE for PCS was a precondition to Jack Henry's up-front recognition of software license revenue using the residual method. At all relevant times, Jack Henry asserted that it had established VSOE for PCS based on stated renewal rates—i.e., rates that were fixed and stated in the Company's software license contracts.[28] But instead of using fixed and stated rates, the Company's agreements included, for example, renewal rates that were contingent on future events. Jack Henry concluded in its 2015 restatement that those renewal provisions did not provide a proper basis for establishing VSOE of PCS under ASC 985-605. It further

[28] See ASC 985-605-25-67 ("The fair value of the postcontract support shall be determined by reference to the price the customer will be required to pay when it is sold separately (that is, the renewal rate).").

ORDER

concluded that its pricing for stand-alone sales of PCS was not sufficiently consistent to establish VSOE.[29]

32. The contract testing in each Audit was intended to address, among other things, the RoMM that Jack Henry might fail to properly establish VSOE for PCS by failing to include stated renewal rates in its software agreements. But the testing failed to address that RoMM because the engagement team members who reviewed PCS renewal provisions in the Company's software contracts did not appropriately evaluate whether those provisions qualified as stated renewal rates for purposes of establishing VSOE.

Insufficient Testing of VSOE for Implementations

33. Jack Henry's up-front recognition of software license revenue under the residual method was also preconditioned on its ability to establish and maintain VSOE for implementation services, which the Company asserted was based on pricing used when it sold those services separately. In their risk assessments during the Audits, Deloitte's engagement teams identified a RoMM that Jack Henry might fail to satisfy this precondition.

34. For implementation services sold in multiple-element arrangements, Jack Henry asserted that VSOE was based on the same standard hourly labor rate it used when selling those services on a stand-alone basis (i.e., when it sold implementation separately from software). VSOE for implementation services was an estimate of revenue arrived at by multiplying the standard hourly labor rate by the number of hours management anticipated would be needed to complete the services. The Company deferred the estimated implementation revenue when license revenue was recognized upon delivery of the corresponding software.

35. Jack Henry's estimates of labor hours, which were a key factor in determining VSOE for implementations, necessarily involved subjective factors that made them potentially susceptible to misstatement or bias.[30] For example, such

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[29] See Jack Henry Form 10-K/A (June 25, 2015), at 49.

[30] See, e.g., AU § 342.04, *Auditing Accounting Estimates* ("As estimates are based on subjective as well as objective factors, it may be difficult for management to establish controls over them. Even when management's estimation process involves competent personnel using relevant and reliable data, there is potential for bias in the subjective factors. Accordingly, when planning and performing procedures to evaluate

misstatement or bias could occur if management (whether through fraud or error) underestimated the hours to complete implementations. In that case, the deferred revenue allocated to implementations under the residual method would be reduced and the revenue recognized up-front on (much more profitable) software licenses would be inflated.

36. To properly establish VSOE for implementations based on its standard labor rate, Jack Henry had to be able to make reasonable estimates of labor hours to complete implementations. Under PCAOB standards, "[t]he auditor is responsible for evaluating the reasonableness of accounting estimates made by management in the context of the financial statements taken as a whole."[31] In evaluating reasonableness, "[t]he auditor should obtain an understanding of how management developed the estimate,"[32] and "normally should consider the historical experience of the entity in making past estimates as well as the auditor's experience in the industry."[33] The auditor also should normally concentrate on "key factors and assumptions" that are, among other things, "[s]ubjective and susceptible to misstatement and bias."[34]

37. In each Audit, Deloitte's engagement teams violated PCAOB standards by failing to sufficiently evaluate the reasonableness of Jack Henry's estimates of hours to complete implementations.[35] The teams failed: (a) to perform procedures sufficient to

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accounting estimates, the auditor should consider, with an attitude of professional skepticism, both the subjective and objective factors.").

[31] Id.

[32] AU § 342.10.

[33] AU § 342.09.

[34] Id.

[35] In performing contract testing, engagement team members asked Jack Henry implementation managers about the timing of implementation projects related to their test selections. But those inquiries were insufficient to evaluate the reasonableness of management's estimates of hours to complete implementations. See AU § 333.02, *Management Representations* (management representations "are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit"). In addition, in the FY14 and FY13 audits, the engagement teams tested whether Jack Henry consistently sold stand-alone implementations at its standard hourly labor rate for purposes of supporting

obtain an understanding of how management developed those estimates; (b) to evaluate the reasonableness of the subjective factors and assumptions underlying the estimates; and (c) to adequately consider Jack Henry's historical experience in making past estimates of hours to complete implementations. In its 2015 restatement, Jack Henry disclosed that—in FY14, FY13, FY12, and earlier periods—"its mechanisms for tracking and estimating implementation hours [were] not capable of producing reliable estimates in support of its assertion of VSOE for implementation services…."[36]

F. Prior PCAOB Inspection and Deloitte Internal Inspection

38. Although this Order concerns Deloitte's FY14, FY13, and FY12 Jack Henry audits, the improper software accounting existed in earlier years during which the Firm served as the Company's auditor. During the Board's 2005 inspection of Deloitte, a PCAOB inspection team reviewed the Firm's audit of Jack Henry's financial statements for the year ended June 30, 2004, as to which Deloitte issued an unqualified audit report. The PCAOB inspection found that there was no evidence in the audit documentation, and no persuasive other evidence, that the Firm tested how the Company allocated value to each element of its multiple-element software contracts based on VSOE, and therefore that the Firm had not assessed whether the appropriate amount of revenue was recognized in the proper periods. Following these 2005 inspection findings, Deloitte failed to identify that Jack Henry was unable to properly support its VSOE assertions in subsequent audits.

39. In 2010, Deloitte performed an internal inspection (as part of the Firm's system of quality control) that involved a review of the integrated audit of Jack Henry for the year ended June 30, 2009, as to which the Firm issued unqualified opinions on the financial statements and ICFR. In performing that inspection, the Deloitte reviewers focused on, among other areas, the audit work around software license revenue, including VSOE. But they failed to identify certain audit deficiencies in the software revenue work papers they reviewed, including the absence of substantive testing of VSOE for implementation and evidence that Jack Henry may have improperly separated a material software contract into multiple arrangements.

40. By failing to appropriately address the audit deficiencies identified in the Board's 2005 inspection and to identify the audit deficiencies evidenced in the work

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management's VSOE assertion. But that testing did not address the reasonableness of the Company's estimates of hours to complete implementations.

[36] See Jack Henry Form 10-K/A (June 25, 2015), at 49.

ORDER

papers reviewed during the 2010 internal inspection, the Firm contributed to the violations of PCAOB standards that occurred during its FY14, FY13, and FY12 audits of Jack Henry.

IV.

41. Deloitte has certified to the Board that prior to entry of this Order, it established and implemented the following changes to its quality control processes and procedures:

a. Deloitte enhanced its process to more effectively assess the match between the industry expertise of its engagement partners/engagement quality reviewers and the issuer audits to which they are assigned. The enhanced process includes identifying issuer audit clients that utilize complex accounting for material revenue streams other than their primary revenue stream, and ensuring that appropriate personnel have been assigned to address any related industry-specific risks.

b. Deloitte enhanced its internal inspection process to more effectively assess the industry experience of inspection reviewers when assigning them to review specific areas of complex accounting for issuer audit engagements. Among other things, the Firm specifically assesses whether the internal inspection team has appropriate industry experience regarding all issuer revenue streams subject to inspection procedures.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Deloitte & Touche LLP is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $500,000 is imposed upon Deloitte & Touche LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Deloitte & Touche LLP shall pay the civil

ORDER

money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the payor as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), for a period of three years from the date of this order, Deloitte & Touche LLP shall provide the PCAOB Division of Registration and Inspections with prompt written notice in the event of any decision to rescind the enhancements of the processes specified in Section IV above and the reason(s) therefor.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

May 23, 2018

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Adam M. Sanderson,* Respondent.	PCAOB Release No. 105-2018-009 May 23, 2018

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Adam M. Sanderson ("Sanderson" or "Respondent"); (2) barring Sanderson from being an associated person of a registered public accounting firm;[1] and (3) if Sanderson is permitted to associate once again with any registered public accounting firm, limiting his activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), until two (2) years from the date of this Order, by prohibiting Sanderson from serving in certain capacities in any audit as described in Section IV herein. The Board is imposing these sanctions on the basis of its findings that Sanderson violated PCAOB audit documentation standards in connection with one engagement involving the subsidiary of one issuer.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Respondent admits to the facts, findings, and violations set

[1] Sanderson may petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

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forth below, and consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. **Adam M. Sanderson**, 32, of London, United Kingdom, is an accountant who was employed by Deloitte LLP ("Deloitte UK" or the "Firm") between November 2009 and April 2017. During the relevant times in which he was employed by Deloitte UK, Respondent was a manager in the audit and assurance practice area. Respondent was an audit manager on Deloitte UK's audit of the year-end 2015 financial statements and internal control over financial reporting of an issuer ("Issuer A"). At all relevant times, Respondent was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Respondent Violated PCAOB Audit Documentation Standards

2. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[4] Auditing Standard No. 3, *Audit Documentation* ("AS No. 3"), requires that the complete and final set of

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard.

[4] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards.* All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Rel. No. 2015-002 (Mar. 31, 2015).

ORDER

documentation for an audit be assembled for retention by the "documentation completion date,"[5] a date no later than 45 days from the date on which the auditor grants permission to use its report ("report release date").[6] AS No. 3 also requires that "[p]rior to the report release date, the auditor must have completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report."[7] It further requires that the auditor "document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial assertions. Audit documentation must clearly demonstrate that the work was in fact performed."[8] And it requires that "[a]ny documentation added [after the documentation completion date] must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[9]

3. In violation of AS No. 3, Sanderson, who served as the engagement manager on the Deloitte UK component engagement team that audited a subsidiary of Issuer A, improperly created a work paper to falsely indicate that the component engagement team had performed work before the release of the audit opinion when, in fact, the team had not done so. This improper alteration occurred shortly after Sanderson learned that the PCAOB would be inspecting Deloitte UK's 2015 audit of Issuer A.[10]

4. On August 2, 2016, Sanderson learned that the PCAOB was going to inspect Deloitte UK's audit of Issuer A. On August 9, 2016, Sanderson created audit documents which he added to the work papers. One of the newly created audit documents falsely described the performance of certain journal entry testing work that he was responsible for making sure the subsidiary component engagement team completed but that the subsidiary component engagement team had never actually completed.

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[5] AS No. 3 ¶ 15.

[6] Id. ¶ 14.

[7] Id.

[8] Id. ¶ 6.

[9] Id. ¶ 16.

[10] Deloitte UK released its audit opinion in April 2016, and therefore the documentation completion date for the audit was some time in May 2016.

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5. Further, in a separate memorandum also dated August 9, 2016 which Sanderson primarily authored and then added to the work papers, Sanderson falsely indicated that, though the new audit document described in Paragraph 4 above had not been signed off prior to the release of the audit opinion, the underlying journal entry testing work described in it was performed prior to the release of the audit opinion. As a result of these actions, Sanderson violated AS No. 3.

6. Prior to any documents being provided to the Board's inspectors, the Firm discovered that Sanderson had improperly altered the new audit documents. Upon making this discovery, the Firm terminated Sanderson, reported the issue to the Board's staff, and did not archive the improperly altered audit documents.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Adam M. Sanderson, is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Adam M. Sanderson, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[11]

C. After one (1) year from the date of this Order, Adam M. Sanderson, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

D. If Adam M. Sanderson is permitted to associate once again with a registered public accounting firm, pursuant to Section 105(c)(4)(C) of the

[11] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Sanderson. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

Act and PCAOB Rule 5300(a)(3), for a period of two (2) years from the date of this Order, his role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Sanderson shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to, but differently denominated from, engagement partner (such as "lead partner" or "practitioner-in-charge") or engagement quality reviewer (such as "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) assist the engagement partner in fulfilling his or her responsibilities under Paragraph 4 of AS 1201, *Supervision of the Audit Engagement*; (6) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, *Part of the Audit Performed by Other Independent Auditors*; or (7) serve, or supervise the work of another individual serving, as a professional practice director.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

May 23, 2018

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Richard J. Girasole, CPA PC and Richard J. Girasole, CPA,* *Respondents.*	PCAOB Release No. 105-2018-012 June 13, 2018

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Richard J. Girasole, CPA PC ("Firm"), a registered public accounting firm, revoking the Firm's registration,[1] and imposing a civil money penalty in the amount of $10,000 on the Firm; and censuring Richard J. Girasole, CPA ("Girasole"), and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that (1) the Firm and Girasole (collectively, "Respondents") violated PCAOB rules and standards concerning auditor independence; (2) Respondents violated PCAOB rules and standards in connection with the audit of a broker-dealer; (3) Respondents violated PCAOB rules and standards in connection with the Firm's review engagement regarding the examination of the broker-dealer's exemption report; and (4) the Firm violated PCAOB rules in connection with its failure, in 2013, to file a Form 3 Special Report, pursuant to Section 102(d) of the Act and PCAOB Rule 2203, *Special Reports*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

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[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Girasole may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

ORDER

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Richard J. Girasole, CPA PC is, and at all relevant times was, a professional service corporation organized under the laws of New York and headquartered in Brooklyn, New York. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm's license to practice public accountancy in New York (PSC No. 027298) expired on August 31, 2017. At all relevant times, the Firm was the external auditor for the broker-dealer identified below.

2. Richard J. Girasole, CPA, age 62, of Brooklyn, New York, is a certified public accountant licensed by the New York State Education Department (License No. 045076), the state of New Jersey (License No. 20CC02233900) and the state of Florida (License No. AC46292). At all relevant times, Girasole was the sole owner of the Firm and was the Firm's sole certified public accountant. Girasole is, and at all relevant times

[3] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Firm's audit of the financial statements of TerraNova Capital Equities, Inc. ("TerraNova"), a broker-dealer, for the fiscal year ("FY") ended December 31, 2015 ("FY 2015"). As detailed below, Respondents failed, among other things, to obtain sufficient appropriate audit evidence and exercise due care and professional skepticism in connection with the TerraNova audit. Additionally, Respondents violated PCAOB Attestation Standard No. 2, *Review Engagements Regarding Exemption Reports of Brokers and Dealers* ("AT 2") in performing a review of the statements by TerraNova in its exemption report prepared pursuant to the Securities Exchange Act of 1934 ("Exchange Act") Rule 17a-5, 17 C.F.R. § 240.17a-5 ("Rule 17a-5").

4. In addition, Respondents violated PCAOB Rule 3520, *Auditor Independence,* and AU § 220, *Independence*, by failing to remain independent of TerraNova throughout the audit and professional engagement period.[5]

5. The Firm also failed to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), in connection with the TerraNova audit by failing to have an engagement quality review performed by a partner or another individual in an equivalent position before issuing its audit opinion and attestation report. The engagement quality review was performed by a senior accountant employed by the Firm who was not a partner or an individual in an equivalent position. Additionally, Girasole violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, by contributing to the Firm's violation of AS 7.

6. Finally, this matter concerns the Firm's violation of Section 102(d) of the Act and PCAOB Rule 2203, *Special Reports*, as a result of the Firm's failure to disclose certain reportable events to the Board as required by PCAOB rules.

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[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017).

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C. Respondents Violated PCAOB Rules and Standards

7. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] For audits of fiscal years ending on or after June 1, 2014, including the TerraNova audit, Rule 17a-5(g) requires that audits of broker-dealers be performed in accordance with PCAOB standards.

8. Rule 17a-5(d)(1) requires, among other things, that every broker or dealer registered under section 15 of the Exchange Act file annually a financial report audited by an independent public accountant. Rule 17a-5(d)(2) requires that the financial report filed by a registered broker or dealer contain, among other things, certain financial statements: a Statement of Financial Condition, a Statement of Income, a Statement of Cash Flows, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and a Statement of Changes in Liabilities Subordinated to Claims of General Creditors. Rule 17a-5(d)(2) also requires that the financial report contain certain supporting schedules—a Computation of Net Capital, a Computation for Determination of the Reserve Requirements, and Information Relating to the Possession or Control Requirements—as well as a reconciliation between either computation and any materially different corresponding computation in the most recent Part II or Part IIA of Form X-17A-5 filed by the broker-dealer.

9. Rule 17a-5(g) requires that an independent public accountant prepare a report based on an examination of the financial report required to be filed by the broker or dealer under Rule 17a-5(d) in accordance with PCAOB standards.

10. PCAOB rules and standards also require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[7] The independence criteria are set forth in the rules and standards of the PCAOB and the U.S. Securities and Exchange Commission ("Commission").

> [A] registered public accounting firm or associated person's independence obligation with respect to an audit client encompasses not only an obligation to satisfy the independence criteria applicable to the

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[6] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*.

[7] See PCAOB Rule 3520; AU § 220.

ORDER

> engagement set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[8]

11. Pursuant to Rule 17a-5(f)(1), certain of the Commission's auditor independence criteria described in Rule 2-01 of Regulation S-X[9] apply to audits of brokers and dealers.[10] The applicable provisions include Rule 2-01(c)(4), which states in part:

> An accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides the following non-audit services to an audit client:
>
> (i) *Bookkeeping or other services related to the accounting records or financial statements of the audit client.* Any service, unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the audit client's financial statements, including:
>
> . . .
>
> (B) Preparing the audit client's financial statements that are filed with the Commission or that form the basis of financial statements filed with the Commission . . . .

12. An auditor may express an unqualified opinion on financial statements only when the auditor has formed such an opinion on the basis of an audit performed in

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[8] PCAOB Rule 3520, Note 1.

[9] See 17 C.F.R. § 210.2-01.

[10] Not all independence criteria described in Rule 2-01(c) apply to audits of brokers and dealers. As the Commission has explained, those audits "are not subject to the partner rotation requirements or the compensation requirements of the Commission's independence rules [Rules 2-01(c)(6) and (c)(8)] because the statute mandating those requirements is limited to issuers," and they "are not subject to the audit committee pre-approval requirements or the cooling-off period requirements for employment [Rules 2-01(c)(7) and (c)(2)(iii)(B)] because those requirements only reference issuers." See Exchange Act Release No. 70073 at II.E.

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accordance with PCAOB standards.[11] Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism, and obtain sufficient appropriate audit evidence to afford a reasonable basis for an opinion regarding the financial statements.[12]

13. PCAOB standards also require that an audit be properly planned, including performing risk assessment procedures sufficient to provide a reasonable basis for identifying and assessing the risks of material misstatement, whether due to error or fraud.[13] The auditor should identify and assess the risks of material misstatement at the financial statement level and the assertion level, and design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[14]

14. An auditor should also evaluate whether the information gathered from the risk assessment procedures indicates that one or more fraud risk factors are present and should be taken into account in identifying and assessing fraud risks.[15] If the auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the financial statements as a whole are free of material misstatement, the auditor should express a qualified opinion or a disclaimer of opinion.[16]

15. PCAOB standards also require the auditor to perform procedures to evaluate whether a company has properly identified its related parties and relationships

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[11] See AU § 508.07, *Reports on Audited Financial Statements.*

[12] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; Auditing Standard No. 15, *Audit Evidence* ("AS 15").

[13] See Auditing Standard No. 9, *Audit Planning* ("AS 9"), ¶ 4; Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"), ¶ 4.

[14] See AS 12 ¶ 59; Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"), ¶ 8.

[15] See AS 12 ¶ 65.

[16] See Auditing Standard No. 14, *Evaluating Audit Results*, ¶ 35.

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and transactions with related parties.[17] PCAOB standards also require auditors to evaluate whether related party transactions have been properly accounted for and disclosed in the financial statements.[18] The auditor should also perform procedures to obtain an understanding of the company's relationships and transactions with related parties that might reasonably be expected to affect the risks of material misstatement of the financial statements in conjunction with performing risk assessment procedures in accordance with AS 12.[19]

16. As described below, Respondents failed to comply with the applicable PCAOB rules and standards.

Independence Violations

17. At all relevant times, TerraNova was a broker-dealer incorporated in the state of Delaware with its principal place of business in New York, New York. TerraNova's public filings disclose that its business is limited to acting as a private placement agent and providing consultation services in connection with mergers and acquisitions. It claims an exemption from the Customer Protection Rule under paragraph (k)(2)(ii) of Exchange Act Rule 15c3-3 ("Rule 15c3-3").[20] At all relevant times, TerraNova was a "broker" and "dealer," as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii).

18. On February 29, 2016, TerraNova filed Form X-17A-5 Part III for FY 2015 with the Commission. Included in that filing was the Firm's FY 2015 audit report dated February 26, 2016 ("Audit Report").

19. During 2015, Respondents performed certain bookkeeping services[21] for TerraNova by maintaining and preparing certain accounting records and financial statements of TerraNova. Specifically, Respondents assisted in the preparation of the

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[17] See Auditing Standard No. 18, *Related Parties* ("AS 18"), ¶ 14.

[18] See id. ¶ 17.

[19] See id. ¶¶ 3, 10-13.

[20] See Rule 15c3-3, 17 C.F.R. § 240.15c3-3, *Customer Protection – Reserves and Custody of Securities* (the "Customer Protection Rule").

[21] See 17 C.F.R. § 210.2-01(c)(4)(i).

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financial statements by obtaining TerraNova's trial balance, aggregating and changing certain amounts within line items, and then updating the disclosures in the accompanying notes to the financial statements.

20. Respondents also assisted in the preparation of TerraNova's supplemental information accompanying the FY 2015 audited financial statements and the broker dealer's exemption report. Specifically, Respondents computed TerraNova's net capital as of December 31, 2015, and they prepared the supporting statement of computation of net capital accompanying the audited financial statements. Respondents also prepared the broker dealer's exemption report.

21. As a result of these actions, Respondents were not independent of TerraNova in connection with the FY 2015 audit and violated PCAOB Rule 3520 and AU § 220.

Audit Violations

Audit of TerraNova's 2015 Financial Statements

22. Girasole was the engagement partner for the Firm's audit of TerraNova's financial statements for FY 2015. Girasole authorized the Firm's issuance of TerraNova's Audit Report included in TerraNova's Form X-17A-5 Part III for FY 2015 filed with the Commission on February 29, 2016. The Audit Report expressed an unqualified opinion on TerraNova's financial statements, and stated, among other things, that the Firm's audit was conducted in accordance with PCAOB rules and standards.

23. Respondents failed to comply with applicable PCAOB standards in connection with TerraNova's FY 2015 audit. Respondents' audit planning was limited to a statement that "the audit is completed by examining the books and records and performing 90% expense verification." Respondents failed to properly plan the audit because they failed to: (i) establish an overall audit strategy setting the scope, timing, and direction of the audit;[22] (ii) develop and document an audit plan that included a description of the planned nature, timing, and extent of the risk assessment and substantive procedures;[23] and (iii) perform any procedures to identify, appropriately

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[22] See AS 9 ¶¶ 8-9.

[23] See id. ¶ 10.

ORDER

assess, and respond to the risks of material misstatement due to fraud, including the presumption that improper revenue recognition is a fraud risk.[24]

24. TerraNova's FY 2015 financial statements disclosed that "[t]he Company's business is limited to acting as a private placement agent and to consult in connection with mergers and acquisitions." For FY 2015 TerraNova reported revenue of $375,470.

25. Although Respondents agreed all revenue amounts to cash deposits in bank statements during FY 2015 and obtained copies of service agreements and private placement agreements, these audit procedures were not sufficient because these procedures failed to provide a reasonable basis to determine whether the cash deposits were generated from the sale of consulting services, recorded in the proper period, and properly valued. Further, Respondents failed to perform any procedures to test the presentation and disclosure of revenue because the notes to the financial statements did not contain a revenue recognition policy disclosure. As a result, Respondents failed to obtain sufficient appropriate audit evidence to determine whether revenue was recorded in the proper period, properly valued, and properly presented and disclosed.[25]

26. Respondents also failed to perform any procedures regarding related parties and relationships and transactions with related parties. TerraNova's public filings disclosed that TerraNova is a wholly owned subsidiary of TerraNova Capital Partners, Inc. The notes to the financial statements, however, did not contain any related party footnote disclosure. Although Respondents were aware of this relationship, they failed to perform any audit procedures to determine whether the company had properly identified, accounted for and disclosed its related parties and relationships and transactions with related parties.[26]

Violation of Attestation Standard No. 2

27. Rule 17a-5(d)(1)(i)(B)(2) requires broker-dealers that claim an exemption from Rule 15c3-3, or the Customer Protection Rule, to prepare an exemption report, in which the broker-dealer (1) identifies the exemption provision of paragraph (k) of Rule 15c3-3 under which the broker-dealer claims an exemption; (2) states that the broker-

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[24] See AS 12 ¶¶ 3, 68; AS 13 ¶ 3.

[25] See AS 15 ¶¶ 4-6; AS 13 ¶ 36.

[26] See AS 18.

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dealer met the identified exemption provision throughout the most recent fiscal year without exception or met the identified exemption provisions throughout the most recent fiscal year except as described in the exemption report; and (3) if applicable, includes a statement that identifies each exception during the most recent fiscal year in meeting the identified exemption provision and that briefly describes the nature of each exception and the approximate date(s) on which the exception existed.[27] Rule 17a-5 also requires the broker-dealer to engage an independent public accountant registered with the PCAOB to review, and independently report on, the statements by the broker-dealer in the exemption report.[28]

28. AT 2 establishes requirements when an auditor is engaged to perform a review of the statements made by a broker-dealer in an exemption report.[29] When performing the review, the auditor must plan and perform the review engagement to obtain appropriate evidence that is sufficient to obtain moderate assurance about whether one or more conditions exist that would cause one or more of the broker-dealer's assertions not to be fairly stated, in all material respects.[30] The review engagement should be coordinated with the audit of the financial statements and take into account relevant evidence from the audit of the financial statements and the audit procedures performed on the supplemental information of the broker-dealer.[31] Prior to issuing a review report, the auditor is required to obtain written representations from management of the broker-dealer.[32]

29. As part of the FY 2015 audit, Respondents issued a review report dated February 26, 2016. As the engagement partner, Girasole was responsible for the review engagement and performance of the review procedures.[33]

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[27] See also, Attestation Standard No. 2, *Review Engagements Regarding Exemption Reports of Brokers and Dealers* ("AT 2"), ¶ 2.

[28] See Rule 17A-5(d)(1)(i)(C) and (g)(2)(ii).

[29] See AT 2 ¶ 1.

[30] See id. ¶ 4.

[31] See id. ¶ 7.

[32] See id. ¶ 13.

[33] See id. ¶ 6.

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30. Respondents failed to plan and perform the review engagement to obtain appropriate evidence sufficient to obtain moderate assurance about whether one or more conditions existed during the most recent fiscal year that would cause one or more of TerraNova's assertions not to be fairly stated, in all material respects.[34] Respondents failed to perform any procedures, including inquiries, to identify exceptions to the exemption provisions as required by AT 2.[35]

31. Additionally, Respondents failed to obtain written representations from TerraNova's management required by AT 2.[36] The failure to obtain written representations from management constituted a limitation on the scope of the review engagement.[37]

The Firm Violated AS 7 and Girasole Violated Rule 3502

32. For audits and attestations of broker-dealer financial statements for fiscal years ending on or after June 1, 2014, AS 7 requires that an engagement quality review be performed on audits and attestations conducted pursuant to PCAOB standards.[38] AS 7 also provides that, in an audit, a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance.[39] An engagement quality reviewer from the firm that issues the engagement report must be a partner or another individual in an equivalent position.[40]

33. The Firm issued its audit report and review report for TerraNova's FY 2015 financial statements, dated February 26, 2016, after obtaining an engagement quality review and concurring approval of issuance from an individual at the Firm who was not a partner of the Firm or an individual in an equivalent position. The individual who

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34 See id. ¶ 4.

35 See id. ¶¶ 4, 10.

36 See id. ¶ 13.

37 See id. ¶¶ 14, 20.

38 See AS 7 ¶ 1.

39 See id. ¶¶ 13, 18C.

40 See id. ¶ 3.

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performed the engagement quality review was a senior accountant employed by the Firm. As a result, the Firm violated AS 7.

34. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that firm of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.

35. Girasole, the sole partner of the Firm, was principally responsible for the TerraNova audit conducted by the Firm. Accordingly, Girasole had primary responsibility for the audit, including ensuring that the Firm complied with PCAOB rules and standards.

36. Girasole knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violation of AS 7 on the TerraNova audit when he improperly allowed an individual at the Firm who was not a partner or in an equivalent position to perform the engagement quality review. As a result, he violated PCAOB Rule 3502.

The Firm Violated PCAOB Rule 2203, *Special Reports*

37. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[41] One such specified event occurs when a firm "has become aware that, in a matter arising out of his or her conduct in the course of providing professional services for a client, a partner, shareholder, principal, owner, member, or *audit* manager of the Firm who provided at least ten hours of *audit services* for any *issuer, broker, or dealer* during the Firm's current fiscal year or its most recently completed fiscal year has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative

[41] See PCAOB Rule 2203. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

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or disciplinary proceeding other than a *Board* disciplinary proceeding" ("Item 2.9 Proceeding").[42] With respect to one event involving an Item 2.9 Proceeding, the Firm failed to timely file a Form 3 with the Board.

38. On August 21, 2013, Girasole entered into a Consent Order with the New Jersey State Board of Accountancy whereby his license to practice public accountancy in New Jersey was revoked for two years, retroactive to November 1, 2012. The Consent Order followed a Stipulation of Settlement Girasole entered into with the Department of Insurance, Bureau of Fraud Deterrence, State of New Jersey. Both proceedings arose out of the Firm's provision of tax and other non-audit professional services to certain clients. According to the Consent Order and the Stipulation of Settlement, Girasole prepared state and federal tax returns for clients, which contained incomplete payroll figures. He then provided those tax returns to a worker's compensation insurer, which affected the clients' worker's compensation insurance premium calculations in favor of Girasole's clients' companies. The Firm, owned by Girasole, learned of the proceeding no later than April 12, 2012.

39. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the Item 2.9 Proceeding.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Richard J. Girasole, CPA PC, and Richard J. Girasole, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Richard J. Girasole, CPA is barred from being an associated person of a

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[42] PCAOB Form 3, at Item 2.9 (italics in the original). To be reportable under Item 2.9, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer as those terms are defined under PCAOB rules.

ORDER

registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[43]

C. After two (2) years from the date of this Order, Richard J. Girasole, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Richard J. Girasole, CPA PC is revoked;

E. After two (2) years from the date of this Order, Richard J. Girasole, CPA PC may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 payable by the Firm is imposed. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within 30 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public

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[43] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Girasole. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

June 13, 2018

PCAOB
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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Frazier & Deeter, LLC,* *Respondent.*	PCAOB Release No. 105-2018-013 July 12, 2018

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Frazier & Deeter, LLC ("Respondent" or "Firm"), imposing a civil money penalty of $15,000 on the Firm, and requiring the Firm to undertake certain remedial measures. The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB rules and standards in connection with the audits of three issuer audit clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, the Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Frazier & Deeter, LLC is, and at all relevant times was, a Georgia limited liability company headquartered in Atlanta, Georgia. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accounting in multiple jurisdictions, including Georgia (Lic. No. ACF000776). At all relevant times, the Firm was the independent auditor for the three issuers identified in this Order.

B. Summary

2. This matter concerns Respondent's repeated failures to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"),[2] with respect to three issuer audits. Specifically, in each of three issuer audits, Respondent assigned as the engagement quality reviewer an individual who previously had served as the engagement partner for that issuer audit client in the prior year. By making those assignments, Respondent violated the mandatory, two-year "cooling-off" period for former engagement partners under AS 7.[3]

3. This matter also concerns Respondent's violations of PCAOB rules and quality control standards by failing to establish and implement quality control policies and procedures sufficient to provide Respondent with reasonable assurance that it would comply with applicable professional standards, specifically the "cooling-off" requirement of AS 7.

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[2] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards.

[3] See AS 7 ¶ 8; see also PCAOB Release No. 2009-004, *Auditing Standard No. 7—Engagement Quality Review and Conforming Amendment to the Board's Interim Quality Control Standards* (July 28, 2009) at 11-12. At all relevant times, the Firm had five or more issuer clients and ten or more partners, and thus did not qualify for an exemption under AS 7 ¶ 8.

C. The Firm Repeatedly Violated the "Cooling-Off" Requirement of Auditing Standard No. 7

4. In connection with the preparation and issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[4]

5. AS 7 requires that an engagement quality review be performed on audit engagements, reviews of interim financial information, and certain attestation engagements conducted pursuant to PCAOB standards.[5] Further, paragraph 8 of AS 7 provides: "The person who served as the engagement partner during either of the two audits preceding the audit subject to the engagement quality review may not be the engagement quality reviewer."[6] The Firm failed to comply with AS 7 ¶ 8 as described below.

6. At all relevant times, Wells Mid-Horizon Value-Added Fund I, LLC ("Wells") was a Georgia limited liability company headquartered in Norcross, Georgia. Its investor member shares were registered under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act"). At all relevant times, Wells was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). The Firm audited Wells' financial statements for the fiscal years ("FY") ended December 31, 2012 and December 31, 2013, and issued unqualified audit reports that were filed with the Securities and Exchange Commission ("Commission").[7] The Firm member who served as the engagement quality reviewer on the FY13 Wells audit had served as the engagement partner on the FY12 Wells audit in violation of AS 7's two-year "cooling-off" period for former engagement partners.

7. At all relevant times, Global Healthcare REIT, Inc. ("Global") was a Utah corporation headquartered in Atlanta, Georgia. Its common stock was registered under Section 12(g) of the Exchange Act and was quoted on the OTC Bulletin Board. At all

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[4] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[5] See AS 7 ¶ 1.

[6] AS 7 ¶ 8. In its release on AS 7, the Board noted that it included the "cooling-off" period because "it believed that it would be harder for an engagement partner who has had overall responsibility for the audit for at least a year to perform the [engagement quality] review with the necessary level of objectivity." PCAOB Rel. No. 2009-004 (July 28, 2009) at 11-12.

[7] On August 14, 2015, Wells filed with the Commission a Form 15 notice of termination of registration under Section 12(g) of the Exchange Act.

relevant times, Global was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). The Firm audited Global's December 31, 2013 and December 31, 2014 financial statements and issued unqualified audit reports that were filed with the Commission. The Firm member who served as the engagement quality reviewer on the FY14 Global audit had served as the engagement partner on the FY13 Global audit in violation of AS 7's two-year "cooling-off" period for former engagement partners.

8. At all relevant times, Diversified Resources, Inc. ("Diversified Resources") was a Nevada corporation headquartered in Littleton, Colorado. Its common stock was registered under Section 12(g) of the Exchange Act and quoted on the OTC Bulletin Board. At all relevant times, Diversified Resources was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). The Firm audited Diversified Resources' October 31, 2014 and October 31, 2015 financial statements and issued unqualified audit reports that were filed with the Commission. The Firm member who served as the engagement quality reviewer on the FY15 Diversified Resources audit had served as the engagement partner on the FY14 Diversified Resources audit in violation of AS 7's two-year "cooling-off" period for former engagement partners.

D. The Firm Violated PCAOB Rules and Standards Related to Quality Control

9. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[8] PCAOB quality control standards require that a registered public accounting firm establish policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[9] Policies and procedures for engagement performance encompass all phases of the design and execution of the engagement.[10] To the extent appropriate and as required by applicable professional standards, these policies and procedures should cover planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement.[11] These policies and procedures also should address engagement quality reviews pursuant to AS 7.[12]

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[8] PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[9] QC § 20.17, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice.*

[10] QC § 20.18.

[11] Id.

[12] Id.

10. Throughout the relevant time period, the Firm failed to implement and maintain a system of quality control that would provide it with reasonable assurance that the work performed by the engagement personnel would comply with applicable professional standards. Specifically, the Firm failed to establish and implement quality control policies and procedures to provide reasonable assurance that the Firm would comply with the "cooling-off" requirement of AS 7 ¶ 8.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Frazier & Deeter, LLC is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon Frazier & Deeter, LLC. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Frazier & Deeter, LLC shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Frazier & Deeter, LLC as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Frazier & Deeter, LLC is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or review and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with the two-year "cooling-off" period set forth in paragraph 8 of AS 1220, *Engagement Quality Review*;

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent basis, concerning AS 1220, of any Firm audit personnel who participate in any way in the planning or performing of any audit services (as defined in PCAOB Rule 1001(a)(vii)); and

3. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

July 12, 2018

PCAOB
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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of East West Accounting Services, LLC and Frasat Farooq, CPA* *Respondents.*	PCAOB Release No. 105-2018-015 July 12, 2018

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring East West Accounting Services, LLC ("East West" or the "Firm"), a registered public accounting firm, and revoking the Firm's registration;[1] and censuring Frasat Farooq, CPA ("Farooq") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Farooq (collectively, "Respondents") violated PCAOB rules and standards in connection with an audit of an issuer client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Farooq may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. East West Accounting Services, LLC, is, and at all relevant times was, a limited liability company organized under the laws of the State of Florida and headquartered in Princeton, Florida. East West is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. East West was licensed to practice public accountancy by the Florida Board of Accountancy (License No. AD69181). Its license expired on December 31, 2017. At all relevant times the Firm was the external auditor for Escue Energy, Inc. ("Escue").

2. Frasat Farooq, CPA, of Princeton, Florida, is a certified public accountant licensed by the Florida Board of Accountancy (License No. AC0022501) and the Georgia Board of Accountancy (License No. CPA033764). At all relevant times, Farooq was the sole proprietor of East West and served as engagement partner on the Escue audit discussed below. Farooq is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the issuance of an audit report on the financial statements of Escue. As detailed below, Respondents failed to obtain sufficient appropriate audit

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

evidence and exercise due care and professional skepticism in connection with the audit of the December 31, 2015 financial statements of Escue.

4. This matter also concerns the Firm's failure to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7").[5] In the Firm's audit of Escue's 2015 financial statements, the Firm failed to obtain an engagement quality review even though it was required under AS 7.

5. Additionally, Farooq took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of PCAOB rules and standards concerning the requirement for engagement quality reviews.

C. Respondents Violated PCAOB Rules and Auditing Standards

6. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[7] Those standards require, among other things, that an auditor plan and perform the audit to obtain appropriate audit evidence that is sufficient to provide a reasonable basis for the opinion expressed in the auditor's report.[8] PCAOB standards further require that an auditor exercise due professional care and professional skepticism in performing the audit.[9] PCAOB standards also require that an auditor evaluate

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[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audit. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also PCAOB Auditing Standards, *Reorganized and Pre-Reorganized Numbering* (Jan. 2017).

[6] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[7] See AU § 508.07, *Reports on Audited Financial Statements*.

[8] See Auditing Standard No. 15, *Audit Evidence*, ¶ 4.

[9] See AU § 150, *Generally Accepted Auditing Standards* and AU § 230, *Due Professional Care in the Performance of Work.*

whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[10]

7. AS 7 requires that an engagement quality review be performed on audits, interim reviews, and certain attestation engagements conducted pursuant to PCAOB standards.[11] AS 7 also provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance.[12]

8. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[13]

9. As described below, Respondents failed to comply with PCAOB rules and standards in connection with East West's audit of Escue's 2015 financial statements.

Audit of Escue's 2015 Financial Statements

10. Escue is a Nevada corporation headquartered in Dallas, Texas. Escue's public filings disclose that, at all relevant times, Escue was a development stage company that intended to design, manufacture and then market vertical axis wind turbine technology. Escue filed its Form S-1 Registration Statement with the U.S. Securities and Exchange Commission ("Commission" or "SEC") on October 23, 2015, and subsequently filed a Form S-1/A on July 7, 2016.[14] This amended registration statement included an audit report containing an unqualified audit opinion on Escue's financial statements for the year ended December 31, 2015. The Form S-1/A filed on July 7, 2016, was Escue's fourth amended Registration Statement. Escue ultimately filed ten

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[10] See Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), ¶ 30.

[11] See AS 7 ¶ 1.

[12] See AS 7 ¶ 13.

[13] See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations.*

[14] Escue reported in its Registration Statement filed on October 23, 2015, that its common stock traded on the OTC Markets – Pink Sheets.

amended Registration Statements, prior to withdrawing its Registration Statement and all Amendments on October 30, 2017. At all relevant times, Escue was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

11. Farooq, as engagement partner, authorized the Firm's issuance of an audit report, dated July 2, 2016, expressing an unqualified audit opinion on Escue's financial statements for the year ended December 31, 2015. The audit report was included in the Form S-1/A filed with the Commission on July 7, 2016.

12. In Escue's 2015 financial statements, Escue disclosed as of and for the period ended December 31, 2015, consolidated total assets of $40,000,010 for certain acquired patent rights and a net loss of $461,000 in the fiscal year ended December 31, 2015.

13. In connection with the Escue 2015 Audit, Respondents failed to exercise due professional care and professional skepticism and failed to plan and perform the audit in accordance with PCAOB standards. Specifically, Respondents failed to establish an overall audit strategy for the engagement and to develop an audit plan.[15] Additionally, Respondents failed to perform any risk assessment procedures to identify and assess the risks of material misstatement.[16]

14. Escue's financial statements disclosed a transaction with a related party, Escue Wind S.L., to acquire certain patents for a turbine.[17] Escue paid Escue Wind S.L. $10 and distributed 40,000,000 shares of Escue's common stock in consideration for the patents. Escue reported the transaction on the financial statements as $6.28 million at "historical cost of the seller" and $33.72 million as an additional "price for the patent purchase over and above the historical cost of the seller." Other than obtaining management representations, Respondents failed to perform any procedures to evaluate whether Escue's accounting for the patent rights was in conformity with U.S. generally accepted accounting principles ("GAAP").[18]

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[15] See Auditing Standard No. 9, *Audit Planning,* ¶¶ 6-10.

[16] See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement,* ¶ 4.

[17] Escue Wind S.L had acquired the patent rights from Saeed Quraeshi, Escue's Chairman of the Board and Chief Technology Officer.

[18] See AS 14 ¶ 30; see also Auditing Standard No. 18*, Related Parties* ("AS 18"), ¶ 17. Escue's July 7, 2016 Form S-1/A filing disclosed that, at the time of Escue's acquisition of the patents, Escue Wind S.L.'s Chief Executive Officer held more than 50% of the voting ownership interest of Escue and Escue Wind S.L. Accordingly, the

15. On September 12, 2016, Escue filed another Form S-1/A disclosing the value of the acquired patents at $10.

16. In addition, although Escue disclosed that the patents were acquired from a related party, Respondents failed to perform procedures to obtain an understanding of Escue's relationships and transactions with its related parties that might reasonably be expected to affect the risks of material misstatement of the financial statements, including obtaining an understanding of Escue's process and performing inquiries.[19]

17. The Firm also failed to obtain an engagement quality review for the audit even though it was required to be performed. The Firm improperly permitted the issuance of its engagement report without first obtaining an engagement quality review for the audit and concurring approval of issuance.[20] As a result, the Firm violated AS 7.

18. Farooq, the sole owner of the Firm, was the engagement partner for the audit conducted by the Firm and was responsible for that audit. Accordingly, he had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Farooq knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of AS 7. As a result, Farooq violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit

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acquisition of the patents may have qualified as a transaction between entities under common control. When accounting for a transfer of assets between entities under common control, the receiving entity recognizes the assets transferred at their carrying amounts in the financial statements of the transferring entity on the date of the transfer. See Accounting Standards Codification 805-50-30-5, *Business Combinations: Transactions Between Entities Under Common Control*. In addition, transfers of nonmonetary assets to a company by its shareholders prior to or at the time of the company's initial public offering normally should be recorded at the transferor's historical cost basis determined under GAAP. See Standard Accounting Bulletin Topic 5: *Miscellaneous Accounting, G. Transfers of Nonmonetary Assets by Promoters or Shareholders* (SAB Topic 5.G).

[19] See AS 18 ¶ 3.

[20] See AS 7 ¶ 13.

reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), East West Accounting Services, LLC, and Frasat Farooq are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Frasat Farooq is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[21]

C. After two (2) years from the date of this Order, Frasat Farooq may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of East West Accounting Services, LLC, is revoked; and

E. After two (2) years from the date of the Order, East West Accounting Services, LLC, may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

July 12, 2018

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[21] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Farooq. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of David S. Friedkin, CPA, and David Scott Friedkin, CPA,* *Respondents.*	PCAOB Release No. 105-2018-014 July 12, 2018

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is (1) censuring David S. Friedkin, CPA ("DSF" or the "Firm") and revoking the Firm's registration;[1] and (2) censuring David Scott Friedkin, CPA ("Friedkin") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Friedkin (collectively, "Respondents") violated PCAOB rules and standards in connection with the audit of the December 31, 2016 financial statements of Mansfield-Martin Exploration Mining, Inc. ("MMEM").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Friedkin may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. David S. Friedkin, CPA, is, and at all relevant times was, a sole proprietorship located in River Vale, New Jersey. The Firm is registered with the PCAOB, pursuant to Section 102 of the Act and PCAOB rules. The Firm served as the external auditor of MMEM's 2016 financial statements.

2. David Scott Friedkin, CPA, age 52, of River Vale, New Jersey, is a certified public accountant licensed by the New Jersey State Board of Accountancy (License No. 20CC01880600). At all relevant times, Friedkin was the Firm's sole proprietor and served as the engagement partner for the Firm's audit of MMEM's 2016 financial statements. Friedkin is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Firm's audit of MMEM's 2016 financial statements.[5] As detailed below, Respondents failed to obtain sufficient appropriate audit evidence and exercise due professional care and professional skepticism in connection with the audit.

4. In particular, Respondents failed to obtain sufficient appropriate audit evidence concerning the most significant transactions in 2016—a legal settlement with

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct.

related parties and certain related-party convertible debt transactions arising out of that settlement. Those transactions resulted in a windfall to the majority shareholder and diluted the interests of the minority shareholders. Yet Respondents failed to obtain and review the underlying documents, and failed to obtain other sufficient appropriate evidence to evaluate whether the transactions with related parties had been appropriately accounted for and accurately disclosed in the financial statements.

5. The Firm also failed to comply with AS 1220, *Engagement Quality Review*, by failing to obtain an engagement quality review with respect to the audit even though it was required. Additionally, Friedkin violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations,* because he took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violation of AS 1220.

C. Respondents Violated PCAOB Rules and Standards

6. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[7] Among other things, those standards require that an auditor exercise due professional care and professional skepticism in planning and performing the audit.[8]

7. The auditor must plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.[9] To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based.[10] "If the auditor has not obtained sufficient appropriate audit evidence about a relevant assertion or has substantial doubt about a relevant assertion, the auditor should perform procedures to

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[6] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards* ("PCAOB Rule 3100"); PCAOB Rule 3200, *Auditing Standards* ("PCAOB Rule 3200").

[7] See AS 3101, *Reports on Audited Financial Statements*, ¶ 7.

[8] See AS 1015, *Due Professional Care in the Performance of Work*.

[9] See AS 1105, *Audit Evidence*, ¶ 4.

[10] See AS 1105 ¶ 6.

obtain further audit evidence to address the matter." [11] Representations from management are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit.[12]

8. PCAOB standards require that the audit report state whether the financial statements are presented in conformity with generally accepted accounting principles.[13] "The auditor must evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework."[14] "As part of the evaluation of the presentation of the financial statements, the auditor should evaluate whether the financial statements contain the information essential for a fair presentation of the financial statements in conformity with the applicable financial reporting framework."[15]

9. In particular, the auditor must evaluate whether related party transactions have been properly accounted for and disclosed in the financial statements.[16] For each related party transaction that is either required to be disclosed in the financial statements or determined to be a significant risk, the auditor should, among other things:

a. Read the underlying documentation and evaluate whether the terms and other information about the transaction are consistent with explanations from inquiries and other audit evidence about the business purpose (or the lack thereof) of the transaction;

b. Determine whether the transaction has been authorized and approved in accordance with the company's established policies and procedures

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[11] AS 2810, *Evaluating Audit Results*, ¶ 35.

[12] See AS 2805, *Management Representations*, ¶ 2.

[13] See AS 3101.

[14] AS 2810, ¶ 30.

[15] AS 2810 ¶ 31.

[16] See AS 2410, *Related Parties*, ¶ 17; see also AS 2410 ¶ 11 ("The auditor must design and implement audit responses that address the identified and assessed risks of material misstatement. This includes designing and performing audit procedures in a manner that addresses the risks of material misstatement associated with related parties and relationships and transactions with related parties." (footnotes omitted)).

regarding the authorization and approval of transactions with related parties; and

c. Determine whether any exceptions to the company's established policies or procedures were granted.[17]

10. PCAOB Rule 3502 also prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to the firm's violation of PCAOB rules or professional standards.

11. As described below, Respondents failed to comply with PCAOB rules and standards in connection with the Firm's audit of MMEM's 2016 financial statements.

Audit of MMEM's 2016 Financial Statements

12. Mansfield-Martin Exploration Mining, Inc. was, at all relevant times, a Nevada corporation with its principal executive office in Tombstone, Arizona. MMEM's public filings disclosed that, from approximately June 2014 through March 2016, it had been developing a business to engage in the retail sale of medical and personal use marijuana. Its public filings further disclosed that it ceased its marijuana-related activities in March 2016, settled certain legal claims relating to that business in June 2016, and then entered into an agreement in November 2016 to issue shares of its common stock in exchange for certain rights and interests in mining properties. At all relevant times, MMEM's common stock was traded on the OTCQB Bulletin Board. At all relevant times, MMEM was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

13. Friedkin, as engagement partner, authorized the Firm's issuance of an audit report dated April 12, 2017, expressing an unqualified audit opinion on MMEM's financial statements for the year ended December 31, 2016. The audit report was included with MMEM's Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") on April 17, 2017.

Respondents Failed to Adequately Perform Engagement Acceptance and Risk Assessment Procedures

14. PCAOB standards provide that an auditor should not accept an engagement until certain communications with the predecessor auditor have been evaluated.[18] The successor auditor should make specific and reasonable inquiries of

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[17] See AS 2410 ¶ 12.

[18] See AS 2610, *Initial Audits—Communications Between Predecessor and Successor Auditors*, ¶¶ 3, 7-10.

the predecessor auditor regarding matters that will assist the successor auditor in determining whether to accept the engagement, such as information that might bear on the integrity of management, disagreements with management, the predecessor auditor's understanding as to the reasons for the change of auditors, and the predecessor auditor's understanding of the nature of the company's relationships and transactions with related parties and significant unusual transactions.[19]

15. Contrary to the foregoing PCAOB standards, Respondents did not make inquiries to the predecessor auditor until after they had completed all fieldwork for the audit, and they failed to receive and evaluate the responses to their inquiries before issuing the audit report. Despite accepting the audit engagement in February 2017, Respondents waited until Friday, April 14, 2017, to send their inquiries to the predecessor auditor. On the next business day, Monday, April 17, 2017, Friedkin, in violation of PCAOB standards, authorized the issuance of DSF's audit report on MMEM's 2016 financial statements, without having received any response from the predecessor auditor.

16. To properly plan the audit, the auditor should also perform risk assessment procedures that are sufficient to provide a reasonable basis for identifying and assessing the risks of material misstatement, whether due to error or fraud, and designing further audit procedures.[20] When performing risk assessment procedures, the auditor should identify and assess the risks of material misstatement at the financial statement level and the assertion level.[21]

17. Respondents failed to adequately plan the MMEM audit because they failed to perform a risk assessment that complied with PCAOB standards. Specifically, Respondents did not identify and assess the risks of material misstatement at the assertion level, as required by PCAOB auditing standards.[22] Instead, Respondents documented one generalized assessment that the risk of material misstatement and fraud in the audit was limited.

Respondents Failed to Obtain Sufficient Appropriate Audit Evidence

18. As set forth below, during the MMEM audit, Respondents failed to obtain sufficient appropriate audit evidence concerning significant accounts and transactions.

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[19] See AS 2610 ¶ 09.

[20] See AS 2110, *Identifying and Assessing Risks of Material Misstatement*, ¶ 4.

[21] See AS 2110 ¶ 59.

[22] See id.

As a result, Respondents failed to obtain sufficient appropriate audit evidence to support their opinion that MMEM's 2016 financial statements were, in all material respects, presented in conformity with U.S. Generally Accepted Accounting Principles ("U.S. GAAP").

19. MMEM's 2016 financial statements disclosed that, during 2016, MMEM had: (1) terminated a contract through which one of its subsidiaries had provided services to marijuana dispensaries owned by a company controlled by MMEM's principal shareholder, and (2) entered into a legal settlement with the principal shareholder and his company over fees and other reimbursements that MMEM believed were owed to it for the services provided to the dispensaries. The disclosures indicated that, as part of the settlement, MMEM had relinquished claims to approximately $80,000 in accrued fees and its interests in the dispensaries and one of MMEM's subsidiaries, and had also assigned a trademark to the principal shareholder. The disclosures also indicated that MMEM's remaining claims for approximately $343,000 against the related parties had been satisfied in the form of a reduction in MMEM's debt to the principal shareholder.

20. However, as part of the settlement, the existing note payable to the principal shareholder was reportedly replaced by a new convertible note payable to the principal shareholder (the "New Note"), which could permit the principal shareholder to substantially dilute the ownership of MMEM's other shareholders. The principal and accrued interest for the New Note as of year-end 2016 totaled more than $881,000 and comprised over 92% of MMEM's reported liabilities. MMEM disclosed in its Form 10-K for 2016 that, in November 2016, the principal shareholder exercised the conversion feature of the New Note to convert $150 of debt into 1.5 million common shares with a fair value of $217,350. MMEM also disclosed in its Form 10-K that the further exercise of the conversion feature could cause up to 881 million additional shares to be issued to the principal shareholder.

21. The settlement transactions were significant transactions that occurred in 2016 and provided substantial benefits to a related party. Nevertheless, other than obtaining management representations, Respondents failed to perform any procedures to evaluate whether the settlements had, in fact, occurred and were recorded in the proper period. Specifically, Respondents failed to obtain and review the underlying documentation and to evaluate whether the terms and other information about the settlement transactions were consistent with the explanations Respondents received from management.[23] Respondents also failed to determine whether the transactions had been authorized and approved in accordance with the company's established policies and procedures regarding the authorization and approval of transactions with

[23] See AS 2410 ¶ 12(a).

related parties, or whether any exceptions to those policies or procedures had been granted.[24]

22. Respondents likewise failed to perform procedures to obtain sufficient appropriate audit evidence concerning the New Note.[25] Respondents failed to obtain an executed copy of the New Note. Although management provided Respondents with a document that Respondents believed was the New Note, that document was unexecuted and had both a different date and different face amount than the New Note. Respondents failed to perform any audit procedures to resolve those inconsistencies.[26] As a result, Respondents failed to obtain reliable evidence regarding the New Note, and failed to perform any procedures to evaluate whether the terms and other information about the transaction were consistent with explanations from their inquiries to management.[27]

23. With respect to the New Note, Respondents also failed to evaluate whether the financial statements were presented fairly, in all material respects, in conformity with U.S. GAAP.[28] Respondents failed to perform procedures to evaluate whether the New Note's conversion feature met the definition of a beneficial conversion feature that needed to be separately recognized.[29]

24. As a result, Respondents failed to perform audit procedures to obtain sufficient appropriate evidence with respect to these transactions, and to evaluate whether these transactions with related parties were properly accounted for and disclosed in the financial statements.[30]

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[24] See AS 2410 ¶¶ 12(b)-(c).

[25] See AS 1105 ¶ 4.

[26] See AS 1105 ¶ 29.

[27] See AS 1105 ¶ 6; AS 2410 ¶ 12(a).

[28] See AS 2810 ¶ 30.

[29] See Financial Accounting Standards Board Accounting Standards Codification Topic 470-20-25-5, *Debt* ("An embedded beneficial conversion feature present in a convertible instrument shall be recognized separately at issuance by allocating a portion of the proceeds equal to the intrinsic value of that feature to additional paid-in capital.").

[30] See AS 1105; AS 2410 ¶¶ 2, 17.

Respondents Failed to Obtain Written Management Representations

25. PCAOB standards require that an auditor receive certain written representations from management in connection with an audit of financial statements.[31] Although Respondents requested written representations during the audit, they failed to actually obtain them.[32]

Respondents Failed to Obtain an Engagement Quality Review

26. PCAOB standards provide that an engagement quality review be performed on audits, interim reviews, and certain attestation engagements conducted pursuant to PCAOB standards.[33] "In an audit, the firm may grant permission to the client to use the engagement report only after the engagement quality reviewer provides concurring approval of issuance."[34]

27. The Firm improperly permitted issuance of its audit report without first obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 1220.

28. Friedkin knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 1220 when he caused the Firm to grant permission to MMEM to use the audit report. As a result, Friedkin violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), David S. Friedkin, CPA, and David Scott Friedkin, CPA, are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), David Scott Friedkin, CPA, is barred from being an associated person of a

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[31] See AS 2805 ¶¶ 1, 5-6.

[32] See id.

[33] See AS 1220 ¶ 1.

[34] AS 1220 ¶ 13.

registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[35]

C. After two (2) years from the date of this Order, David Scott Friedkin, CPA, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of David S. Friedkin, CPA, is revoked; and

E. After two (2) years from the date of the Order, David S. Friedkin, CPA, may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 12, 2018

[35] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to David Scott Friedkin, CPA. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Leigh J Kremer CPA and Leigh J. Kremer, CPA,* *Respondents.*	PCAOB Release No. 105-2018-016 July 24, 2018

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Leigh J Kremer CPA ("Firm"), a registered public accounting firm, revoking the Firm's registration,[1] and imposing a civil money penalty in the amount of $10,000 on the Firm; and (2) censuring Leigh J. Kremer, CPA ("Kremer") and barring him from being an associated person of a registered public accounting firm.[2]

The Board is imposing these sanctions on the basis of its findings that the Firm and Kremer (collectively, "Respondents") (1) violated the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB rules by permitting an individual who was subject to a Board-ordered bar to become an "associated person" of the Firm during the pendency of the bar, and (2) violated PCAOB rules and standards in connection with the Firm's audit and review of an exemption report for one broker-dealer audit client.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents each submitted an Offer of Settlement ("Offers") that the

[1] The Firm may reapply for registration after three (3) years from the date of this Order.

[2] Kremer may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Leigh J Kremer CPA is a sole proprietorship organized under the laws of the state of New Jersey with a headquarters in Monmouth Beach, New Jersey. On November 4, 2014, the Firm registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accounting by the New Jersey State Board of Accountancy (License No. 20CB00717000).

2. Leigh J. Kremer, CPA, age 56, of Red Bank, New Jersey, is a certified public accountant licensed by the New Jersey State Board of Accountancy (License No. 20CC01637900). Kremer is, and at all relevant times was, the sole partner of the Firm. He is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Other Relevant Individual

3. Brian D. Donahue, CPA ("Donahue"), age 61, of Highlands, New Jersey, is a certified public accountant licensed by the New Jersey State Board of Accountancy (License No. 20CC01355000). On June 14, 2016, the Board issued an Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions, *In the Matter of Donahue Associates LLC and Brian D. Donahue, CPA*, PCAOB Release No. 105-2016-020 ("2016 Bar Order").

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

C. Summary

4. This matter concerns the Firm's violations of the Act and PCAOB rules by permitting Donahue to become an "associated person" of the Firm during the pendency of a Board order barring Donahue from associating with a registered public accounting firm.[5] In exchange for Donahue's referral to the Firm of two issuer and ten broker-dealer audit clients, the Firm paid Donahue a percentage of the audit fees that it collected from those clients after the issuance of the 2016 Bar Order. Section 2(a)(9)(A) of the Act, *Definitions: Person Associated with a Public Accounting Firm*, and PCAOB Rule 1001(p)(i), *Definitions of Terms Employed in Rules: Person Associated with a Public Accounting Firm*, each define an associated person of a registered public accounting firm to include anyone who, "in connection with the preparation or issuance of any audit report . . . shares in the profits of, or receives compensation in any other form from, that firm." Thus, the Firm's payment to Donahue of a portion of its issuer and broker-dealer audit fees resulted in Donahue becoming an associated person of the Firm, in violation of Section 105(c)(7)(A) of the Act, *Effect of Suspension: Association with a Public Accounting Firm*, and PCAOB Rule 5301(b), *Effect of Sanctions: Effect on Registered Public Accounting Firms*.

5. Additionally, the Firm failed to comply with AS 1220, *Engagement Quality Review* (formerly, Auditing Standard No. 7), by failing to obtain an engagement quality review and concurring approval of issuance in connection with the Firm's audit and review of an exemption report for one broker-dealer client.[6]

6. With respect to Donahue's association with the Firm during the pendency of his bar and the failure to obtain an engagement quality review, Kremer took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of Section 105(c)(7)(A) of the Act, PCAOB Rule 5301(b), and AS 1220, in violation of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

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[5] Neither the Board nor the Securities and Exchange Commission ("Commission") consented to Donahue's association, as would have been required for the association to comply with the Act and the Board's rules.

[6] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017).

D. Respondents Violated the Act and PCAOB Rules and Standards

The Firm Allowed Donahue to Become an Associated Person

7. On June 14, 2016, the Board issued the 2016 Bar Order, with Donahue's consent. The 2016 Bar Order resulted from the Board's findings that Donahue and his accounting firm, Donahue Associates LLC, violated PCAOB rules and standards in connection with audits of three issuer clients and violated Section 10A(b)(2) of the Securities Exchange Act of 1934 ("Exchange Act") in connection with the audit of one issuer client. Among other things, the 2016 Bar Order barred Donahue from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i), with a right to petition for Board consent to associate with a registered public accounting firm after one year.

8. Section 105(c)(7)(A) of the Act and PCAOB Rule 5301(b) prohibit a registered public accounting firm that knows, or in the exercise of reasonable care should know, of a suspension or bar from permitting the suspended or barred individual to associate with the firm without Board or Commission consent. Section 2(a)(9)(A) of the Act and PCAOB Rule 1001(p)(i) define an associated person of a registered public accounting firm to include anyone who, "in connection with the preparation or issuance of any audit report . . . shares in the profits of, or receives compensation in any other form from, that firm." Accordingly, the note to Rule 5301(b) specifies that a registered public accounting firm may not permit a suspended or barred individual, "in connection with the preparation or issuance of any audit report, to . . . share in the profits of, or receive compensation in any other form from, such firm."

9. Respondents and Donahue recognized that the 2016 Bar Order would preclude Donahue from participating in issuer or broker-dealer audits, and they decided to negotiate a "buy-out" by the Firm of Donahue's issuer and broker-dealer audit clients. Respondents and Donahue ultimately agreed that Donahue would refer to the Firm two of his issuer audit clients and ten of his broker-dealer audit clients in exchange for receiving a series of payments made pursuant to a formula based on a percentage of the audit fees that the Firm collected from those clients. With respect to the issuer audit clients, the Firm agreed to pay Donahue 70% of the audit fees it collected for auditing the issuers' 2016 financial statements and 50% of the audit fees it collected for auditing their 2017 financial statements. With respect to the broker-dealer audit clients, the Firm agreed to pay Donahue 75% of the audit fees it collected for auditing the broker-dealers' 2016 financial statements. Between September 7, 2016 and October 6, 2017, Kremer, on behalf of the Firm, made a series of payments to Donahue in accordance with this agreement.

10. In paying Donahue a percentage of its issuer and broker-dealer audit fees, the Firm allowed Donahue to become an associated person of the Firm despite the bar that the Board had imposed against him. Specifically, Donahue's receipt of those payments constituted "shar[ing] in the profits of, or receiv[ing] compensation in any other form from" a registered public accounting firm "in connection with the preparation

or issuance of any audit report." As a result, this conduct violated Section 105(c)(7)(A) of the Act and PCAOB Rule 5301(b).

The Firm Failed to Obtain an Engagement Quality Review

11. Wolf A. Popper, Inc. ("Wolf Popper") was, at all relevant times, a New York corporation with a principal place of business in New York, New York. Wolf Popper's public filings disclose that, during 2016, it was engaged in the business of introducing transactions of its clients on a fully disclosed basis to a clearing member/broker-dealer. At all relevant times, Wolf Popper was a "broker" and "dealer," as defined in Sections 110(3) and (4) of the Act and PCAOB Rules 1001(b)(iii) and (d)(iii).

12. AS 1220.01 requires an engagement quality review and concurring approval of issuance in connection with an audit conducted pursuant to PCAOB standards. This requirement also applies to the review of statements made by a broker-dealer in an exemption report prepared pursuant to Exchange Act Rule 17a-5.[7] A firm may not grant its client permission to use its engagement report until after an engagement quality reviewer provides concurring approval of issuance.[8]

13. The Firm audited Wolf Popper's June 30, 2016 financial statements and reviewed the statements made by Wolf Popper in its exemption report for fiscal year 2016. Prior to the issuance of the 2016 Bar Order, the Firm arranged for Donahue to act as the engagement quality reviewer for the audit and review. Because the Board issued the 2016 Bar Order before the Firm completed its audit and review of Wolf Popper, Donahue did not perform an engagement quality review. Nor did the Firm arrange for anyone else to perform an engagement quality review. Instead, the Firm issued its audit report and exemption review report for Wolf Popper, both of which were filed with the Commission, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 1220.

Kremer Contributed to the Firm's Violations

14. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by the firm of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act or professional standards.

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[7] AS 1220.01.

[8] AS 1220.13; AS 1220.18C.

15. Kremer, the sole partner of the Firm, had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Kremer knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of Section 105(c)(7)(A) of the Act, PCAOB Rule 5301(b), and AS 1220. As a result, Kremer violated Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Leigh J Kremer CPA and Leigh J. Kremer, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Leigh J Kremer CPA is revoked;

C. After three (3) years from the date of this Order, Leigh J Kremer CPA may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Leigh J Kremer CPA. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Leigh J Kremer CPA shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Leigh J. Kremer, CPA is barred from being an associated person of a

registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[9] and

F. After three (3) years from the date of this Order, Leigh J. Kremer, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

July 24, 2018

[9] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Kremer. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Brian D. Donahue, CPA,* *Respondent.*	PCAOB Release No. 105-2018-017 July 24, 2018

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Brian D. Donahue, CPA ("Donahue" or "Respondent"); (2) barring Donahue from being an associated person of a registered public accounting firm;[1] and (3) imposing a civil money penalty in the amount of $15,000 on Donahue.

The Board is imposing these sanctions on the basis of its findings that Donahue violated the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB rules by becoming an "associated person" of a registered public accounting firm while he was subject to a Board-ordered bar.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted,

[1] Donahue may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. Brian D. Donahue, CPA, age 61, of Highlands, New Jersey, is a certified public accountant licensed by the New Jersey State Board of Accountancy (License No. 20CC01355000). On June 14, 2016, the Board issued an Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions, *In the Matter of Donahue Associates LLC and Brian D. Donahue, CPA*, PCAOB Release No. 105-2016-020 ("2016 Bar Order"). At all relevant times, Donahue was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Firm

2. Leigh J Kremer CPA ("Firm") is a sole proprietorship organized under the laws of the state of New Jersey with a headquarters in Monmouth Beach, New Jersey. On November 4, 2014, the Firm registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accounting by the New Jersey State Board of Accountancy (License No. 20CB00717000).

C. Summary

3. This matter concerns Donahue's violations of the Act and PCAOB rules by becoming an "associated person" of the Firm during the pendency of a Board order barring Donahue from associating with a registered public accounting firm.[4] In exchange for Donahue's referral to the Firm of two issuer and ten broker-dealer audit clients, the

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

[4] Neither the Board nor the Securities and Exchange Commission ("Commission") consented to Donahue's association, as would have been required for the association to comply with the Act and the Board's rules.

Firm paid Donahue a percentage of the audit fees that it collected from those clients after the issuance of the 2016 Bar Order. Section 2(a)(9)(A) of the Act, *Definitions: Person Associated with a Public Accounting Firm*, and PCAOB Rule 1001(p)(i), *Definitions of Terms Employed in Rules: Person Associated with a Public Accounting Firm*, each define an associated person of a registered public accounting firm to include anyone who, "in connection with the preparation or issuance of any audit report . . . shares in the profits of, or receives compensation in any other form from, that firm." Thus, Donahue's receipt of a portion of the Firm's issuer and broker-dealer audit fees resulted in Donahue becoming an associated person of the Firm, in violation of Section 105(c)(7)(A) of the Act, *Effect of Suspension: Association with a Public Accounting Firm*, PCAOB Rule 5000, *General*, and PCAOB Rule 5301(a), *Effect of Sanctions: Effect on Persons*.[5]

D. Respondent Violated the Act and PCAOB Rules

4. On June 14, 2016, the Board issued the 2016 Bar Order, with Donahue's consent. The 2016 Bar Order resulted from the Board's findings that Donahue and his accounting firm, Donahue Associates LLC, violated PCAOB rules and standards in connection with audits of three issuer clients and violated Section 10A(b)(2) of the Securities Exchange Act of 1934 in connection with the audit of one issuer client. Among other things, the 2016 Bar Order barred Donahue from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i), with a right to petition for Board consent to associate with a registered public accounting firm after one year.

5. Section 105(c)(7)(A) of the Act and PCAOB Rule 5301(a) prohibit a suspended or barred individual from willfully becoming or remaining associated with a registered public accounting firm without Board or Commission consent. Section 2(a)(9)(A) of the Act and PCAOB Rule 1001(p)(i) define an associated person of a registered public accounting firm to include anyone who, "in connection with the preparation or issuance of any audit report . . . shares in the profits of, or receives compensation in any other form from, that firm." Accordingly, the note to Rule 5301(a) specifies that a suspended or barred individual "may not, in connection with the preparation or issuance of any audit report . . . share in the profits of, or receive compensation in any other form from, any registered public accounting firm." Furthermore, PCAOB Rule 5000 requires registered firms and their associated persons to "comply with all Board orders to which the firm or person is subject."

6. Donahue and the Firm recognized that the 2016 Bar Order would preclude Donahue from participating in issuer or broker-dealer audits, and they decided to negotiate a "buy-out" by the Firm of Donahue's issuer and broker-dealer audit clients. Donahue and the Firm ultimately agreed that Donahue would refer to the Firm two of his

[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct.

issuer audit clients and ten of his broker-dealer audit clients in exchange for receiving a series of payments made pursuant to a formula based on a percentage of the audit fees that the Firm collected from those clients. With respect to the issuer audit clients, the Firm agreed to pay Donahue 70% of the audit fees it collected for auditing the issuers' 2016 financial statements and 50% of the audit fees it collected for auditing their 2017 financial statements. With respect to the broker-dealer audit clients, the Firm agreed to pay Donahue 75% of the audit fees it collected for auditing the broker-dealers' 2016 financial statements. Between September 7, 2016 and October 6, 2017, the Firm made a series of payments to Donahue in accordance with this agreement.

7. In receiving payments from the Firm based on a percentage of the Firm's issuer and broker-dealer audit fees, Donahue became an associated person of the Firm despite the bar that the Board had imposed against him. Specifically, Donahue's receipt of those payments constituted "shar[ing] in the profits of, or receiv[ing] compensation in any other form from" a registered public accounting firm "in connection with the preparation or issuance of any audit report." As a result, this conduct violated Section 105(c)(7)(A) of the Act and PCAOB Rule 5301(a). Furthermore, Donahue, by willfully becoming an associated person of the Firm in contravention of the bar set forth in the 2016 Bar Order, violated PCAOB Rule 5000.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Brian D. Donahue, CPA is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Brian D. Donahue, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[6]

[6] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Donahue. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

C. After five (5) years from the date of this Order, Brian D. Donahue, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon Brian D. Donahue, CPA. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Donahue shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Donahue as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

July 24, 2018

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Breard & Associates, Inc. Certified Public Accountants and Kevin G. Breard, CPA,* *Respondents.*	PCAOB Release No. 105-2018-018 August 9, 2018

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Breard & Associates, Inc. Certified Public Accountants ("Firm"), a registered public accounting firm, revoking the Firm's registration,[1] and imposing a civil money penalty in the amount of $75,000 upon the Firm; and censuring Kevin G. Breard, CPA ("Breard") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Breard (collectively "Respondents") repeatedly violated PCAOB rules and standards in connection with 135 audit and attestation engagements by the Firm of its broker-dealer clients for fiscal years 2014, 2015 and 2016.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any

[1] The Firm may reapply for registration after five (5) years from the date of this Order.

[2] Breard may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Breard & Associates, Inc. Certified Public Accountants is, and at all relevant times was, a corporation organized under the laws of the state of California, and headquartered in Northridge, California. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice by the California Board of Accountancy (License no. 3059) and holds licenses in several additional states.[5] At all relevant times, the Firm was the external auditor for each of the broker-dealers identified below.

2. Kevin G. Breard, CPA, age 59, is a certified public accountant licensed by the California Board of Accountancy (License no. 41061). Breard also holds licenses in several additional states.[6] Breard is the founder, managing partner, and principal

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[5] The Firm is licensed in the following additional states: Oregon (License no. 2570); Washington (License no. 4971); Florida (License no. AD66919); Nevada (License no. Corp-0526); and New York (License no. 092356).

[6] Breard is licensed in the following additional states: Wisconsin (License no. 24338-001); Arizona (License no. 16482); Connecticut (License no. CPAL.0014708); Florida (License no. AC41844); Idaho (License no. CP-5463); Massachusetts (License no. 32160); Maryland (License no. 0041469); New Jersey (License no. 20CC03915900); Nevada (License no. CPA-4411R); New York (License no. 096658); Tennessee (License no. 21081); Texas (License no. 093988); Washington (License no. 25691); and Oregon (License no. 12260).

shareholder of the Firm and was the engagement partner for each of the audits identified below. Breard is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns the Firm's repeated failure to comply with AS 1220, (formerly, Auditing Standard No. 7)[7], *Engagement Quality Review*, with respect to 135 audit and attestation engagements for fiscal years 2014, 2015, and 2016. With respect to each of those broker-dealer audit and attestation engagements, the Firm failed to obtain an engagement quality review and concurring approval of issuance even though PCAOB standards required an engagement quality review be performed.

4. This matter also concerns Breard's direct and substantial contribution to the Firm's violations of PCAOB rules and standards concerning the requirements for engagement quality reviews. With respect to each of the audit and attestation engagements, Breard took or omitted to take actions knowing, or recklessly not knowing, that his actions and omissions would directly and substantially contribute to the Firm's violations of PCAOB rules and standards.

C. The Firm Violated PCAOB Rules and Standards Relating to Engagement Quality Reviews

5. In connection with the preparation or issuance of an audit report,[8] PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards.[9]

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[7] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audit and attestation engagements. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017).

[8] Rule 17a-5(d) of the Securities Exchange Act of 1934 ("Exchange Act"), 17 CFR § 240.17a-5(d), *Annual Filing of Audited Financial Statements*, requires every broker or dealer registered pursuant to Section 15 of the Exchange Act to file annually, a report audited by an independent public accountant. Each broker-dealer identified below is a "broker" or "dealer" as defined in Sections 110(3) and 110(4) of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii).

[9] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Standards*.

6. For audit engagements, reviews of interim financial information, and attestation engagements of broker-dealers for fiscal years ending on or after June 1, 2014, AS 1220 requires that an EQR be performed pursuant to PCAOB standards.[10] In addition, a firm may grant permission to a client to use an engagement report only after an engagement quality reviewer provides concurring approval of issuance.[11]

7. The Firm failed to obtain an engagement quality review for each of the 135 audit and attestation engagements set forth in the attached Appendix, even though PCAOB standards required an engagement quality review be performed. In each instance, the audit was of a "broker" and "dealer," as defined in Sections 110(3) and 110(4) of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii). And in each instance, the Firm improperly permitted the issuance of its unqualified audit report and examination or review report without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm repeatedly violated AS 1220.

D. Breard Contributed to the Firm's Violations of PCAOB Rules and Standards

8. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that firm of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.

9. Breard was the principal owner of the Firm and the engagement partner for all of the audits identified below. For each audit engagement, Breard was responsible for ensuring that the Firm complied with PCAOB rules and standards. Breard knew that he was directly and substantially contributing to the Firm's violations of AS 1220, as described above. As a result, Breard violated PCAOB Rule 3502.

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[10] AS 1220.01.

[11] AS 1220.13, .18C.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Breard and Associates, Inc. Certified Public Accountants, and Kevin G. Breard, CPA, are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Kevin G. Breard, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[12]

C. After five (5) years from the date of this Order, Kevin G. Breard, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Breard and Associates, Inc. Certified Public Accountants is revoked;

E. After five (5) years from the date of this Order, Breard and Associates, Inc. Certified Public Accountants may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $75,000 is imposed upon Breard and Associates, Inc. Certified Public Accountants. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Breard and Associates, Inc. Certified Public Accountants shall pay the civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in

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[12] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Breard. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the payor as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

August 9, 2018

Appendix

Breard & Associates, Inc.
Broker-Dealer Audits & Attestations Not Performed in Accordance with AS 1220 (formerly AS 7)

#	Broker-Dealer	Fiscal Year Ended	Reports Issued Without EQR	Engagement Partner[1]
1	Euro Pacific Capital, Inc.	June 30, 2014	Audit	K. Breard
2	Western Growers Financial Services, Inc.	June 30, 2014	Audit & Attestation	K. Breard
3	Conover Securities Corporation	August 31, 2014	Audit & Attestation	K. Breard
4	Lawson Financial Corporation	September 30, 2014	Audit & Attestation	K. Breard
5	Montrose Securities International	October 31, 2014	Audit	K. Breard
6	Investment Security Corporation	November 30, 2014	Audit	K. Breard
7	Ansley Securities, LLC	December 31, 2014	Audit	K. Breard
8	Aurora Capital LLC	December 31, 2014	Audit	K. Breard
9	Backstrom McCarley Berry & Co., LLC	December 31, 2014	Audit & Attestation	K. Breard
10	Blakeslee & Blakeslee Inc.	December 31, 2014	Audit & Attestation	K. Breard
11	C.A. Botzum & Co.	December 31, 2014	Audit & Attestation	K. Breard
12	CA Funds Group, Inc.	December 31, 2014	Audit & Attestation	K. Breard
13	Corporate Investments Group, Inc.	December 31, 2014	Audit & Attestation	K. Breard
14	Geneve International Corporation	December 31, 2014	Audit & Attestation	K. Breard
15	Glacier Point Capital LLC	December 31, 2014	Audit & Attestation	K. Breard
16	Greenbrier Diversified, Inc.	December 31, 2014	Audit & Attestation	K. Breard
17	Hollencrest Securities, LLC	December 31, 2014	Audit & Attestation	K. Breard
18	Hunter Wise Securities LLC	December 31, 2014	Audit & Attestation	K. Breard
19	KEMA Partners LLC	December 31, 2014	Audit & Attestation	K. Breard
20	Lakeshore Securities, LP	December 31, 2014	Audit	K. Breard
21	Mallory Capital Group, LLC	December 31, 2014	Audit & Attestation	K. Breard
22	MD Global Partners, LLC	December 31, 2014	Audit	K. Breard
23	Medalist Securities, Inc.	December 31, 2014	Audit & Attestation	K. Breard
24	Red Cedar Trading, LLC	December 31, 2014	Audit & Attestation	K. Breard
25	Securities Equity Group	December 31, 2014	Audit	K. Breard
26	Shareholders Service Group, Inc.	December 31, 2014	Audit	K. Breard
27	StockShield, LLC	December 31, 2014	Audit & Attestation	K. Breard
28	Vaquero Capital, LLC	December 31, 2014	Audit	K. Breard
29	Woodbridge Financial Group, LLC	December 31, 2014	Audit & Attestation	K. Breard
30	G. W. Sherwold Associates, Inc.	January 31, 2015	Audit & Attestation	K. Breard
31	Pflueger & Baerwald, Inc.	March 31, 2015	Audit & Attestation	K. Breard
32	Robert Blum Municipals, Inc.	March 31, 2015	Audit & Attestation	K. Breard
33	Thomas Capital Group, Inc.	March 31, 2015	Audit & Attestation	K. Breard
34	KCPAG Brokerage LLC	April 30, 2015	Audit & Attestation	K. Breard
35	Alliance Advisory & Securities, Inc.	June 30, 2015	Audit	K. Breard
36	James Fox Securities, Inc.	June 30, 2015	Audit & Attestation	K. Breard

[1] Mr. Breard also listed himself as the EQR for all of the audit and attestation engagements of the Firm identified in the Appendix.

#	Broker-Dealer	Fiscal Year Ended	Reports Issued Without EQR	Engagement Partner[1]
37	JCP Securities, Inc.	June 30, 2015	Audit & Attestation	K. Breard
38	Mutual Securities, Inc.	June 30, 2015	Audit & Attestation	K. Breard
39	Western Growers Financial Services, Inc.	June 30, 2015	Audit & Attestation	K. Breard
40	Conover Securities Corporation	August 31, 2015	Audit & Attestation	K. Breard
41	Infinity Securities, Inc.	September 30, 2015	Audit & Attestation	K. Breard
42	Lawson Financial Corporation	September 30, 2015	Audit & Attestation	K. Breard
43	McClurg Capital Corporation	September 30, 2015	Audit & Attestation	K. Breard
44	Pension Dynamics Securities Corporation	September 30, 2015	Audit & Attestation	K. Breard
45	Searle & Co.	September 30, 2015	Audit	K. Breard
46	Montrose Securities International	October 31, 2015	Audit	K. Breard
47	Rothschild Lieberman, LLC	October 31, 2015	Audit	K. Breard
48	Agency Desk, LLC	November 30, 2015	Audit	K. Breard
49	John W. Loofbourrow Associates, Inc.	November 30, 2015	Audit & Attestation	K. Breard
50	Aaron Capital Incorporated	December 31, 2015	Audit & Attestation	K. Breard
51	Ackrell Capital, LLC	December 31, 2015	Audit	K. Breard
52	Advisors Clearing Network	December 31, 2015	Audit	K. Breard
53	AFS Securities, LLC	December 31, 2015	Audit	K. Breard
54	American Medtech Equity Advisors, LLC	December 31, 2015	Audit	K. Breard
55	Argenthal & Co., Inc	December 31, 2015	Audit & Attestation	K. Breard
56	Atlantic State Partners, LLC	December 31, 2015	Audit	K. Breard
57	Aurora Capital LLC	December 31, 2015	Audit	K. Breard
58	Backstrom McCarley Berry & Co., LLC	December 31, 2015	Audit & Attestation	K. Breard
59	BIA Capital Strategies, LLC	December 31, 2015	Audit & Attestation	K. Breard
60	Blakeslee & Blakeslee Inc.	December 31, 2015	Audit & Attestation	K. Breard
61	Broker/Dealer, Inc.	December 31, 2015	Audit & Attestation	K. Breard
62	BMA Securities, LLC	December 31, 2015	Audit & Attestation	K. Breard
63	Brandis Tallman	December 31, 2015	Audit & Attestation	K. Breard
64	Butler Muni, LLC	December 31, 2015	Audit & Attestation	K. Breard
65	CA Funds Group, Inc.	December 31, 2015	Audit & Attestation	K. Breard
66	Capital Research Brokerage Services, LLC	December 31, 2015	Audit & Attestation	K. Breard
67	Champlain Advisors, LLC	December 31, 2015	Audit	K. Breard
68	Clarkeson Research Inc.	December 31, 2015	Audit & Attestation	K. Breard
69	Con Am Securities, Inc.	December 31, 2015	Audit & Attestation	K. Breard
70	Coombe Financial Services, Inc.	December 31, 2015	Audit & Attestation	K. Breard
71	Crest Capital LLC	December 31, 2015	Audit & Attestation	K. Breard
72	Dorn & Co., Inc.	December 31, 2015	Audit & Attestation	K. Breard
73	E A Markets Securities LLC	December 31, 2015	Audit	K. Breard
74	E1 Asset Management, Inc.	December 31, 2015	Audit	K. Breard
75	Equilibrium Capital Services, LLC	December 31, 2015	Audit & Attestation	K. Breard
76	Financial Goal Securities, Inc.	December 31, 2015	Audit & Attestation	K. Breard
77	First Liberties Securities, Inc.	December 31, 2015	Audit	K. Breard
78	FMV Capital Markets, LLC	December 31, 2015	Audit & Attestation	K. Breard
79	FundMe Securities, LLC	December 31, 2015	Audit	K. Breard
80	Fusion Analytics Securities LLC	December 31, 2015	Audit	K. Breard

#	Broker-Dealer	Fiscal Year Ended	Reports Issued Without EQR	Engagement Partner[1]
81	Geneve International Corporation	December 31, 2015	Audit & Attestation	K. Breard
82	Global Wine Partners (U.S.) LLC	December 31, 2015	Audit & Attestation	K. Breard
83	Greenbrier Diversified, Inc.	December 31, 2015	Audit & Attestation	K. Breard
84	Griffinest Asia Securities, LLC	December 31, 2015	Audit	K. Breard
85	Hankerson Financial, Inc.	December 31, 2015	Audit & Attestation	K. Breard
86	Hodin Associates, Inc.	December 31, 2015	Audit & Attestation	K. Breard
87	Hollencrest Securities, LLC	December 31, 2015	Audit	K. Breard
88	Innovation Capital, LLC	December 31, 2015	Audit & Attestation	K. Breard
89	Investment Visa Consultants, LLC	December 31, 2015	Audit & Attestation	K. Breard
90	KEMA Partners LLC	December 31, 2015	Audit & Attestation	K. Breard
91	Lakeshore Securities, LP	December 31, 2015	Audit	K. Breard
92	Lam Securities Investments, Inc.	December 31, 2015	Audit & Attestation	K. Breard
93	MAA - Mentor Alternative Advisors LLC	December 31, 2015	Audit & Attestation	K. Breard
94	Mallory Capital Group, LLC	December 31, 2015	Audit & Attestation	K. Breard
95	McCafferty & Company, LLC	December 31, 2015	Audit & Attestation	K. Breard
96	MD Global Partners, LLC	December 31, 2015	Audit	K. Breard
97	Meyers Associates, LP	December 31, 2015	Audit	K. Breard
98	NHCohen Capital LLC	December 31, 2015	Audit & Attestation	K. Breard
99	Opening Night Capital, LLC	December 31, 2015	Audit & Attestation	K. Breard
100	Private Placement Insurance Products, LLC	December 31, 2015	Audit & Attestation	K. Breard
101	Pursuit Partners LLC	December 31, 2015	Audit	K. Breard
102	R H Investment Corporation	December 31, 2015	Audit & Attestation	K. Breard
103	RMK Maritime Capital, LLC	December 31, 2015	Audit & Attestation	K. Breard
104	Robinhood Financial, LLC	December 31, 2015	Audit	K. Breard
105	RP Capital LLC	December 31, 2015	Audit & Attestation	K. Breard
106	Sanderlin Securities, LLC	December 31, 2015	Audit & Attestation	K. Breard
107	Schlitt Investor Services, Inc.	December 31, 2015	Audit	K. Breard
108	Securities Equity Group	December 31, 2015	Audit & Attestation	K. Breard
109	Silver Portal Capital LLC	December 31, 2015	Audit & Attestation	K. Breard
110	SpiderRock EXS, LLC	December 31, 2015	Audit	K. Breard
111	Stacey Braun Financial Services, Inc.	December 31, 2015	Audit & Attestation	K. Breard
112	Sterling Monroe Securities, LLC	December 31, 2015	Audit & Attestation	K. Breard
113	StockShield, LLC	December 31, 2015	Audit & Attestation	K. Breard
114	Synergy Advisors Group, LLC	December 31, 2015	Audit	K. Breard
115	Time Equities Securities, LLC	December 31, 2015	Audit & Attestation	K. Breard
116	TKG Financial, LLC	December 31, 2015	Audit & Attestation	K. Breard
117	Transactiondrivers, LLC	December 31, 2015	Audit	K. Breard
118	Vaquero Capital, LLC	December 31, 2015	Audit	K. Breard
119	Veber Partners LLC	December 31, 2015	Audit & Attestation	K. Breard
120	Vista Point Advisors, LLC	December 31, 2015	Attestation	K. Breard
121	Waveland Capital	December 31, 2015	Audit & Attestation	K. Breard
122	Waypoint Direct Investments, LLC	December 31, 2015	Audit & Attestation	K. Breard
123	Westfield Investment Group, Inc.	December 31, 2015	Audit & Attestation	K. Breard
124	Woodbridge Financial	December 31, 2015	Audit & Attestation	K. Breard
125	Wulff, Hansen & Co.	December 31, 2015	Audit	K. Breard
126	Wyche Securities, Inc.	December 31, 2015	Audit	K. Breard
127	Zimbalist Smith Investments, LLC	December 31, 2015	Audit & Attestation	K. Breard

#	Broker-Dealer	Fiscal Year Ended	Reports Issued Without EQR	Engagement Partner[1]
128	G. W. Sherwold Associates, Inc.	January 31, 2016	Audit & Attestation	K. Breard
129	Pflueger & Baerwald, Inc.	March 31, 2016	Audit	K. Breard
130	Thomas Capital Group, Inc.	March 31, 2016	Audit & Attestation	K. Breard
131	KCPAG Brokerage LLC	April 30, 2016	Audit & Attestation	K. Breard
132	Edgemont Capital Partners, LP	June 30, 2016	Audit	K. Breard
133	Modern Equity Services, LLC	June 30, 2016	Audit & Attestation	K. Breard
134	Sanderlin Securities, LLC	December 31, 2016	Audit & Attestation	K. Breard
135	Union Gaming Securities, LLC	December 31, 2016	Audit	K. Breard

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Zhang Hongling CPA, P.C. and Hongling Zhang, CPA,* *Respondents.*	PCAOB Release No. 105-2018-019 October 2, 2018

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Zhang Hongling CPA, P.C. ("Firm"), a registered public accounting firm, revoking the Firm's registration,[1] and imposing a civil money penalty in the amount of $15,000 on the Firm; and (2) censuring Hongling Zhang, CPA ("Zhang"), barring her from being an associated person of a registered public accounting firm,[2] and requiring her to complete, before filing any petition for Board consent to associate with a registered public accounting firm, fifty (50) hours of continuing professional education in subjects that are directly related to the audits of issuer financial statements under PCAOB standards.

The Board is imposing these sanctions on the basis of its findings that the Firm and Zhang (collectively, "Respondents") (1) violated PCAOB rules and standards by failing to perform adequate procedures with respect to related party transactions during one issuer audit, (2) violated PCAOB rules by providing backdated audit documentation to PCAOB staff in connection with a Board inspection of one issuer audit and failing to disclose the backdating to the Board's inspection team, and (3) violated PCAOB rules and standards by failing to obtain engagement quality reviews in connection with four audits for two issuers.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Zhang may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. Zhang Hongling CPA, P.C. is a corporation organized under the laws of the state of New York with headquarters in Flushing, New York, and an additional office in Syosset, New York. On August 10, 2016, the Firm registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accounting by the New York State Board for Public Accountancy (License No. 095908).

2. Hongling Zhang, age 47, is a certified public accountant licensed by the New York State Board for Public Accountancy (License No. 088065). She is the sole partner of the Firm and served as the Firm's engagement partner for the four audits discussed herein. Zhang is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

B. Issuers

3. Sino United Worldwide Consolidated Ltd. (formerly known as AJ Greentech Holdings, Ltd.) ("Sino United") is a Nevada corporation with a principal executive office in Flushing, New York. Sino United's public filings disclose that, during 2015 and 2016, Sino United was engaged in the business of providing electronic products and general cargo trading and related consulting services. Its common stock is registered under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and is quoted on the OTC Pink Marketplace under the symbol "SUIC." At all relevant times, Sino United was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). The Firm audited Sino United's financial statements for the fiscal years ended December 31, 2015 ("2015 Sino United Audit") and December 31, 2016 ("2016 Sino United Audit").

4. Shenzhen ZhongRong Morgan Investment Holding Group Co., Ltd. (formerly known as Malaysia Pro-Guardians Security Management Corporation) ("Shenzhen") is a Nevada corporation with a principal executive office in Flushing, New York. Shenzhen's public filings disclose that, during 2015 and 2016, Shenzhen was a shell company with no or nominal operations and assets that was seeking a merger with or acquisition by a larger entity. Shenzhen's common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Pink Marketplace under the symbol "ZRMG." At all relevant times, Shenzhen was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). The Firm audited Shenzhen's financial statements for the fiscal years ended December 31, 2015 ("2015 Shenzhen Audit") and December 31, 2016 ("2016 Shenzhen Audit").

C. Summary

5. This matter concerns Respondents' violations of PCAOB rules and standards in connection with (1) the 2015 and 2016 Sino United Audits, (2) the Board's inspection of the 2015 Sino United Audit, and (3) the 2015 and 2016 Shenzhen Audits.

6. During the 2015 Sino United Audit, Respondents failed to obtain sufficient appropriate audit evidence and to exercise due professional care and professional skepticism. In particular, Respondents failed to perform any procedures to test the occurrence and valuation of certain related party transactions that the company asserted had occurred during the year under audit.[5]

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[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and*

7. During a 2017 Board inspection of the 2015 Sino United Audit, Respondents violated PCAOB Rule 4006, *Duty to Cooperate With Inspectors*, by providing the inspection team with debt cancellation agreements that had been created during the 2017 inspection but backdated to 2015, without informing the inspection team of those facts.

8. In addition, the Firm failed to comply with AS 1220, *Engagement Quality Review* (formerly, Auditing Standard No. 7), by failing to obtain engagement quality reviews and concurring approvals of issuance in connection with audits for the two issuers discussed above.

9. With respect to the Firm's failure to obtain engagement quality reviews, Zhang took or omitted to take actions knowing, or recklessly not knowing, that her acts and omissions would directly and substantially contribute to the Firm's violations of AS 1220, in violation of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

D. Respondents Violated PCAOB Rules and Standards

10. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[7] Among other things, those standards require that an auditor exercise due professional care and professional skepticism in planning and performing the audit.[8]

Pre-Reorganized Numbering (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondents' conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

[6] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards;* PCAOB Rule 3200, *Auditing Standards*.

[7] AU 5AS 3101.07, *Reports on Audited Financial Statements* (formerly, AU § 508).

[8] See AS 1015, *Due Professional Care in the Performance of Work* (formerly, AU § 230).

Respondents Violated PCAOB Standards During the 2015 Sino United Audit

11. On September 15, 2016, the Firm issued its audit report on Sino United's December 31, 2015 financial statements, and Sino United included the audit report in a Form 10-K filing with the U.S. Securities and Exchange Commission (the "Commission").

12. PCAOB standards require the auditor to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.[9] The auditor also is required to evaluate whether related party transactions have been accounted for and disclosed appropriately in the financial statements.[10] For each related party transaction that is either required to be disclosed in the financial statements or is determined to be a significant risk, the auditor should, among other things, read the underlying documentation and evaluate whether the terms are consistent with explanations from inquiries and other audit evidence about the business purpose (or the lack thereof) of the transaction.[11]

13. Sino United's December 31, 2015 financial statements disclosed that, during 2015, the company had issued 57.5 million shares of common stock in exchange for the cancellation of debt owed to shareholders. Respondents understood at the time that the shares had been issued to Sino United's sole director and her relatives.

14. Although Respondents obtained board resolutions authorizing the share issuances, this audit procedure was not sufficient because the procedure failed to provide a reasonable basis to determine whether the shares were actually issued to the related parties and whether the debt had been forgiven by those related parties. Respondents failed to perform any other procedures, such as reading the underlying documentation and evaluating whether the terms and other information about the transactions were consistent with other audit evidence.[12] As a result, Respondents failed to obtain sufficient appropriate evidence to determine whether the transactions with related parties had occurred, were recorded in the proper period, and were properly valued.

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[9] AS 1105.04, *Audit Evidence* (formerly, Auditing Standard No. 15).

[10] AS 2410.17, *Related Parties* (formerly Auditing Standard No. 18).

[11] AS 2410.12.

[12] See AS 1105.04; AS 2410.12.

Respondents Failed to Cooperate With a Board Inspection

15. In June 2017, the Board's Division of Registration and Inspections ("Inspections") inspected the Firm's 2015 Sino United Audit.

16. PCAOB rules require that registered public accounting firms and their associated persons "shall cooperate with the Board in the performance of any Board inspection."[13] This cooperation obligation includes an obligation not to provide misleading documents or information in connection with, or otherwise to interfere in, the Board's inspection processes.[14]

17. During the inspection, the Board's Inspections staff asked Zhang if Sino United had executed debt cancellation agreements in connection with the 57.5 million share issuance in 2015. After Zhang replied that such agreements existed but that she had not obtained them during the audit, the Inspections staff requested copies of the agreements. Zhang subsequently provided the Inspections staff with thirteen debt cancellation agreements, all dated July 8, 2015. However, as Zhang knew, Sino United had created the debt cancellation agreements during the 2017 inspection, not in July 2015.

18. In response to the Inspection staff's request, Zhang initially requested that Sino United send her debt cancellation agreements in June 2017. Following her June 2017 request, Zhang received an email in which Sino United personnel stated that they were preparing the agreements using a sample format provided by an agent of the company. Zhang also received several emails in which Sino United personnel questioned what the contents of the agreements should be. For example, they asked who the parties should be, what the par value of the issued shares should be, and what the amount of the cancelled debt should be.

19. Accordingly, Respondents were aware that Sino United had created the debt cancellation agreements in June 2017 and that the agreements had not existed during the 2015 Sino United Audit. Yet Respondents failed to disclose those facts when

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[13] PCAOB Rule 4006.

[14] See, e.g., *Kabani & Company, Inc.*, SEC Release No. 34-80201, at 14 (Mar. 10, 2017) (sustaining Board finding that respondents failed to cooperate with inspection where improper work paper alterations "interfered with the PCAOB's ability to fulfill its regulatory function of ensuring that auditors comply with their professional responsibilities"); *Dale Arnold Hotz, CPA, Jyothi Nuthulaganti Manohar, CPA, and Michael Jared Fadner, CPA*, PCAOB Release No. 105-2012-008, ¶ 7 (Nov. 13, 2012) (PCAOB Rule 4006 "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes." (internal quotation omitted)).

they provided the debt cancellation agreements to the Board's Inspections staff. This conduct violated Rule 4006.

The Firm Failed to Obtain Engagement Quality Reviews

20. An auditor is required to obtain an engagement quality review and concurring approval of issuance for audits conducted pursuant to PCAOB standards.[15] The auditor may not grant its client permission to use its audit report until after an engagement quality reviewer provides concurring approval of issuance.[16]

21. The Firm failed to obtain an engagement quality review or concurring approval of issuance in connection with its 2015 Sino United Audit. As noted above, the Firm nonetheless issued its audit report on September 15, 2016.

22. On May 15, 2017, the Firm issued its audit report on Sino United's December 31, 2016 financial statements, and Sino United included the audit report in a Form 10-K filing with the Commission. On June 16, 2017, the Firm issued its audit report on Shenzhen's December 31, 2015 financial statements and its audit report on Shenzhen's December 31, 2016 financial statements, and Shenzhen included the audit reports in Form 10-K filings with the Commission.

23. Although the Firm engaged an engagement quality reviewer for the 2016 Sino United Audit, the 2015 Shenzhen Audit, and the 2016 Shenzhen Audit during the course of those audits, no engagement quality review was performed before the Firm issued its audit reports. Instead, the Firm improperly issued its audit reports for each of those three audits without first obtaining an engagement quality review and concurring approval of issuance. The engagement quality reviewer did not perform a review and provide a concurring approval of issuance until after the Firm had already issued its audit reports.

24. As a result, the Firm violated AS 1220 in connection with the 2015 and 2016 Sino United Audits and the 2015 and 2016 Shenzhen Audits.

Zhang Contributed to the Firm's Violations

25. PCAOB rules prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not

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[15] AS 1220.01.

[16] AS 1220.13.

knowing, that the act or omission would directly and substantially contribute to the firm's violation of PCAOB rules or professional standards.[17]

26. Zhang, the sole partner of the Firm, had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Zhang knew, or was reckless in not knowing, that she was directly and substantially contributing to the Firm's violations of AS 1220. As a result, Zhang violated Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Zhang Hongling CPA, P.C. and Hongling Zhang, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Zhang Hongling CPA, P.C. is revoked;

C. After two (2) years from the date of this Order, Zhang Hongling CPA, P.C. may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon Zhang Hongling CPA, P.C. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Zhang Hongling CPA, P.C. shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention:

[17] PCAOB Rule 3502.

Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006;

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Hongling Zhang, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[18]

F. After two (2) years from the date of this Order, Hongling Zhang, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

G. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Hongling Zhang, CPA is required to complete, before filing any petition for Board consent to associate with a registered public accounting firm, fifty (50) hours of continuing professional education in subjects that are directly related to the audits of issuer financial statements under PCAOB standards (such hours shall be in addition to, and shall not be counted in, the continuing professional education she is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

October 2, 2018

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[18] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Zhang. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2018-020
In the Matter of Deloitte LLP,	October 16, 2018
Respondent.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Deloitte LLP ("Deloitte Canada" or "Respondent" or "Firm"), imposing a civil money penalty of $350,000 on the Firm, and requiring the Firm to undertake a review of relevant policies and procedures, and related professional and educational training, to provide reasonable assurance of compliance with applicable independence criteria. The Board is imposing these sanctions on the basis of its findings that, in connection with three audits of an issuer client, the Firm violated PCAOB rules and standards by failing to satisfy applicable independence criteria, including as set forth in U.S. Securities and Exchange Commission ("Commission") rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent Firm

1. Deloitte LLP is a public accounting firm organized as a limited liability partnership under the laws of Canada and headquartered in Toronto. It is the Canadian member firm of the Deloitte Touche Tohmatsu Limited global network of firms ("DTTL"). At all relevant times, the Firm was the external auditor for issuer Banro Corporation ("Banro"). The Firm ceased serving as Banro's external auditor in April 2017. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Relevant Associated Entities

2. Deloitte & Touche ("Deloitte South Africa") is a public accounting firm organized as a partnership under the laws of South Africa and headquartered in Johannesburg. It is the South African member firm of DTTL. It is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and an associated entity of Deloitte Canada within the meaning of PCAOB Rule 1001(a)(iv) and Rule 2-01(f)(2) of Commission Regulation S-X.[2] It is considered part of Deloitte Canada for purposes of the Commission's auditor independence rules.[3]

3. Venmyn Deloitte (Pty) Ltd. ("Venmyn Deloitte") is a mining services company based in South Africa and a wholly owned subsidiary of Deloitte South Africa. Venmyn Deloitte was created in connection with Deloitte South Africa's acquisition of certain assets of the mining services company Venmyn Rand (Pty) Ltd. ("Venmyn Rand") on November 1, 2012. Venmyn Deloitte is, and at all relevant times since November 1, 2012 has been, an associated entity of Deloitte Canada within the meaning of PCAOB Rule 1001(a)(iv) and Rule 2-01(f)(2) of Regulation S-X. It is considered part of Deloitte Canada for purposes of the Commission's auditor independence rules.[4]

C. Issuer

4. Banro Corporation is a Canadian gold mining company with operations in the Democratic Republic of the Congo ("DRC"). At all relevant times, Banro had

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[2] 17 C.F.R. § 210.2-01(f)(2).

[3] Under the Commission's auditor independence rules, the term "accounting firm" is defined to include the firm's "associated entities, including those located outside the United States." *Id.*

[4] *Id.*

securities registered for trading on the NYSE MKT LLC pursuant to Section 12(b) of the Securities Exchange Act of 1934, and was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. The Firm issued audit reports on Banro's financial statements for the fiscal years ending on, and internal control over financial reporting as of, December 31 of 2012, 2013, and 2014. The Firm's audit reports were included in annual reports Banro filed with the Commission on Forms 20-F or 40-F.

D. Summary

6. This matter concerns Deloitte Canada's failure to comply with PCAOB rules and standards that require a registered public accounting firm, including any associated entity of the firm, to be independent of the firm's audit client throughout the audit and professional engagement period. Deloitte Canada failed to maintain its independence in connection with the Firm's audits of Banro for fiscal years 2012, 2013, and 2014 as a result of certain non-audit services that Venmyn Deloitte (f/k/a Venmyn Rand) provided Banro during these years in connection with two gold mines in the DRC.

7. In early 2012, prior to its acquisition by Deloitte South Africa, Venmyn Rand prepared a technical report for Banro on the company's Namoya gold mine in the DRC ("2012 Namoya Report") in accordance with the statutory requirements of Canadian National Instrument 43-101, *Standards of Disclosure for Mineral Projects* ("NI 43-101").[5] The 2012 Namoya Report, which Banro publicly furnished to the Commission, contained certain gold mineral resource estimates and a related valuation of the Namoya mine based on a discounted cash flow analysis. Venmyn Rand estimated that the Namoya mine had a fair value of $366 million.

8. In connection with the Firm's subsequent audit of Banro's 2012 financial statements, and after Deloitte South Africa's acquisition of Venmyn Rand, Venmyn Deloitte's managing director confirmed for the Deloitte Canada engagement team that he was the "qualified person" responsible for the 2012 Namoya Report.[6] The engagement team then relied on the report's valuation as audit evidence supporting management's representations regarding the carrying value of the Namoya mining assets reported in Banro's financial statements, as well as Banro's ability to continue as a going concern. The engagement team also evaluated certain key assumptions underlying the valuation. Venmyn Deloitte and its managing director also consented to Banro's public use of their names in connection with the 2012 Namoya Report, which was referenced in Banro's 2012 annual report filed with the Commission.

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[5] 34 Ontario Securities Commission Bulletin ("OSCB") 7043 (2011).

[6] A "qualified person" is defined in NI 43-101 as an engineer or geoscientist with certain education, experience, and professional credentials related to mineral exploration or mining. 34 OSCB 7043, at 7046-47.

9. In 2013 and 2014, Venmyn Deloitte prepared two additional NI 43-101 technical reports for Banro, one for the Lugushwa gold mine in the DRC ("2013 Lugushwa Report") and a new one for the Namoya gold mine in the DRC ("2014 Namoya Report"). Both technical reports, which Banro publicly furnished to the Commission, contained certain gold mineral resource or reserve estimates that Banro had previously disclosed publicly in press releases. Each press release stated that Venmyn Deloitte's managing director had reviewed and approved the release, and that he was the "qualified person" under NI 43-101 "responsible" for certain of the mineral resource or reserve estimates disclosed therein. Similarly, each technical report stated that Venmyn Deloitte's managing director was the "qualified person" under NI 43-101 who took responsibility for the entire report, including the mineral resource and reserve estimates therein.

10. As a result, Deloitte Canada's independence during the 2012, 2013, and 2014 Banro audits was impaired. Deloitte Canada's independence was impaired during the 2012 audit because the engagement team relied on the valuation in the 2012 Namoya Report, for which Venmyn Deloitte and its managing director took responsibility, as audit evidence supporting Banro management's representations, and subjected it to audit procedures. By auditing work for which its associated entity, Venmyn Deloitte, took responsibility, Deloitte Canada in effect audited its own work under relevant independence rules. Deloitte Canada's independence during the 2012, 2013, and 2014 Banro audits also was impaired because Venmyn Deloitte publicly took responsibility in the technical reports and related press releases for certain of Banro's gold mineral resource and reserve estimates, thereby creating a mutual interest between Deloitte Canada and Banro in those estimates being correct. Accordingly, Deloitte Canada violated PCAOB Rule 3520, *Auditor Independence*, because it was not independent of Banro in both fact and appearance within the meaning of Rule 2-01(b) of Regulation S-X,[7] and Interim Auditing Standard ("AU") § 220, *Independence*.[8]

E. The Firm Failed to Comply with the Auditor Independence Requirements

11. In connection with the preparation or issuance of any audit report, PCAOB rules provide that a registered public accounting firm and its associated persons shall comply with all applicable auditing and related professional practice standards.[9]

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[7] 17 C.F.R. § 210.2-01(b).

[8] All references herein to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Rel. No. 2015-002 (Mar. 31, 2015).

[9] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

PCAOB rules and standards also require that a registered public accounting firm and its associated persons be independent of the firm's audit client, including throughout the audit and professional engagement period.[10] The audit and professional engagement period includes the period covered by any financial statements being audited or reviewed, and the period of the engagement to audit or review an audit client's financial statements or prepare a report filed with the Commission.[11]

12. A registered public accounting firm's independence obligation with respect to an issuer audit client encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[12]

13. Rule 2-01 of Regulation S-X "is designed to ensure that auditors are qualified and independent of their audit clients both in fact and in appearance."[13] Rule 2-01(b), which "sets forth the general standard of auditor independence",[14] provides that an accountant is not independent of an audit client if, at any point during the audit and professional engagement period, "the accountant is not, or a reasonable investor with knowledge of all relevant facts and circumstances would conclude that the accountant is not, capable of exercising objective and impartial judgment on all issues encompassed within the accountant's engagement."[15] Rule 2-01(f) of Regulation S-X defines the term "accountant" to include a registered public accounting firm,[16] and the term "accounting firm" to include the firm's "associated entities, including those located outside the United States."[17]

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[10] PCAOB Rule 3520; AU § 220.

[11] PCAOB Rule 3501, *Definitions of Terms Employed in Section 3, Part 5 of the Rules*, subsection (a)(iii).

[12] PCAOB Rule 3520, Note 1.

[13] 17 C.F.R. § 210.2-01, Preliminary Note 1.

[14] *Id.*

[15] 17 C.F.R. § 210.2-01(b). Rule 2-01(b) further provides that a determination of whether an accountant is independent takes into consideration "all relevant circumstances, including all relationships between the accountant and the audit client, and not just those relating to reports filed with the Commission."

[16] 17 C.F.R. § 210.2-01(f)(1).

[17] 17 C.F.R. § 210.2-01(f)(2).

14. Application of Rule 2-01(b) involves looking "in the first instance to whether a relationship or the provision of a service: creates a mutual or conflicting interest between the accountant and the audit client; places the accountant in the position of auditing his or her own work; results in the accountant acting as management or an employee of the audit client; or places the accountant in a position of being an advocate for the audit client."[18]

Deloitte Canada's 2012 Banro Audit

15. Banro engaged Deloitte Canada to audit its 2012 financial statements and internal control over financial reporting ("2012 Audit"). Deloitte Canada issued unqualified audit reports dated March 26, 2013. Banro included the audit reports in an Annual Report on a Form 40-F publicly filed with the Commission on March 27, 2013 ("2012 Annual Report").

16. Before Deloitte South Africa acquired Venmyn Rand's assets, Banro engaged Venmyn Rand to prepare the 2012 Namoya Report pursuant to NI 43-101. NI 43-101 provides, among other things, that "[a]ll disclosure of scientific or technical information made by an issuer, including disclosure of a mineral resource or mineral reserve, concerning a mineral project on a property material to the issuer must be (a) based upon information prepared by or under the supervision of a qualified person; or (b) approved by a qualified person."[19] A "qualified person" is defined in NI 43-101 as an engineer or geoscientist with certain education, experience, and professional credentials related to mineral exploration or mining.[20]

17. In March 2012, Venmyn Rand and its managing director ("Managing Director") provided Banro with the 2012 Namoya Report. In the report, the Managing Director certified that he was the "qualified person" within the meaning of NI 43-101 and stated, "I am responsible for the entire Technical Report".

18. The report described Namoya's technical aspects, verified Banro's estimates of Namoya's gold resources, and provided Venmyn Rand's economic assessment of Namoya. For the economic assessment, the Managing Director utilized the discounted cash flow valuation method and determined the net present value of Namoya's estimated future cash flows over the useful life of the mine, to arrive at a fair value for Namoya of $366 million as of January 24, 2012. As set forth in the report, the valuation relied on the Managing Director and Venmyn Rand's forecast of certain operational and cash flow results for Namoya, including forecasts of the quality and amount of gold ore that would be mined and processed, Namoya's operating costs, and

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[18] 17 C.F.R. § 210.2-01, Preliminary Note 2.

[19] 34 OSCB 7043, at 7047.

[20] *Id.* at 7046-47.

its capital expenditures. On March 12, 2012, Banro publicly furnished a copy of the 2012 Namoya Report to the Commission, attached as an exhibit to a Form 6-K.

19. On November 1, 2012, Deloitte South Africa acquired certain assets of Venmyn Rand and in connection therewith created Venmyn Deloitte as a wholly owned subsidiary. The managing director of Venmyn Rand became the managing director of Venmyn Deloitte.

20. In December 2012, a Venmyn Deloitte employee emailed a Deloitte Canada partner on the 2012 Audit engagement team ("Audit Partner") asking for approval for Venmyn Deloitte to prepare an NI 43-101 technical report on Banro's Lugushwa gold mine.

21. The Audit Partner consulted with Deloitte Canada's then-National Director of Independence ("NDI") and then-National Professional Practice Director ("NPPD") about the request. Among other things, they reviewed Venmyn Deloitte's draft engagement letter and an unpublished technical review that Venmyn Rand had previously prepared for Banro concerning the Lugushwa mine. The group expressed concerns as to whether the proposed engagement would impair Deloitte Canada's independence, and agreed to consider the issue further.

22. As reflected in a 2012 Audit work paper dated January 29, 2013, and written by the Audit Partner ("2012 Audit Independence Memo"), the group participated with Venmyn Deloitte's managing director in a conference call the previous day regarding the potential independence implications of the proposed technical report for the Lugushwa mine. During the call, the Managing Director represented to the Audit Partner, NDI, and NPPD that Venmyn Deloitte would use information provided by Banro to recalculate management's estimates of the mineral resource levels at Lugushwa and determine whether the estimates were valid. The Managing Director stated that Venmyn Deloitte's work would merely provide a "sanity check" on Banro's work.

23. The 2012 Audit Independence Memo sets forth the conclusion, based on the Managing Director's representations, that Venmyn Deloitte's preparation of the proposed report would not impair Deloitte Canada's independence. Even though Deloitte Canada was aware that Venmyn Deloitte would be preparing the proposed technical report in accordance with the statutory requirements of NI 43-101, there was no discussion whether it would be consistent with the independence requirements for the Managing Director to take responsibility for the entire contents of the report as the "qualified person", and for the report to be publicly furnished to the Commission. There also was no discussion whether it would be acceptable for the Managing Director to publicly take responsibility for management's gold resource or reserve estimates in press releases issued by Banro.

24. On January 31, 2013, only three days later, Banro issued a press release that disclosed certain gold mineral resource estimates for Lugushwa and stated that the Managing Director was the "qualified person" within the meaning of NI 43-101 who was

"responsible" for those estimates ("2013 Lugushwa Press Release"). The press release stated in relevant part:

> [The] Managing Director of Venmyn Deloitte (Pty) Ltd., is the "qualified person" (as such term is defined in National Instrument 43-101) who is responsible for the Lugushwa Mineral Resource estimates disclosed in this press release. [He] has reviewed and approved the contents of this press release.

Banro publicly furnished a copy of the press release to the Commission, attached as an exhibit to a Form 6-K, on February 1, 2013.

25. On March 15, 2013, Venmyn Deloitte provided Banro with an NI 43-101 technical report on Lugushwa and a revised report on April 15, 2013 (collectively referred to as the 2013 Lugushwa Report). Banro publicly furnished copies of the reports to the Commission on March 21, 2013 and April 17, 2013, respectively, attached as exhibits to Forms 6-K. The 2013 Lugushwa Report disclosed the same mineral resource estimates as the 2013 Lugushwa Press Release. In the 2013 Lugushwa Report, Venmyn Deloitte's managing director certified that he was the "qualified person" within the meaning of NI 43-101 and stated, "I am responsible for all of the Technical Report".

26. On March 26, 2013, Venmyn Deloitte and the Managing Director each provided Banro with a signed letter stating that they consented ("2013 Consents") to Banro's use of their names in connection with the 2012 Namoya Report and 2013 Lugushwa Report, both of which Banro listed as exhibits to and incorporated by reference in its 2012 Annual Report. In particular, the Annual Information Form ("AIF") and management discussion and analysis ("MD&A") included in the 2012 Annual Report contained a discussion of Banro's mining assets and referenced both technical reports for further information. Banro attached the 2013 Consents as exhibits to the 2012 Annual Report.

27. During the 2012 Audit, the Deloitte Canada engagement team sent a letter to the Managing Director at Venmyn Deloitte, but addressed it to him at the no-longer existent "Venmyn Rand," stating that Deloitte Canada intended to rely on the 2012 Namoya Report as "audit evidence" ("Reliance Letter"). The Reliance Letter referenced the 2012 Namoya Report as containing "the assessment result and assessment procedures performed by yourselves." The Reliance Letter further stated, "These results will be used to form the basis for a number of significant management analyses. We intend to use your report as part of our audit."

28. The Managing Director signed and returned the Reliance Letter on February 28, 2013, confirming that, among other things, he was the "qualified person" responsible for the 2012 Namoya Report and understood that Deloitte Canada would use the report as audit evidence.

29. During the 2012 Audit, the engagement team included a copy of the 2012 Namoya Report in its audit work papers and relied on the report to assess whether there was any indication that the carrying value of the Namoya mining assets on Banro's balance sheet was impaired under International Accounting Standard ("IAS") 36, *Impairment of Assets*. In particular, the engagement team evaluated the assumptions used in the report by the Managing Director and Venmyn Rand to estimate Namoya's fair value as $366 million, including assumptions concerning discount rates and gold prices, and determined that the assumptions were reasonable. As a result, the engagement team concluded that Namoya's fair value was greater than its carrying value, and agreed with management's conclusion that there was no reason to conduct a full impairment test for Namoya under IAS 36. The 2012 Namoya Report was the only representation of Namoya's fair value of $366 million that Banro's management provided Deloitte Canada in connection with the 2012 Audit.

30. The engagement team also relied on the 2012 Namoya Report, among other factors, to conclude that there was no material uncertainty about Banro's ability to continue as a going concern. In reaching its conclusion, the engagement team assessed the "robustness of the cost and revenue assumptions" and the "feasibility of the projects" included in the 2012 Namoya Report, and analyzed the gold resource estimates therein.

31. In connection with the 2012 Audit and Deloitte Canada's issuance of an unqualified audit report on Banro's 2012 financial statements, Deloitte Canada did not consider the fact that, even though the 2012 Namoya Report had been prepared prior to the Venmyn Rand acquisition, in early 2013 Venmyn Deloitte and its managing director took responsibility for the report in the Reliance Letter and the 2013 Consents. By placing reliance on the 2012 Namoya Report as audit evidence, the Firm put itself in the position of auditing its own work because an associated entity, Venmyn Deloitte, had now taken responsibility for that work. In addition, Deloitte Canada did not consider the impact on the Firm's independence of (a) the 2013 Lugushwa Press Release and its statement, reviewed and approved by Venmyn Deloitte's managing director, that he was responsible for the mineral resource estimates disclosed therein; and (b) the 2013 Lugushwa Report and the Managing Director's statement therein that he was responsible for all of the report, including the mineral resource estimates disclosed therein.

Deloitte Canada's 2013 Banro Audit

32. Banro engaged Deloitte Canada to audit its 2013 financial statements and internal control over financial reporting ("2013 Audit"). Deloitte Canada issued unqualified audit reports dated March 29, 2014. Banro included the audit reports in an Annual Report on a Form 40-F publicly filed with the Commission on March 31, 2014 ("2013 Annual Report").

33. On March 27, 2014, a few days earlier, Banro issued a press release that disclosed certain gold mineral resource and reserve estimates for Namoya, and stated

that the Managing Director was the "qualified person" within the meaning of NI 43-101 "responsible" for the reserve estimates ("2014 Namoya Press Release"). The press release stated, in relevant part:

> [The] Managing Director of Venmyn Deloitte (Pty) Ltd., is the "qualified person" (as such term is defined in National Instrument 43-101) who is responsible for the Namoya Mineral Reserve estimates disclosed in this press release. [He] has reviewed and approved the contents of this press release.

Banro publicly furnished a copy of the press release to the Commission, attached as an exhibit to a Form 6-K, on March 27, 2014.

34. On March 29, 2014, the Managing Director and Venmyn Deloitte each provided Banro with a signed letter stating that they consented ("2014 Consents") to Banro's use of their names in connection with the 2012 Namoya Report, 2013 Lugushwa Report, and 2014 Namoya Press Release, each of which Banro listed as an exhibit to and incorporated by reference in its 2013 Annual Report. In particular, the AIF and MD&A included in the 2013 Annual Report contained a discussion of Banro's mining assets and referenced both technical reports for further information. Banro attached the 2014 Consents as exhibits to its 2013 Annual Report.

35. In connection with the 2013 Audit and Deloitte Canada's issuance of an unqualified audit report on Banro's 2013 financial statements, Deloitte Canada did not consider the impact on the Firm's independence of (a) the 2013 Lugushwa Press Release and 2013 Lugushwa Report; or (b) the 2014 Namoya Press Release and its statement, approved by Venmyn Deloitte's managing director, that he was responsible for the Banro mineral reserve estimates disclosed therein. Instead, the engagement team merely included the 2012 Audit Independence Memo, without updating it, in its audit work papers for the 2013 Audit.

Deloitte Canada's 2014 Banro Audit

36. Banro engaged Deloitte Canada to audit its 2014 financial statements and internal control over financial reporting ("2014 Audit"). Deloitte Canada issued an unqualified audit report on Banro's financial statements, and a qualified audit report on Banro's internal control over financial reporting given certain material weaknesses, both dated April 6, 2015. Banro included these audit reports in an Annual Report on a Form 20-F publicly filed with the Commission on April 7, 2015 ("2014 Annual Report").

37. Venmyn Deloitte provided Banro with the 2014 Namoya Report on May 12, 2014. Banro publicly furnished a copy of the report to the Commission on May 20, 2014, attached as an exhibit to a Form 6-K. The report disclosed the same mineral resource and reserve estimates as the 2014 Namoya Press Release. In the report, the Managing Director certified that he was the "qualified person" within the meaning of NI 43-101 and stated, "I am responsible for the entire Technical Report".

38. Although Banro did not obtain consents from the Managing Director and Venmyn Deloitte to use their names in connection with the 2013 Lugushwa Report and 2014 Namoya Report, both reports were listed by Banro as exhibits to and incorporated by reference in its 2014 Annual Report. In particular, the 2014 Annual Report contained a discussion of Banro's mining assets and referenced both technical reports for further information.

39. In 2014, Deloitte Canada was inspected by the PCAOB's Division of Registration and Inspections ("DRI"), and the Banro 2013 Audit was selected for review. In early 2015 as part of this inspection, DRI communicated to the Firm its independence concerns as to the non-audit services provided, and related public statements made, by the Managing Director and Venmyn Deloitte in connection with the 2013 Lugushwa Report and 2014 Namoya Report.

40. In response to DRI's concerns, and prior to the Firm's issuance of its 2014 audit reports on April 6, 2015, Deloitte Canada considered the impact on the Firm's independence of the non-audit work reflected in the 2013 Lugushwa Report and 2014 Namoya Report, and concluded the Firm's independence had not been impaired. In doing so, the Firm did not adequately consider the impact on its independence of the public statements made by Venmyn Deloitte's managing director as the "qualified person" "responsible" for the gold mineral resource estimates in the 2013 Lugushwa Press Release and 2013 Lugushwa Report, and gold mineral reserve estimates in the 2014 Namoya Press Release and 2014 Namoya Report.

Deloitte Canada Violated Auditor Independence Requirements

41. As a result of the above conduct, Deloitte Canada's independence in connection with the 2012 Audit was impaired because, when the engagement team elected to use the 2012 Namoya Report as audit evidence to support key management representations and conclusions, and evaluated the underlying assumptions of the Namoya valuation therein, the engagement team put itself in the position of auditing its own work because the report now belonged to an associated entity of the Firm. By the time of the 2012 Audit, it was Venmyn Deloitte, and not Venmyn Rand, that was reaffirming and taking responsibility for the report's valuation of the Namoya mine as reflected in the Reliance Letter and 2013 Consents.

42. In addition, as a result of the above conduct, Deloitte Canada's independence in connection with the 2012 Audit, 2013 Audit, and 2014 Audit was also impaired because of public statements made by Venmyn Deloitte's managing director taking responsibility as the "qualified person" for certain mineral resource and reserve estimates for Banro's gold mines, as reflected in the 2013 Lugushwa Press Release, 2013 Lugushwa Report, 2014 Namoya Press Release, and 2014 Namoya Report. These public statements by Venmyn Deloitte, an associated entity of Deloitte Canada, created a mutual interest between Deloitte Canada and Banro, the Firm's audit client, in the present and future accuracy of these mineral resource and reserve estimates.

43. Thus, Deloitte Canada was not independent of Banro in fact and in appearance during the 2012 Audit, 2013 Audit, and 2014 Audit. Accordingly, Deloitte Canada violated PCAOB Rule 3520 because it was not independent of Banro within the meaning of Rule 2-01(b) of Regulation S-X and AU § 220.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Deloitte LLP is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $350,000 is hereby imposed upon Deloitte LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Deloitte LLP shall pay the civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter that identifies Deloitte LLP as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Sections 105(c)(4)(F) and (G) of the Act and PCAOB Rules 5300(a)(6) and (9), the Board hereby orders that:

1. *Independence Policies and Procedures* – Deloitte LLP shall conduct a review of its independence policies and procedures relating to non-audit services relevant to this Order, and determine whether modifications should be made or additional policies and procedures should be adopted for the purpose of providing Deloitte LLP with reasonable assurance of compliance with auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards.

2. *Independence Training* – Deloitte LLP shall conduct a review of its professional education and training concerning auditor independence and non-audit services relevant to this Order, and determine whether modifications should be made or additional education and training should be adopted for the purpose of providing Deloitte LLP with reasonable assurance of compliance with auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards.

3. *Reporting* – No later than ninety (90) days from the date of this Order, Deloitte LLP shall submit a written report to the Director of the Division of Enforcement and Investigations describing the reviews specified in IV.C.1 and IV.C.2 above. The report shall be in narrative form. It shall include as exhibits any modified or additional independence policies and procedures or professional education and training adopted by Deloitte LLP or, if no such policies and procedures or professional education and training are adopted, a detailed explanation of all the reasons why Deloitte LLP believes no modified or additional policies and procedures or professional education and training should be adopted. In addition, Deloitte LLP shall submit any additional information and evidence concerning the report, the information in the report, the exhibits thereto, and Deloitte LLP's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

4. *Certificate of Compliance* – No later than one hundred twenty (120) days from the date of this Order, Deloitte LLP's Chief Executive Officer shall certify in writing ("Certificate of Compliance") to the Director of the Division of Enforcement and Investigations that Deloitte LLP has undertaken the actions and satisfied the conditions specified above. The Certificate of Compliance shall provide written evidence of Deloitte LLP's compliance in narrative form, identify the actions undertaken to satisfy the conditions specified above, and be supported by exhibits sufficient to demonstrate compliance.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 16, 2018

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Ricardo Agustín García Chagoyán, José Ignacio Valle Aparicio, and Rubén Eduardo Guerrero Cervera,* *Respondents.*	PCAOB Release No. 105-2018-021 October 30, 2018

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Ricardo Agustín García Chagoyán ("García"), José Ignacio Valle Aparicio ("Valle"), and Rubén Eduardo Guerrero Cervera ("Guerrero") and barring each of them (collectively, "Respondents") from being an associated person of a registered public accounting firm.[1] The Board is also imposing civil money penalties in the amounts of $50,000 upon García and Valle and $30,000 upon Guerrero. The Board is imposing these sanctions on the basis of its findings that García, Valle, and Guerrero violated PCAOB rules and standards in connection with the audits of the consolidated financial statements of EZCORP, Inc. ("EZCORP") as of and for the fiscal years ended September 30, 2013 ("FY 2013") and September 30, 2014 ("FY 2014").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondents.

[1] Each Respondent may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondents' Offers, the Board finds[3] that:

A. Respondents

1. **Ricardo Agustín García Chagoyán**, 53, of Mexico City, Mexico, is a registered public accountant licensed under the laws of Mexico (license no. 15784). García is a partner in the Mexico City office of the PCAOB registered firm Galaz, Yamazaki, Ruiz Urquiza, S.C. ("Deloitte Mexico" or the "Firm"). Garcia was the partner responsible for Deloitte Mexico's component audit work in connection with the audit of EZCORP's September 30, 2013 consolidated financial statements. At all relevant times, García was an associated person of a registered public accounting firm as defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

2. **José Ignacio Valle Aparicio**, 46, of Mexico City, Mexico, is a registered public accountant licensed under the laws of Mexico (license no. 17649). Valle is a partner in Deloitte Mexico's Mexico City office. Valle was the partner responsible for Deloitte Mexico's component audit work in connection with the audit of EZCORP's September 30, 2014 consolidated financial statements. From October 2015 to July

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[2] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

2018, he also served as leader of Deloitte Mexico's Financial Services Industry program. At all relevant times, Valle was an associated person of a registered public accounting firm as defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **Rubén Eduardo Guerrero Cervera**, 37, of Mexico City, Mexico, is a registered public accountant licensed under the laws of Mexico (license no. 15532). Guerrero was a manager assigned to the Deloitte Mexico engagement teams that performed component audit work in connection with the audits of EZCORP's September 30, 2013 and September 30, 2014 financial statements. Guerrero's responsibilities included supervision of other members of the Deloitte Mexico engagement teams; review of the work performed and conclusions reached by the teams; and communications with EZCORP's principal auditor, U.S.-based Deloitte LLP ("Deloitte US"). In June 2015, Guerrero became a partner of Deloitte Mexico. At all relevant times, Guerrero was an associated person of a registered public accounting firm as defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities

4. **Deloitte Mexico** is a partnership organized under the laws of Mexico and headquartered in Mexico City. It is a member of the Deloitte Touche Tohmatsu Limited global network ("Deloitte Global"). Deloitte Mexico registered with the PCAOB on May 28, 2004. It currently serves as the auditor for approximately three issuer audit clients and, moreover, performs audit work that other PCAOB-registered firms, including member firms of Deloitte Global, use or rely on in issuing audit reports for their issuer clients.

5. **Deloitte US** is a Delaware limited liability partnership with headquarters in New York, New York. It is a member of Deloitte Global. It registered with the PCAOB on October 20, 2003.

6. **EZCORP** is a Delaware corporation headquartered in Rollingwood, Texas. EZCORP's common stock is registered under Section 12(b) of the Securities Exchange Act of 1934 and quoted on the NASDAQ under ticker symbol "EZPW." At all relevant times, EZCORP was an issuer, as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). During the relevant time, the company's public filings disclosed that it was a provider of pawn loans, short-term consumer loans, and credit services in the United States, Mexico, Canada, and the United Kingdom. Deloitte US prepared and issued the audit reports on EZCORP's consolidated financial statements and internal control over financial reporting ("ICFR") as of and for each of the years ended September 30, 2013 and 2014, which were filed with the U.S. Securities and Exchange Commission on November 26, 2013 and November 26, 2014, respectively.

7. **Prestaciones Finmart, S.A.P.I. de C.V., SOFOM, E.N.R.** ("Finmart") was, at all relevant times, a Mexican subsidiary of EZCORP. Finmart was a payroll withholding lender headquartered in Mexico City, Mexico. Finmart made loans to Mexican government employees, subject to agreements authorizing the employing agencies to withhold loan repayments from borrowers' paychecks and to deposit those amounts with Finmart. Deloitte Mexico audited Finmart's financial information[4] and performed procedures on certain aspects of Finmart's ICFR as of and for each of the years ended September 30, 2013 and 2014. After each of those engagements (the "2013 Audit" and the "2014 Audit," respectively, and collectively the "2013 and 2014 Audits"), Deloitte Mexico issued a Financial Information Clearance Memorandum stating it had audited Finmart's financial information, as well as an Internal Control Clearance Memorandum stating it had evaluated the design, implementation, and operating effectiveness of the Finmart controls specified therein, and submitted both clearance memoranda along with other component audit deliverables to Deloitte US.

C. Summary

8. This matter concerns Respondents' failures to exercise due professional care, to respond adequately to a known significant risk, and to obtain sufficient appropriate audit evidence, as well as their misrepresentations of the work they performed in communications with the principal auditor. That conduct occurred in the course of Respondents' component audit work in 2013 and 2014 with respect to Finmart, EZCORP's then-largest subsidiary.

9. Finmart accounted in FY 2013 and FY 2014 for approximately 21% and 26% of EZCORP's consolidated assets and approximately 23% and 42% of EZCORP's consolidated pre-tax income, respectively.

10. Deloitte US determined in its audits of EZCORP's financial statements and ICFR for both FY 2013 and FY 2014 that Finmart should be in scope for audit procedures. Deloitte US engaged its Mexican affiliate—Deloitte Mexico—to perform component audit work concerning Finmart and instructed Deloitte Mexico to perform that audit work in accordance with PCAOB auditing standards.[5] Deloitte US relied on that work in issuing its audit reports expressing unqualified opinions on EZCORP's financial statements and ICFR for FY 2013 and FY 2014.

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[4] The referral instructions issued by Deloitte US directed Deloitte Mexico, among other things, to perform an audit of Finmart's financial information, which included account balances and classes of transactions on Finmart's balance sheet and income statement.

[5] Deloitte Mexico's component audits in both years were engagements to which AU Section 543, *Part of Audit Performed by Other Independent Auditors*, applied.

11. García and Guerrero in the 2013 Audit, and Valle and Guerrero in the 2014 Audit, assessed Finmart's allowance for loan losses ("Loan Reserve")—the total amount that Finmart estimated it would not be able to collect from borrowers—as a significant risk. In each audit, Respondents understood that a critical element of Finmart's Loan Reserve calculation was its classification of a loan as "in-payroll" or "out-of-payroll." A loan was considered in-payroll if the borrower was still a government employee having repayment amounts withheld from his or her paycheck. A loan was considered out-of-payroll if the borrower was no longer a government employee having amounts withheld. During the audits, Respondents understood that out-of-payroll loans carried a much higher risk of nonpayment. Respondents were also aware of the importance of whether Finmart was accurately classifying loans as in-payroll or out-of-payroll when estimating its Loan Reserve. Yet Respondents failed in each audit to test the accuracy of that classification. They also failed to perform retrospective reviews of the Loan Reserve—that is, to compare prior-year estimates with actual results. Accordingly, they failed to obtain sufficient evidence that the Loan Reserve was reasonable.

12. Respondents also failed to perform procedures with respect to Finmart's ICFR that they claimed to have performed in communications with the principal auditor. In the 2013 Audit, García and Guerrero misrepresented to Deloitte US that they had evaluated the design and operating effectiveness of 28 specified controls. In fact, García and Guerrero had failed to evaluate the operating effectiveness of all but one of those controls, and also had failed to evaluate the design effectiveness of nine reported controls that related to the Loan Reserve. In the 2014 Audit, Valle and Guerrero misrepresented in Deloitte Mexico's final deliverables that they had evaluated the operating effectiveness of controls relating to Finmart's Loan Reserve, when in fact they had failed to perform any operating effectiveness testing of Finmart's Loan Reserve controls.

13. In November 2015, EZCORP amended its FY 2014 Form 10-K to restate its financial statements for FY 2014, FY 2013, and FY 2012. EZCORP disclosed that the need to restate related in part to Finmart's misclassification of certain loans as in-payroll when in fact they were out-of-payroll. Because those misclassified loans carried a much higher risk of nonpayment than loans subject to payroll withholdings, the misclassification caused Finmart to understate its Loan Reserve and loan bad debt expense.

14. EZCORP also disclosed that it had reassessed its evaluation of the effectiveness of its ICFR as of September 30, 2014 and concluded that it had failed to maintain effective ICFR. EZCORP further disclosed that management had failed to recognize the extent of non-performing loans at Finmart or understand the reasons that loans were non-performing due to control deficiencies, including missing or inadequate processes to identify and address overdue loans and failures by accounting and management personnel to review detailed loan performance data.

D. Respondents Violated PCAOB Rules and Standards

15. PCAOB rules[6] require that a registered public accounting firm and its associated persons comply with the Board's auditing standards.[7] Among other things, PCAOB standards require auditors to design and implement audit responses that address the risks of material misstatement identified and assessed by the auditors.[8] They must also perform audit procedures to obtain sufficient appropriate evidence to provide a reasonable basis for the opinion expressed in the auditor's report,[9] as well as evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support that opinion[10] Moreover, PCAOB standards require auditors to exercise due professional care and professional skepticism in planning and performing audits.[11] For the reasons set forth below, Respondents failed to comply with these and other PCAOB auditing standards in connection with the 2013 and 2014 Audits.

García and Guerrero Violated PCAOB Rules and Standards in the 2013 Audit

16. On July 30, 2013, Deloitte US issued referral instructions to Deloitte Mexico for the 2013 Audit. Those instructions "set out the scope of work to be performed" by Deloitte Mexico "as component auditors for the purpose of the audit of

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[6] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (March 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017).

[7] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[8] Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"), ¶ 3.

[9] Auditing Standard No. 15, *Audit Evidence* ("AS 15"), ¶ 4.

[10] Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), ¶ 2.

[11] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*.

[EZCORP]'s financial statements for the year ending 30 September 2013," and stated that Deloitte Mexico's procedures should be completed in accordance with PCAOB auditing standards. Deloitte Mexico was also "requested to evaluate the design, determine the implementation and test the operating effectiveness of controls, consistent with the account balances and classes of transactions to be subjected to testing by" Deloitte Mexico.

17. García and Guerrero each read and understood Deloitte US's referral instructions during the audit and understood them to reflect what the principal auditor wanted performed by the component auditor. García authorized, signed, and directed the submission to Deloitte US of an "Acknowledgment of Referral Instructions" stating, among other things, that Deloitte Mexico "will be able to comply with the instructions," and Guerrero subsequently emailed that document to Deloitte US.

18. As part of their assessment of the risks of material misstatement for the 2013 Audit, García and Guerrero identified Finmart's Loan Reserve as a significant risk and as one of the "main accounting estimates performed by management." García and Guerrero also concluded that the Loan Reserve was a factor for determining that the 2013 Audit posed "Greater than Normal" risk. Those risk assessment determinations were set out in an Audit Summary Memorandum that García and Guerrero reviewed during the audit and that Guerrero emailed to Deloitte US.

19. Upon completion of the 2013 Audit, García authorized, signed, and directed the submission to Deloitte US of, and Guerrero emailed to Deloitte US, Deloitte Mexico's Financial Information Clearance Memorandum and Internal Control Clearance Memorandum.

Failure to Appropriately Evaluate the Reasonableness of Finmart's Loan Reserve

20. The audit work that Deloitte US instructed Deloitte Mexico to perform included evaluating the reasonableness of Finmart's Loan Reserve. Deloitte US also instructed Deloitte Mexico not to rely on Finmart's controls in connection with substantive testing for the financial information audit.

21. As originally recorded as of September 30, 2013, Finmart's outstanding receivables from the loan portfolio were approximately $137.1 million, offset by a Loan Reserve of approximately $0.8 million. The resulting net total of $136.3 million represented 76% of Finmart's recorded assets as of September 30, 2013. Finmart classified those loans as either in-payroll ("en nómina") or out-of-payroll ("fuera de nómina"). Finmart's policy was to classify a loan as out-of-payroll if the borrower was no longer employed by the entity at which the borrower was employed when the loan was originated.

22. Finmart's estimated Loan Reserve was calculated based on Finmart's classification of loans as in-payroll versus out-of-payroll. Specifically, Finmart policy was to record a Loan Reserve equal to 100% of out-of-payroll loans with two or more missed payments (i.e., more than 30 days without payment).

23. Under PCAOB standards, the auditor is responsible for obtaining and evaluating sufficient appropriate evidential matter to support significant accounting estimates in an audit of financial statements and for evaluating the reasonableness of accounting estimates in the context of the financial statements taken as a whole.[12] Finmart's Loan Reserve was a significant accounting estimate.

24. Moreover, because Finmart's Loan Reserve was assessed as a significant risk, García and Guerrero were required to obtain a greater amount of persuasive audit evidence[13] and to perform substantive procedures specifically responsive to the assessed risks.[14]

25. Under AU § 342, *Auditing Accounting Estimates*, García and Guerrero should have used one or a combination of the following approaches in evaluating the reasonableness of the Loan Reserve estimate:

> "a. Review and test the process used by management to develop the estimate.
>
> b. Develop an independent expectation of the estimate to corroborate the reasonableness of management's estimate.
>
> c. Review subsequent events or transactions occurring prior to the date of the auditor's report."[15]

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[12] AU § 342.01, .04, *Auditing Accounting Estimates*.

[13] See AS 13 ¶ 9.a ("the auditor should obtain more persuasive audit evidence the higher the auditor's assessment of risk."), see also id. ¶ 37 ("As the assessed risk of material misstatement increases, the evidence from substantive procedures that the auditor should obtain also increases"); see also AS 15 ¶ 5 ("As the risk increases, the amount of evidence that the auditor should obtain also increases. For example, ordinarily more evidence is needed to respond to significant risks.")

[14] See AS 13 ¶ 11 ("For significant risks, the auditor should perform substantive procedures, including tests of details, that are specifically responsive to the assessed risks.")

[15] AU § 342.10.

26. García and Guerrero failed to perform appropriately any of these approaches. Although Garcia, Guerrero, and their engagement team performed certain limited procedures over Finmart's Loan Reserve calculation, such as re-sorting a Finmart-prepared loan portfolio listing and adding up loan balances, they failed to test the accuracy of the data underlying Finmart's Loan Reserve calculation. Specifically, García and Guerrero failed to perform any procedures to test the accuracy of the critical input into Finmart's Loan Reserve: whether a loan was in-payroll or out-of-payroll.[16]

27. García and Guerrero noted certain fields in database information obtained from Finmart that reflected whether each loan in Finmart's portfolio was in-payroll or out-of-payroll, and they understood that Finmart populated those fields based on reports from government agencies. However, García and Guerrero took for granted the accuracy of those fields and failed to obtain evidence about the accuracy of the reports. They did not, for example, seek to compare them against any reliable information from the government agencies themselves. The failure to test the data underlying the Loan Reserve calculation or otherwise obtain sufficient appropriate evidence that the estimate was reasonable meant García and Guerrero did not obtain reasonable assurance concerning the Loan Reserve.[17]

28. Moreover, García and Guerrero should have performed a retrospective review of Finmart's Loan Reserve.[18] The referral instructions that Deloitte US sent to Deloitte Mexico included a retrospective review as one of seven planned procedures to be performed by Deloitte Mexico to test the Loan Reserve. García and Guerrero, however, never performed a retrospective review.

29. Because García and Guerrero failed to test the accuracy of the data underlying the Loan Reserve and to perform a retrospective review, they failed to

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[16] See AS 15 ¶ 10 ("When using information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to: Test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information . . . .").

[17] See AS 15 ¶¶ 4, 10; AU § 342.07b; see also AU § 150.02; AU § 230.

[18] See AU § 316.64, *Consideration of Fraud in a Financial Statement Audit* ("The auditor also should perform a retrospective review of significant accounting estimates reflected in the financial statements of the prior year to determine whether management judgments and assumptions relating to the estimates indicate a possible bias on the part of management."); see also AU § 342.14; AS 14 ¶ 27, Note; AU § 150.02; AU § 230.

evaluate appropriately the Loan Reserve, to exercise due professional care, and to obtain sufficient audit evidence to support Deloitte Mexico's reporting on Finmart's financial information to Deloitte US.

Lack of Due Professional Care in Testing Controls

30. At the time of the 2013 Audit, García and Guerrero understood that Deloitte US planned to opine on the effectiveness of EZCORP's ICFR as of September 30, 2013, and that Deloitte US's ICFR opinion would be based in part on Deloitte Mexico's Internal Control Clearance Memorandum.[19] García nevertheless approved and signed, and Guerrero reviewed and emailed to Deloitte US, Deloitte Mexico's Internal Control Clearance Memorandum knowing that Deloitte Mexico had not performed certain of the control testing described therein, in violation of the requirement of due professional care.

31. The Internal Control Clearance Memorandum stated that for the 28 controls listed, Deloitte Mexico had "tested whether each relevant control was operating effectively . . . to prevent, or detect and correct, material misstatements at the relevant assertion level." In fact, however, García and Guerrero had failed to test the operating effectiveness of all but one of those 28 controls.

32. Moreover, the Internal Control Clearance Memorandum stated that Deloitte Mexico had tested 28 controls, identified by one- or two-sentence descriptions, for design effectiveness. Of the 28 controls, nine were controls over Finmart's Loan Reserve. García and Guerrero, however, never tested the design effectiveness of the Loan Reserve controls described in the Internal Control Clearance Memorandum. Indeed, the descriptions of Loan Reserve controls included in the Memorandum were not even controls that García and Guerrero identified as being in place at Finmart in FY 2013. Nonetheless, Guerrero reviewed the Internal Control Clearance Memorandum containing those descriptions, García approved and signed it, and Guerrero sent the signed document to Deloitte US. García's and Guerrero's conduct demonstrated a lack of due professional care[20] and violated audit documentation requirements.[21]

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[19] Although Deloitte US instructed Deloitte Mexico not to rely on controls in connection with substantive testing for the financial information audit, Deloitte US instructed Deloitte Mexico to test Finmart's controls in order to support Deloitte US's ICFR opinion for EZCORP.

[20] See AU § 150.02; AU § 230.

[21] See Auditing Standard No. 3, *Audit Documentation* ("AS 3"), ¶ 6.a. (Audit documentation "must contain sufficient information to enable an experienced auditor,

Valle and Guerrero Violated PCAOB Rules and Standards in the 2014 Audit

33. Valle and Guerrero in the 2014 Audit failed to appropriately evaluate the reasonableness of the Loan Reserve and made misrepresentations to principal auditor Deloitte US about the procedures they performed to test Finmart's controls.

34. Deloitte US for FY 2014 instructed Deloitte Mexico to perform certain audit work on Finmart's financial information and controls to support Deloitte US's audit opinions on EZCORP's financial statements and ICFR, and further instructed that Deloitte Mexico's audit work be performed in accordance with PCAOB standards.

35. Valle and Guerrero each read and understood Deloitte US's FY 2014 referral instructions. Valle authorized, signed, and directed the submission to Deloitte US of an "Acknowledgment of Referral Instructions" stating, among other things, that Deloitte Mexico "will be able to comply with the instructions," and Guerrero subsequently emailed that document to Deloitte US.

36. As part of their assessment of the risks of material misstatement for the 2014 Audit, Valle and Guerrero identified the Loan Reserve as a significant risk. Valle and Guerrero also identified the Loan Reserve as an accounting estimate that was "highly dependent upon judgment or assumptions" and as a factor for assigning "Greater than Normal" risk to the 2014 Audit.

37. Upon completion of the 2014 Audit, Valle authorized, signed, and directed the submission to Deloitte US of, and Guerrero emailed to Deloitte US, Deloitte Mexico's Financial Information Clearance Memorandum and Internal Control Clearance Memorandum.

Failure to Appropriately Evaluate the Reasonableness of Finmart's Loan Reserve

38. Deloitte US for FY 2014 instructed Deloitte Mexico to audit certain financial information of Finmart, which included evaluating the reasonableness of Finmart's Loan Reserve. Deloitte US again instructed Deloitte Mexico not to rely on Finmart's controls in connection with substantive testing for the financial information audit.

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having no previous connection with the engagement . . . [t]o understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached.").

39. As originally recorded as of September 30, 2014, Finmart's outstanding receivables from the loan portfolio were approximately $115.8 million, offset by a Loan Reserve of $4.5 million. The resulting net total of $111.3 million represented 43% of recorded assets recorded as of September 30, 2014.

40. Finmart's policy in FY 2014 was to record a Loan Reserve equal to 100% of out-of-payroll loans with two or more missed payments (i.e., more than 30 days without payment). As in the previous year, therefore, Finmart's calculation of its Loan Reserve as of September 30, 2014 was based on its classification of loans as in-payroll versus out-of-payroll.

41. Valle and Guerrero in the 2014 Audit took substantially the same approach with respect to the Loan Reserve as García and Guerrero in the 2013 Audit. They performed the same limited procedures over Finmart's Loan Reserve calculation, but again failed to test the accuracy of the data underlying that calculation. Specifically, Valle and Guerrero failed to obtain evidence or otherwise perform procedures to test the accuracy of Finmart's classification of in-payroll versus out-of-payroll loans. Instead, Valle and Guerrero treated Finmart database information concerning the classification of loans as in-payroll versus out-of-payroll as if it were itself audit evidence, rather than as untested client information underlying a significant accounting estimate. Accordingly, Valle and Guerrero failed to evaluate appropriately the reasonableness of the Loan Reserve and to obtain sufficient appropriate audit evidence.

42. Moreover, although Valle and Guerrero included a retrospective review of the Loan Reserve as part of their audit plan and informed Deloitte US that they planned to perform such a review, they never performed a retrospective review.

43. Because Valle and Guerrero failed to test the accuracy of the data underlying the Loan Reserve and to perform a retrospective review, they failed to evaluate appropriately the reasonableness of the Loan Reserve, to exercise due professional care, and to obtain sufficient audit evidence to support Deloitte Mexico's reporting on Finmart's financial information to Deloitte US.

Lack of Due Professional Care in Testing Controls

44. Valle and Guerrero in the 2014 Audit made misrepresentations concerning their control testing in Deloitte Mexico's reporting to Deloitte US.

45. Specifically, Valle and Guerrero included in the Internal Control Clearance Memorandum submitted to Deloitte US a list of Finmart controls, including Loan Reserve controls, that Deloitte Mexico had purportedly evaluated to determine whether

each "was operating effectively." Valle and Guerrero, however, failed to test the operating effectiveness of Finmart's Loan Reserve controls.[22]

46. Valle approved and signed, and Guerrero reviewed and sent to Deloitte US, Deloitte Mexico's Internal Control Clearance Memorandum even though it mischaracterized Deloitte Mexico's procedures as including the testing of operating effectiveness of Finmart's Loan Reserve controls. This conduct demonstrated a lack of due professional care[23] and violated audit documentation requirements.[24]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Ricardo Agustín García Chagoyán, José Ignacio Valle Aparicio, and Rubén Eduardo Guerrero Cervera are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Ricardo Agustín García Chagoyán is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[25] and

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[22] As with the 2013 Audit, Deloitte US for the 2014 Audit instructed Deloitte Mexico not to rely on controls in connection with substantive testing for the financial information audit, but instructed Deloitte Mexico to test Finmart's controls in order to support Deloitte US's ICFR opinion for EZCORP.

[23] See AU § 150.02; AU § 230.

[24] See AS 3 ¶ 6.a.

[25] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to García. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

C. After two (2) years from the date of this Order, Ricardo Agustín García Chagoyán may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), José Ignacio Valle Aparicio is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[26] and

E. After two (2) years from the date of this Order, José Ignacio Valle Aparicio may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

F. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Rubén Eduardo Guerrero Cervera is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[27] and

G. After two (2) years from the date of this Order, Rubén Eduardo Guerrero Cervera may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

H. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), civil money penalties in the amounts of $50,000 payable by Ricardo Agustín García Chagoyán, $50,000 payable by José Ignacio Valle

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[26] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Valle. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[27] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Guerrero. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

Aparicio, and $30,000 payable by Rubén Eduardo Guerrero Cervera are imposed. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Ricardo Agustín García Chagoyán, José Ignacio Valle Aparicio, and Rubén Eduardo Guerrero Cervera shall pay these civil money penalties within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter that identifies Ricardo Agustín García Chagoyán, José Ignacio Valle Aparicio, or Rubén Eduardo Guerrero Cervera as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

October 30, 2018

PCAOB
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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Crowe MacKay LLP,* *Respondent.*	PCAOB Release No. 105-2018-025 December 20, 2018

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Crowe MacKay LLP ("Respondent" or "Firm"), imposing a civil money penalty of $25,000 on the Firm, and requiring the Firm to undertake certain remedial measures. The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB rules and standards in connection with fiscal year end 2014 and 2015 audits of one issuer client and violated PCAOB quality control standards concerning client acceptance and continuance and engagement performance.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, the Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted,

Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Crowe MacKay LLP is, and at all relevant times was, a Canadian limited liability partnership headquartered in Edmonton, Alberta, with a total of eight offices, each in Canada. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accounting by the Institute of Chartered Accountants of British Columbia, License No. 002067. At all relevant times, the Firm was the independent auditor for the issuer identified in this Order.

B. Summary

2. This matter concerns Respondent's violations of PCAOB rules and standards in connection with its audits of the fiscal year ended December 31, 2014 and December 31, 2015 financial statements of Hunt Mining Corp. ("HMC"), as well as violations of PCAOB quality control standards in the areas of client acceptance and continuance, and engagement performance.

C. The Firm Violated PCAOB Rules and Standards

3. In connection with the preparation and issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the PCAOB's auditing and related professional practice standards.[2] PCAOB

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[2] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017).

standards also provide that due professional care be exercised in the planning and performance of the audit and the preparation of the report.[3]

4. PCAOB auditing standards state that the auditor should perform certain activities at the beginning of the audit, including performing procedures regarding the continuance of a client relationship and the specific audit engagement.[4] PCAOB standards also require that the auditor plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.[5]

5. As part of planning activities, PCAOB auditing standards also require that the auditor evaluate whether certain matters are important to the company's financial statements and internal control over financial reporting, and if so, how they will affect the auditor's procedures, including, but not limited to: matters affecting the industry in which the company operates, such as financial reporting practices, economic conditions, laws and regulations; matters relating to the company's business, including its organization, operating characteristics, and capital structure; and legal or regulatory matters of which the company is aware.[6]

6. As described below, Respondents failed to comply with PCAOB rules and standards during the 2014 and 2015 HMC audits.

D. The Firm's 2014 and 2015 HMC Audits

7. HMC, at all relevant times, was a Canadian corporation incorporated in British Columbia, and headquartered in the United States, in Liberty Lake, Washington. HMC's public filings disclose that it is an "exploration-stage" mineral company engaged in the acquisition and exploration of mineral properties. At all relevant times, HMC was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

8. In January 2015, HMC engaged the Firm as its auditor, and the Firm agreed to audit HMC's fiscal year ended December 31, 2014 financial statements. However, in accepting the client and planning the audit, the Firm failed to exercise due care and

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[3] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work.*

[4] Auditing Standard ("AS") No. 9, *Audit Planning*, ¶ 6.

[5] AS No. 15, *Audit Evidence*, ¶ 4.

[6] AS No. 9 ¶ 7.

professional skepticism, and failed to plan audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the Firm's audit report.[7]

9. In particular, the Firm failed to evaluate relevant public information about matters important to the company's financial statements and internal control over financial reporting, namely HMC's most recent annual filings with the Canadian Securities Administrators, which stated that HMC was a registered "foreign private issuer for the purposes of United States federal securities laws."[8]

10. The Firm also failed to consider information in the prior year's audit working papers obtained from the predecessor auditor. Specifically, these working papers indicated that HMC was a United States foreign private issuer and its 2013 financial statements were required to be audited under PCAOB standards as a result of filing a registration statement with the Securities and Exchange Commission ("Commission") on Form F-1 in 2012.

11. Generally speaking, the Firm used International Standards on Auditing audit programs in performing audits, which did not include, or sufficiently address, PCAOB auditing standards requirements.

12. On May 1, 2015, HMC filed a Form 20-F with the Commission that included its financial statements as of and for the year ended December 31, 2014, and the Firm's audit report dated April 30, 2015. The Firm's audit report stated that its audit was conducted in accordance with both Canadian Generally Accepted Auditing Standards ("Canadian GAAS") and PCAOB standards.

13. The Firm also performed an audit of HMC's 2015 financial statements. At the outset of the 2015 audit, the Firm failed to perform sufficient procedures regarding the continuance of the client relationship with HMC.[9] As in the prior year, the Firm's working papers included documentation indicating that HMC was a United States issuer, including a copy of the Form 20-F filed with the Commission on May 1, 2015. Despite having this information, the Firm again failed to exercise due care and professional skepticism, and failed to perform sufficient procedures during audit planning to evaluate relevant public information about the company, or obtain sufficient appropriate audit evidence to provide a reasonable basis for the Firm's audit report.[10]

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[7] See AU §§ 150, 230; AS No. 15 ¶ 4.

[8] AS No. 9 ¶ 7.

[9] See AS No. 9 ¶ 6; QC Section 20.14, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[10] See AU §§ 150, 230; AS No. 9 ¶ 7; AS No. 15 ¶ 4.

14. On May 26, 2016, HMC filed a Form 20-F that included its financial statements as of and for the year ended December 31, 2015, and the Firm's audit report dated May 5, 2016. Although the audit was required to be performed in accordance with PCAOB standards, the Firm's audit report on the issuer's December 31, 2015 financial statements indicated that the audit was conducted in accordance with Canadian GAAS, and did not make reference to PCAOB standards.

15. After the two aforementioned audits were performed, the PCAOB conducted an inspection of the Firm in January 2017. During the inspection, PCAOB Division of Registration and Inspections staff ("Inspections staff") identified that the Firm's audit reports were included in HMC's filings with the Commission, even though the Firm had not included HMC in its initial list of issuer clients provided to the PCAOB. As a result, the Firm notified the Inspections staff during fieldwork that it only then became aware that its reports were included with these filings and that HMC was a United States issuer that required audits pursuant to PCAOB standards.

16. As a result, the Firm resigned as HMC's auditor, informed HMC that its 2014 and 2015 reports were filed without its knowledge, withdrew its audit reports, and asked HMC to advise the appropriate regulators, including the Commission, that the reports had been withdrawn.

17. On April 3, 2017, HMC filed a Form 8-K dated March 31, 2017 with the Commission indicating that the Firm had resigned as the issuer's independent registered public accountant effective March 20, 2017. The filing stated that there were no disagreements or reportable events as defined in Item 304 of Regulation S-K in connection with the Firm's resignation, and did not mention that the Firm had withdrawn its reports.

18. On April 13, 2017, the Firm, in a letter to the Commission, stated that it agreed with the statements in HMC's March 31, 2017 Form 8-K. The letter, which was included in HMC's Form 8-K filed with the Commission on April 14, 2017, did not inform the Commission that the Firm had withdrawn its reports, had no knowledge of their inclusion with HMC's filings, and that the 2014 and 2015 audits had not been conducted pursuant to PCAOB standards.

E. The Firm Violated PCAOB Rules and Standards Related to Quality Control

19. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[11] PCAOB quality control standards require that a registered public accounting firm establish policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements,

[11] PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

and the firm's standards of quality.[12] PCAOB quality control standards also require that registered firms establish quality control policies and procedures for deciding whether to accept or continue a client relationship and whether to perform a specific engagement for that client.[13] These policies and procedures are required to provide reasonable assurance that the firm undertakes only those engagements that the firm can reasonably expect to be completed with professional competence.[14] PCAOB quality control standards also require, "[t]o minimize the risk of misunderstandings regarding the nature, scope, and limitations of the services to be performed," that a firm's quality control policies and procedures "provide for obtaining an understanding with the client regarding those services."[15]

20. Throughout the relevant time period, the Firm failed to have in place procedures providing reasonable assurance that the work performed by the engagement personnel met applicable professional standards, regulatory requirements, and the firm's standards of quality. As described above, the Firm failed to establish and implement procedures necessary to decide whether to accept or continue a client relationship and whether to perform a specific engagement for that client.[16] The Firm also failed to establish and implement quality control policies and procedures to provide reasonable assurance that the work performed by the Firm met applicable PCAOB standards and regulatory requirements.[17]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Crowe MacKay LLP is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon Crowe

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[12] QC Section 20.17.

[13] QC Section 20.14.

[14] See QC Section 20.15.

[15] See QC Section 20.16.

[16] See QC Section 20.14-.16.

[17] QC Section 20.17.

MacKay LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Crowe MacKay LLP shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Crowe MacKay LLP as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Crowe MacKay LLP is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or review and/or supplement existing quality control policies and procedures, for the purpose of providing the Firm with reasonable assurance that:

   a. The Firm undertakes only those engagements that the Firm can reasonably expect to be completed with professional competence, and that such policies and procedures provide for obtaining an understanding with the client regarding services to be performed, in compliance with QC Section 20.15-.16;

   b. The work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the Firm's standards of quality, in compliance with QC Section 20.17;

   c. The Firm's quality control monitoring procedures taken as a whole enable the Firm to obtain reasonable assurance that its system of quality control is effective, in compliance with QC Section 30.03;

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent basis, concerning identification of audit clients subject to PCAOB audit standards for all Firm personnel involved in audit services; and

3. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) & C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 20, 2018

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Wayne J. Kaplan, CPA,* *Respondent.*	PCAOB Release No. 105-2019-002 February 26, 2019

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is: (1) censuring Wayne J. Kaplan, CPA ("Kaplan" or "Respondent"); (2) limiting his activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), until two (2) years from the date of this Order, by prohibiting Kaplan from serving as an engagement quality reviewer under AS 1220, *Engagement Quality Review*; and (3) requiring that he complete ten (10) hours of continuing professional education concerning PCAOB standards relating to serving as an engagement quality reviewer.

The Board is imposing these sanctions on the basis of its findings that Kaplan violated PCAOB rules and auditing standards in connection with the integrated audit of Issuer A's December 31, 2013 financial statements and internal control over financial reporting ("ICFR").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted,

Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. Wayne J. Kaplan, age 52, of Ambler, Pennsylvania, is a certified public accountant licensed by the Pennsylvania State Board of Accountancy (license no. CA028606L) and the New Jersey State Board of Accountancy (license no. 20CC03104600). Kaplan has been a partner at Grant Thornton LLP ("Grant Thornton" or "GT") since 1995, and was the office managing partner of GT's Philadelphia office from August 2011 through July 2014. Kaplan served as the engagement quality reviewer on Grant Thornton's integrated audits of the December 31, 2012 and 2013 financial statements and ICFR of Issuer A. Kaplan, as the engagement quality reviewer, provided his concurring approval of the issuance of Grant Thornton's March 3, 2014 audit report containing an unqualified opinion on Issuer A's December 31, 2013 financial statements and ICFR. At all relevant times, Kaplan was an audit partner in the Philadelphia office of Grant Thornton and an associated person of a registered public accounting firm as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities

2. Grant Thornton LLP is a limited liability partnership organized under the laws of the state of Illinois, and headquartered in Chicago, Illinois. Grant Thornton registered with the Board on September 24, 2003, pursuant to Section 102 of the Act and PCAOB rules. Grant Thornton has served as Issuer A's independent auditor since Issuer A's inception in 2005.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

3. Issuer A is a Maryland corporation with headquarters in New York, New York. Issuer A is a diversified real estate finance company that is organized and conducts its operations to qualify as a REIT. Issuer A's investment strategy focuses on commercial real estate, commercial real estate-related assets, and, to a lesser extent, commercial finance assets. At all relevant times, Issuer A's common stock was registered under Section 12(b) of the Securities Exchange Act of 1934 and was traded on the NYSE. At all relevant times, Issuer A was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. This matter concerns Kaplan's violations of PCAOB rules and auditing standards in connection with the audit of Issuer A's December 31, 2013 financial statements and ICFR ("2013 audit"). Specifically, Kaplan failed to comply with Auditing Standard No. 7, *Engagement Quality Review* ("AS 7") and failed to exercise due professional care, including appropriate professional skepticism, in his performance of the engagement quality review of the 2013 Issuer A audit.[3] Kaplan failed to properly evaluate (a) the engagement team's assessment of, and audit responses to, significant risks, including fraud risks; and (b) whether the engagement documentation indicated the engagement team responded appropriately to significant risks and supported the conclusions reached by the engagement team.

5. As a result of his failure to perform the engagement quality review with due professional care in conformity with PCAOB standards, Kaplan lacked an appropriate basis to provide his concurring approval of issuance of Grant Thornton's unqualified opinion on Issuer A's 2013 financial statements and ICFR.

6. Kaplan did not perform the engagement quality review with due professional care despite being on notice that Richard Huff, the engagement partner on the 2013 Issuer A audit, had significant quality issues dating back several years.[4] Because of issues including Huff's known quality problems, Grant Thornton, with Kaplan's input, placed Huff on a Partner Performance Plan ("Performance Plan") in June 2013, which mandated, among other things, that Huff take certain steps to

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[3] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audit or review. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017).

[4] See *Richard H. Huff, Jr., CPA*, PCAOB Rel. No. 105-2019-001 (Feb. 26, 2019); see also *Grant Thornton LLP*, PCAOB Rel. No. 105-2017-054 (Dec. 19, 2017).

improve his performance. Kaplan was also aware that an internal GT review team concluded that the 2012 Issuer A audit failed to comply with PCAOB standards, and that Kaplan, as engagement quality reviewer, failed to conduct an appropriate engagement quality review. Despite having this understanding regarding Huff's quality issues and findings about his own work in the prior year, at the time of his 2013 review Kaplan failed to adjust the procedures he performed to reflect the risks associated with the 2013 Issuer A audit.

D. Background

7. As of December 31, 2013, Issuer A reported total assets of $2.2 billion, including $1.4 billion in loans. Commercial real estate ("CRE") loans comprised $826 million or 59% of Issuer A's loan portfolio. Issuer A maintained an allowance for loan losses ("ALL") to cover probable losses that existed in the loan portfolio as of each period end. Issuer A's ALL for bank and CRE loans comprised two components, specific reserves based on estimated losses on individually reviewed impaired loans and a general loss reserve for non-impaired loans. GT's work papers also indicated that Issuer A relied on its loan review process, at least in part, to identify impaired loans, calculate specific reserves, and assess the sufficiency of its ALL.

8. Issuer A's impaired loans totaled $204 million or 9 percent of Issuer A's reported total assets at December 31, 2013. Impaired CRE loans comprised $194 million or 95% of total impaired loans. Issuer A reported an ALL of $13.8 million as of December 31, 2013, of which Issuer A allocated $10.4 million to CRE loans. The $10.4 million in ALL allocated to CRE loans included $4.6 million in specific reserves.

9. Before the 2013 Issuer A audit, Kaplan was aware that Huff had a history of poor quality audits. Indeed, Huff served as engagement partner for four issuer audits during 2008 through 2011 that the PCAOB inspected between 2009 and 2012. In all four, the PCAOB inspections staff found deficiencies of such significance that it appeared those audits were not supported by sufficient appropriate audit evidence. Kaplan was also aware that Huff had received negative quality indicators on his annual quality report based on his lack of professional skepticism and had also been reminded in his partner scorecards of his need to be more involved in his audit engagements and to be more skeptical of his clients. In January 2013, Kaplan and others at Grant Thornton considered removing Huff from his public and private bank and credit union clients. They did so, in part, due to concerns about the quality of Huff's audit work.

10. Grant Thornton, in response to audit quality concerns with Huff, including the PCAOB inspection results, placed Huff on a Performance Plan in mid-2013. The terms of the Performance Plan were determined by Kaplan in consultation with GT's national office. Under the terms of the Performance Plan, Huff could be removed from the partnership if he failed to show sufficient progress in, among other things, improving the quality of his audit work.

11. Shortly after the Performance Plan took effect, the Firm selected the 2012 Issuer A audit, for which Huff served as engagement partner, for an Audit Practice Review ("2013 APR"), which is an internal review during which a separate GT team reviews the audit work papers to determine whether the engagement team complied with GT's policies and professional standards. The APR team identified numerous deficiencies in the audit, including with respect to ICFR, and ultimately concluded that the 2012 Issuer A audit was noncompliant with Firm policies and PCAOB standards. The APR team also concluded that Kaplan failed to conduct an appropriate engagement quality review.

E. Applicable PCAOB Rules and Auditing Standards

12. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] AS 7 required GT to perform an engagement quality review and obtain a concurring approval of issuance of its audit opinion on the 2013 Issuer A audit.[6]

13. Under AS 7, the engagement quality reviewer may provide concurring approval of issuance for an audit report only if, after performing with due professional care the review required by AS 7, he or she is not aware of a significant engagement deficiency.[7] To perform an engagement quality review with due professional care, the engagement quality reviewer must exercise sufficient professional skepticism under the circumstances.[8]

14. An engagement quality reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[9] In performing an engagement quality review for an audit, the engagement quality review

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[6] AS 7 ¶ 1.

[7] AS 7 ¶ 12. A significant engagement deficiency in an audit exists when: "(1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client." Id., Note.

[8] See AU § 230.07-09.

[9] AS 7 ¶ 9.

should, among other things, evaluate the engagement team's assessment of, and audit responses to, significant risks, including fraud risks, identified by the engagement team or other significant risks identified by the engagement quality reviewer.[10] The engagement quality reviewer should also evaluate whether the engagement documentation that he or she reviewed indicates that the engagement team responded appropriately to significant risks and whether the engagement documentation that he or she reviewed supports the conclusions reached by the engagement team with respect to matters reviewed.[11]

15. As described below, Kaplan violated these PCAOB auditing standards in connection with his engagement quality review on the 2013 Issuer A audit because he failed to perform a "rigorous review" that provided "a meaningful check on the work performed by the engagement team."[12] Moreover, the engagement quality reviewer may provide concurring approval of issuance for an audit report only if, after performing with due professional care the review required by AS 7, he or she is not aware of a significant engagement deficiency.[13] AS 7 states that a "significant engagement deficiency in an audit exists when (1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client."[14] As described below, Kaplan failed to comply with the above PCAOB rules and standards in connection with the 2013 Issuer A audit.

F. Kaplan Violated PCAOB Rules and Auditing Standards in Connection with GT's Audit of Issuer A's 2013 Financial Statements

16. In performing his review of the 2013 Issuer A audit, Kaplan failed to adequately: (a) evaluate the engagement team's assessment of significant risks, including fraud risks; (b) evaluate the engagement team's audit responses to the significant risks the team had identified; and (c) evaluate whether the engagement documentation that he reviewed supported the conclusions reached by the engagement team.

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[10] AS 7 ¶ 10b.

[11] AS 7 ¶ 11.

[12] See PCAOB Release No. 2009-004 (July 28, 2009) at 19.

[13] See AS 7 ¶ 12.

[14] See AS 7 ¶ 12, Note.

17. Kaplan provided his concurring approval of issuance for the audit without performing the engagement quality review with due professional care in violation of AS 7. Kaplan, despite being aware that the APR team had concluded that the 2012 Issuer A audit failed to comply with PCAOB standards, including his own engagement quality review, failed to increase the scope and depth of his engagement quality review and failed to take steps to confirm that the prior year significant engagement deficiencies were addressed in the 2013 audit approach.

Kaplan failed to adequately evaluate the engagement team's assessment of significant risks, including fraud risks

18. Kaplan, as engagement quality reviewer, was required to evaluate whether the engagement team properly assessed significant risks, including fraud risks.[15] Despite this requirement, Kaplan failed to review sufficient work papers to evaluate the foundation of the engagement team's risk assessment process, including the identification of significant risks and fraud risks, and its planned audit approach. Among the risk assessment related work papers that Kaplan failed to review were the Key Control Summary, Prior Year Significant Deficiencies Memo, Auditing Accounting Estimates Work Book, various Estimates Templates, What Could Go Wrong Work Paper, and Audit Approach Summary.

19. Kaplan also did not attend the Approval of Audit Approach Meeting for the 2013 audit, the end product of which was meant to be the agreement by the engagement partner and the engagement quality reviewer to the planned audit approach, or otherwise hold discussions with the audit team. The purpose of that meeting was to do a "deep-dive into the audit strategy, risk assessments, and related responses" and was "intended to include an in-depth, meaningful dialogue of the audit, accounting, and reporting issues related to the engagement."

20. Through his failure to sufficiently review key risk assessment related work papers and his failure to hold sufficient discussions with the audit team, Kaplan was left without an appropriate basis to evaluate the engagement team's assessment of significant risks and did not exercise due professional care. Accordingly, Kaplan provided his concurring approval of issuance for the audit without performing the engagement quality review with due professional care, in violation of AS 7.[16]

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[15] See AS 7 ¶ 10. To do so, the engagement quality reviewer should hold discussions with the engagement team and review documentation to evaluate the engagement team's judgments and conclusions. See AS 7 ¶ 9.

[16] See AS 7 ¶ 12.

Kaplan failed to evaluate the engagement team's responses to significant risks, including fraud risks

21. PCAOB standards also required that Kaplan evaluate the engagement team's responses to significant risks identified during the engagement team's risk assessment process.[17] The engagement team identified significant risks associated with the valuation of investments priced with models or similar techniques and the ALL, as well as fraud risks related to rental income, interest income on loans, and interest income on investments. Accordingly, Kaplan was required to assess the engagement team's audit response to each of those risks.

22. On the 2013 Issuer A audit, Kaplan failed to sufficiently evaluate the engagement team's audit responses to those significant risks. Indeed, Kaplan failed to understand how the engagement team addressed those risks, including by failing to sufficiently assess the team's tests of controls for any of the significant risks, including fraud risks, identified by the engagement team. Among other things, Kaplan provided his concurring approval of issuance of the audit reports without reviewing test of controls work papers, or other relevant audit documentation, related to the known significant risks.

23. Kaplan's failure to sufficiently evaluate the team's test of controls, was compounded by his decision to review a narrow set of substantive work papers related to those significant risks and fraud risks. For example, the engagement team's planned response to address the significant risk associated with the ALL was to perform substantive loan reviews. Kaplan, however, failed to review the work paper documenting the engagement team's approach to selecting CRE loans for review and reviewed only two of the substantive loan reviews performed by the engagement team on CRE loans.[18] Because Kaplan failed to review the work paper setting forth the engagement team's approach to selecting loans for review, or other relevant audit documentation, he failed to discover that the engagement team did not make an appropriate selection of loans to test.[19]

24. Because Kaplan failed to review additional loan reviews, or other relevant audit documentation, he failed to discover that the engagement team did not

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[17] See AS 7 ¶ 10b.

[18] Significantly, Kaplan – who was aware or should have been aware that a significant percentage of the CRE loans originated before the financial crisis presented an increased risk – reviewed only one substantive loan review performed on such a "legacy loan."

[19] See *Richard H. Huff, Jr., CPA*, PCAOB Rel. No. 105-2019-001 (Feb. 26, 2019).

appropriately (i) identify and evaluate potential control deficiencies; (ii) address red flags indicating that risk ratings might have been inappropriate and/or that specific reserves may have been required; and (iii) obtain relevant and reliable evidence to corroborate management's representations.

25. Kaplan also failed to review the engagement team's work papers documenting its substantive impairment test work over impaired loans that it had selected. Because Kaplan failed to review the test work, or other relevant audit documentation, he failed to discover that the engagement team did not properly evaluate the reasonableness of the specific reserves against the loans in those relationships, and failed to discover that the engagement team had not sufficiently addressed contrary audit evidence. In fact, Kaplan failed to discover that the engagement team had failed to assess whether it had obtained an impairment calculation from Issuer A that complied with Generally Accepted Accounting Principles and whether the team appropriately assessed whether Issuer A's controls over the calculation of impairment were designed and operating effectively.

26. Kaplan also failed to review any work papers documenting the engagement team's substantive procedures over the identification of TDRs within the CRE loan portfolio.

27. The limited scope of Kaplan's work paper review did not provide him with a sufficient basis to evaluate the reasonableness of the engagement team's responses to significant risks. Accordingly, Kaplan provided his concurring approval of issuance for the audit without performing the EQR with due professional care, in violation of AS 7.[20]

Kaplan failed to properly evaluate whether the engagement documentation supported the engagement team's conclusions

28. PCAOB standards require an engagement quality reviewer to evaluate whether the documentation that he or she reviewed indicates that the engagement team responded appropriately to significant risks and whether it supports the conclusions reached by the engagement team.[21] Kaplan violated PCAOB standards because he failed to properly evaluate whether the limited number of work papers he did review responded appropriately to significant risks and whether they supported the engagement team's conclusions.

29. For example, Kaplan reviewed one of the legacy loans selected for loan review. The purpose of that loan review was to test Issuer A's process for assigning risk ratings, its ability to timely identify impaired loans, including TDRs, its ability to

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[20] See AS 7 ¶ 12.

[21] AS 7 ¶ 11.

appropriately calculate specific reserves, and its ability to timely recognize charge-offs. On the face of the work papers Kaplan reviewed, it was clear, however, that the loan relationship was already classified as impaired by virtue of its designation as a TDR. Accordingly, the biggest risk associated with the loan that Kaplan reviewed was that the specific reserve was inadequate. The loan review, however, failed to properly assess whether specific reserves were required.

30. Kaplan provided his concurring approval of issuance without evaluating whether the audit documentation, with respect to the one loan he reviewed, supported the engagement team's conclusion that no specific reserve was required and that the risk rating was appropriate. Based on his limited work paper review, Kaplan failed to identify significant deficiencies in the engagement team's work, including its:

- failure to identify and evaluate potential control deficiencies related to, among other areas, the monitoring of collateral and the assignment of risk ratings;
- failure to properly evaluate contrary evidence or red flags indicating that the risk rating was inappropriate and/ or that specific reserves may have been required, including insufficient operations to service principal and interest payments and the use of modifications to keep loans current;[22]
- failure to identify a sufficient source of repayment to support its reserves determination;
- failure to consider the impact of Issuer A's subordinated status when calculating debt service ratios and loan-to-value ratios; and
- reliance on management representations that the loans were fully collectible without obtaining relevant and reliable evidence to corroborate those representations.

31. Because the loans had already been classified as impaired and TDRs, the inclusion of the loans in the substantive loan review procedures failed to achieve two of the primary objectives of the audit procedures. Kaplan, however, failed to identify this flaw. Accordingly, to the limited extent Kaplan reviewed work papers, he failed to

[22] As discussed above, Kaplan failed to review the team's work papers documenting its impairment test work, or other relevant audit documentation, and as a result, he failed to discover additional red flags and contrary evidence that the engagement team ignored or failed to respond appropriately to including, among other things, the deferral of principal and interest payments and the forced liquidation of six of the twelve properties securing the loans.

properly evaluate whether the documentation he reviewed supported the conclusions reached by the engagement team.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Wayne J. Kaplan, CPA, is hereby censured;

B. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two (2) years from the date of this Order, Wayne J. Kaplan's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Kaplan shall not (a) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*, or (b) serve, or supervise the work of another person serving, in any role that is equivalent to, but differently denominated from, engagement quality reviewer (such as "concurring partner"); and

C. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Wayne J. Kaplan is required to complete, within one (1) year from the date of this Order, ten (10) hours of professional education and training relating to performing engagement quality reviews in accordance with AS 1220; however, Kaplan will receive credit for five (5) hours of such professional education already taken since the date of the conduct at issue but prior to the date of this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

February 26, 2019

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Richard H. Huff, Jr., CPA,* *Respondent.*	PCAOB Release No. 105-2019-001 February 26, 2019

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is: (1) censuring Richard H. Huff, Jr. ("Huff" or "Respondent"); (2) suspending Huff from being an associated person of a registered public accounting firm for the period of one year from the date of this Order; (3) limiting his activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for one year following the termination of the suspension, by prohibiting Huff from serving in certain capacities in any audit as described in Section IV herein; and (4) requiring Huff to complete ten hours of additional professional education as described in Section IV herein.

The Board is imposing these sanctions on the basis of its findings that Huff violated PCAOB rules and auditing standards in connection with the integrated audit of Issuer A's December 31, 2013 financial statements and internal control over financial reporting ("ICFR").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted,

Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. Richard H. Huff, Jr., age 57, of Blue Bell, Pennsylvania, is a certified public accountant licensed by the Pennsylvania State Board of Accountancy (license no. CA022709L) and the Maryland Board of Public Accountancy (license no. 37117). Huff originally joined Grant Thornton LLP ("Grant Thornton" or "GT") in 1987. Huff was the engagement partner on Grant Thornton's integrated audits of the December 31, 2012 and 2013 financial statements and ICFR of Issuer A. Huff, as engagement partner, authorized the issuance of Grant Thornton's March 3, 2014 audit report containing an unqualified opinion on Issuer A's December 31, 2013 financial statements and ICFR. At all relevant times, Huff was an audit partner in the Philadelphia office of Grant Thornton and an associated person of a registered public accounting firm as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Huff retired from the Firm effective July 31, 2016, and is currently employed at another registered public accounting firm.

B. Relevant Entities

2. Grant Thornton LLP is a limited liability partnership organized under the laws of the state of Illinois, and headquartered in Chicago, Illinois. Grant Thornton registered with the Board on September 24, 2003, pursuant to Section 102 of the Act and PCAOB rules. Grant Thornton has served as Issuer A's independent auditor since Issuer A's inception in 2005.

3. Issuer A is a Maryland corporation with headquarters in New York, New York. Issuer A is a diversified real estate finance company that is organized and

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

conducts its operations to qualify as a REIT. Issuer A's investment strategy focuses on commercial real estate, commercial real estate- related assets and, to a lesser extent, commercial finance assets. At all relevant times, Issuer A's common stock was registered under Section 12(b) of the Securities Exchange Act of 1934 and was traded on the NYSE. At all relevant times, Issuer A was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. This matter concerns Huff's violations of PCAOB rules and auditing standards in connection with the integrated audit of Issuer A's December 31, 2013 financial statements and ICFR ("2013 audit"). Specifically, Huff, among other things, failed to exercise due professional care, including appropriate professional skepticism, and failed to obtain sufficient appropriate audit evidence concerning Issuer A's reported net loans and its allowance for loan losses ("ALL"), as well as its ALL-related internal controls. Huff further failed to appropriately evaluate the reasonableness of Issuer A's ALL—a known significant risk and significant accounting estimate. As a result of his failure to perform the audit in conformity with PCAOB standards, Huff lacked an appropriate basis to authorize the issuance of Grant Thornton's unqualified opinion on Issuer A's 2013 financial statements and ICFR.

5. Despite knowing that Issuer A's ALL presented significant risks to Issuer A's financial statements and ICFR, Huff failed to obtain sufficient appropriate audit evidence to evaluate the reasonableness of Issuer A's ALL. Although Huff knew that Issuer A had numerous material impaired loans for which it recorded zero specific reserves, he failed, among other things, to sufficiently evaluate whether the engagement team obtained sufficient appropriate evidence to corroborate that specific reserves were not required on those loans. Further, Huff failed to ensure that the engagement team tested an appropriate sample of material impaired loans, instead relying on a flawed sample that improperly eliminated material loans from selection. With respect to the loans tested that Huff did review, he failed to, among other things, (a) consider the impact of senior loans when assessing the collectability of Issuer A's subordinated loans; (b) perform any procedures to assess collateral valuation even though Issuer A relied on the borrower's ability to refinance to support full repayment of its loans; and (c) sufficiently test management's assertions that the borrower's operations were a source of repayment even where he should have been aware of contrary audit evidence indicating that those operations were insufficient to service both principal and interest repayment.

6. Huff's failures extended to, among other things, testing the design and operating effectiveness of certain of Issuer A's ALL-related controls, including, among others, controls related to measurement of impairment, identification of troubled debt restructurings ("TDRs"), loan reviews, loan file maintenance, monitoring of collateral, risk ratings, and disclosures.

7. Significantly, Huff violated PCAOB standards despite being on notice that his prior audit work, including audit procedures performed over the ALL on the 2012 Issuer A audit, was deficient.

D. Background

8. As of December 31, 2013, Issuer A reported total assets of $2.2 billion, including $1.4 billion in loans. Commercial real estate ("CRE") loans comprised $826 million or 59% of Issuer A's loan portfolio. Issuer A maintained an ALL to cover probable losses that existed in the loan portfolio. Issuer A's ALL for bank and CRE loans comprised two components: specific reserves based on estimated losses on individually reviewed impaired loans and a general loss reserve for non-impaired loans. GT's work papers also indicated that Issuer A relied on its loan review process, at least in part, to identify impaired loans, calculate specific reserves, and assess the sufficiency of its ALL.

9. Issuer A's impaired loans totaled $204 million or 9 percent of Issuer A's reported total assets at December 31, 2013. Impaired CRE loans comprised $194 million or 95% of total impaired loans. Issuer A reported an ALL of $13.8 million as of December 31, 2013, of which Issuer A allocated $4.6 million in specific reserves for impaired CRE loans.

10. GT placed Huff on a partner performance plan to address audit quality issues that arose before the 2013 audit. That plan mandated that Huff take certain steps to improve his performance, in mid-2013.[3] Shortly after the performance plan took effect, the Firm selected the 2012 Issuer A audit, for which Huff served as engagement partner, for an Audit Practice Review ("2013 APR"), an internal review during which another GT team reviewed the audit work papers to determine whether the engagement team complied with GT's policies and professional standards. The APR team identified numerous deficiencies in the audit and ultimately concluded that the 2012 Issuer A audit was noncompliant with Firm policies and PCAOB standards. The results of the 2013 APR were communicated to Huff and the engagement team in August 2013, prior to the commencement of fieldwork for the 2013 Issuer A audit.

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[3] See *Grant Thornton LLP*, PCAOB Rel. No. 105-2017-054 (Dec. 19, 2017).

E. Applicable PCAOB Rules and Auditing Standards[4]

11. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[7]

12. When planning and performing audit procedures to evaluate accounting estimates, PCAOB standards require the auditor to "consider, with an attitude of professional skepticism, both the subjective and objective factors" on which management's estimate is based.[8] When management's estimate involves fair value measurements, the auditor must comply with PCAOB auditing standards concerning the auditing of fair value measurements and disclosures.[9] Under those standards, when a fair value measurement, such as an appraisal, is dated other than at the relevant financial reporting date, the auditor is required to obtain "evidence that management has taken into account the effect of events, transactions, and changes in circumstances occurring between the date of the fair value measurement and the reporting date."[10]

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[4] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audit or review. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017).

[5] See PCAOB Rule 3100, Compliance with Auditing and Related Professional Practice Standards; PCAOB Rule 3200T, Interim Auditing Standards.

[6] See AU § 508.07, Reports on Auditing Financial Statements.

[7] See AU § 150.02, Generally Accepted Auditing Standards; AU § 230.01, Due Professional Care in the Performance of Work; Auditing Standard No. 13, The Auditor's Responses to the Risks of Material Misstatement ("AS No. 13"), ¶ 7; Auditing Standard No. 15, Audit Evidence ("AS No. 15"), ¶ 4.

[8] See AU § 342.04, Auditing Accounting Estimates.

[9] See AU § 328, Auditing Fair Value Measurements and Disclosures.

[10] See AU § 328.25.

The auditor also evaluates whether "[m]anagement's assumptions are reasonable and reflect, or are not inconsistent with, market information" and whether "[m]anagement used relevant information that was reasonably available at the time."[11]

13. Management representations "are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[12] Under PCAOB standards "[t]he auditor neither assumes that management is dishonest nor assumes unquestioned honesty. In exercising professional skepticism, the auditor should not be satisfied with less than persuasive evidence because of a belief that management is honest."[13]

14. In designing the audit procedures to be performed, PCAOB auditing standards require that the auditor [o]btain more persuasive audit evidence the higher the auditor's assessment of risk."[14] PCAOB standards further require that an auditor evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[15] The "auditor should take into account all relevant audit evidence, regardless of whether it appears to corroborate or to contradict the assertions in the financial statements."[16] Further, if audit evidence obtained from one source is inconsistent with that obtained from another, the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit.[17]

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[11] See AU § 328.26.

[12] See AU § 333.02, Management Representations.

[13] See AU § 230.09.

[14] See AS No. 13 ¶ 9; see also Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That Is Integrated With An Audit of Financial Statements* ("AS No. 5"), ¶ 46 ("As the risk associated with the control being tested increases, the evidence that the auditor should obtain also increases.").

[15] See Auditing Standard No. 14, *Evaluating Audit Results* ("AS No. 14"), ¶ 2.

[16] See AS No. 14 ¶ 3; see also id. ¶ 34.b.

[17] See AS No. 15 ¶ 29; see also AU § 333.04 ("If a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made. Based on the circumstances, the auditor should consider whether his or her reliance on

15. Under PCAOB auditing standards, the auditor is required to assess the sufficiency of substantive tests of details. When planning a sample for a substantive test of details, the auditor should individually examine "those items for which, in his judgment, acceptance of some sampling risk is not justified."[18]

16. PCAOB standards require that the auditor form an opinion on the effectiveness of ICFR by evaluating evidence obtained from all sources, including the auditor's testing of controls, misstatements detected during the financial statement audit, and any identified control deficiencies.[19] In conducting an integrated audit, the auditor should design his or her testing of controls to obtain sufficient evidence to support 1) the auditor's opinion on ICFR as of year-end and 2) the auditor's control risk assessment for purposes of the audit of the financial statements.[20]

17. If an auditor plans to assess control risk at less than the maximum by relying on controls, and the nature, timing, and extent of planned substantive procedures are based on that lower assessment, the auditor must obtain evidence that the controls selected for testing are designed effectively and operated effectively during the entire period of reliance.[21] The auditor should assess control risk for relevant assertions by evaluating evidence obtained from all sources, including the auditor's testing of controls for the audit of internal control and the audit of financial statements, misstatements detected during the financial statement audit, and any identified control deficiencies.[22] Auditors should also incorporate knowledge obtained in past audits of the

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management's representations relating to other aspects of the financial statements is appropriate and justified.").

[18] See AU § 350.21, Audit Sampling.

[19] See AS No. 5 ¶ 71.

[20] See AS No. 5 ¶ 7.

[21] See AS No. 13 ¶ 16. "A deficiency in design exists when (a) a control necessary to meet the control objective is missing or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met." AS No. 5 Appx. A ¶ A3. "A deficiency in operation exists when a properly designed control does not operate as designed, or when the person performing the control does not possess the necessary authority or competence to perform the control effectively." Id.

[22] See AS No. 13 ¶ 32.

issuer's ICFR into the decision-making process for determining the nature, timing, and extent of testing necessary in subsequent years' audits.[23]

18. Control risk should be assessed at the maximum level for relevant assertions for which controls necessary to sufficiently address the risk of material misstatement in those assertions are missing or ineffective, or when the auditor has failed to obtain sufficient appropriate evidence to support a control risk assessment below the maximum level.[24]

19. The engagement partner is responsible for the engagement and its performance. Accordingly, the engagement partner is "responsible for proper supervision of the work of engagement team members and for compliance with PCAOB standards."[25] As part of those responsibilities, the engagement partner is required to (i) inform engagement team members of their responsibilities, (ii) direct engagement team members to bring significant accounting and auditing issues to his attention or the attention of other engagement team members performing supervisory activities, and (iii) review the work of engagement team members to evaluate whether: (1) the work was performed and documented; (2) the objectives of the procedures were achieved; and (3) the results of the work supported the conclusions reached.[26] In determining the extent of supervision necessary, the engagement partner is required to take into account (i) the nature of the company, (ii) the nature of the assigned work, (iii) the risks of material misstatement, and (iv) the knowledge, skill, and ability of each engagement team member.[27]

20. As described below, Huff failed to comply with these and other PCAOB auditing standards in connection with the audit procedures performed and the opinions he authorized on the 2013 Issuer A audit.

F. Huff Violated PCAOB Rules and Auditing Standards in Connection with GT's Audit of Issuer A's 2013 Financial Statements

21. Huff and the engagement team identified inadequate ALL as a significant risk and assessed the inherent risk as high for the ALL based on the complex

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[23] See AS No. 5 ¶ 57.

[24] See AS No. 13 ¶ 33.

[25] See Auditing Standard No. 10, *Supervision of the Audit Engagement* ("AS No. 10"), ¶ 3.

[26] See AS No. 10 ¶ 5.

[27] See AS No. 10 ¶ 6.

accounting and judgments associated with the significant estimates involved. GT's guidance also highlighted the heightened risk associated with ALL estimates, loan reviews, and appraisal evaluations. The guidance stated that, "[b]ecause of the subjective nature of the loan risk grading and review processes, experienced audit personnel with relevant knowledge should perform and/or supervise loan review procedures."

22. Huff and the engagement team were aware that $365 million or nearly 45% of the $826 million in Issuer A's CRE loans outstanding at December 31, 2013 had been originated prior to the financial crisis, and that the majority of those pre-financial crisis loans had been restructured and extended numerous times. Huff was also aware that many of these "legacy loans" had deferred payment terms and were serviced (a) by interest reserves established at loan origination or during subsequent modifications or (b) through Issuer A's extension of new mezzanine loans. Indeed, of the $194 million in impaired CRE loan relationships at December 31, 2013, all were originated prior to the financial crisis, and were determined to be TDRs. Despite the heightened risk, the specific reserves that Issuer A established for these loans totaled only $4.6 million or 2.36% of total impaired CRE loans.[28]

23. Accordingly, Huff was aware or should have been aware that the legacy CRE loans presented an increased risk and therefore required him to exercise sufficient professional skepticism in the performance of audit procedures with respect to those loans. Instead, however, Huff relied almost exclusively on management representations that the legacy CRE loans were collectible, ignoring potential red flags and contrary evidence. Huff did so despite claiming to have identified a fraud risk associated with Issuer A's ALL—a fraud risk he failed to document or communicate to anyone on the engagement team.

24. In response to identifying inadequate ALL as a significant risk, the engagement team documented that it planned to perform tests of controls and substantive tests of details aimed at evaluating management's process in calculating the allowance. The engagement team planned to evaluate the reasonableness of Issuer A's allowance by tracing its components back to source documents, testing whether significant assumptions were properly documented and supported by objective evidence, and confirming that there was an appropriate level of monitoring and review being performed by Issuer A personnel. The engagement team also planned to test specific controls including Issuer A's controls over loan file reviews and risk ratings, the identification and measurement of loan impairment, identification of TDRs, and inputs to the ALL calculation. Huff approved the engagement team's plan for auditing Issuer A's allowance.

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[28] The engagement team set planning materiality for the 2013 audit at $1.98 million.

25. In evaluating the reasonableness of Issuer A's recorded net loans and its ALL and ALL-related controls, Huff violated PCAOB audit standards in his performance or review of audit procedures over impairment measurement, loan reviews, identification of TDRs, and certain ALL-related controls. As a result, Huff failed to obtain sufficient appropriate audit evidence to support Grant Thornton's opinions on Issuer A's 2013 financial statements.

Substantive Impairment Test Work

26. Huff failed to properly assess whether Issuer A had adequate specific reserves for its impaired loans. Huff's failure occurred, in part, because he and the engagement team relied on a flawed sample that failed to adequately address the risks presented.[29] Indeed, the engagement team tested only two of Issuer A's impaired loan relationships to determine whether any associated reserves were sufficient. In light of the known risks, the scope of this testing of impaired loans was inadequate, given that only two percent of impaired loans had specific reserves.[30]

27. With respect to the two impaired loan relationships selected for testing, Huff and the engagement team failed to properly evaluate the reasonableness of the specific reserves against the loans in those relationships. In both instances, the engagement team failed to appropriately evaluate whether the impairment calculation it obtained from Issuer A complied with Generally Accepted Accounting Principles

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[29] See AU § 350.16 ("When planning a particular sample for a substantive test of details, the auditor should consider [i] the relationship of the sample to the relevant audit objective[; 2] [t]olerable misstatement[; 3] [t]he auditor's allowable risk of incorrect acceptance[; and 4] [C]haracteristics of the population, that is, the items comprising the account balance or class of transactions of interest"); AU § 350.17 ("When planning a particular sample, the auditor should consider the specific audit objective to be achieved and should determine that the audit procedure, or combination of procedures, to be applied will achieve that objective. The auditor should determine that the population from which he draws the sample is appropriate for the specific audit objective."); AU § 350.21 ("The sufficiency of tests of details for a particular account balance or class of transactions is related to the individual importance of the items examined as well as to the potential for material misstatement. When planning a sample for a substantive test of details, the auditor uses his judgment to determine which items, if any, in an account balance or class of transactions should be individually examined and which items, if any, should be subject to sampling. The auditor should examine those items for which, in his judgment, acceptance of some sampling risk is not justified. For example, these may include items for which potential misstatements could individually equal or exceed the tolerable misstatement.")

[30] See AU § 350.21.

("GAAP"), and, in both instances, the engagement team failed to assess whether Issuer A's controls over the calculation of impairment were designed and operating effectively.

28. With respect to one of the loan relationships selected for testing, which had a net recorded balance of $38 million and had been restructured in 2012, Huff failed to ensure that the engagement team performed any procedures to assess the reasonableness of management's conclusion that no specific reserve was required. Indeed, the only evidence the engagement team obtained was a cash flow calculation prepared by Issuer A as part of the 2012 restructuring to determine whether the loan was a TDR ("TDR cash flow").

29. Huff's use of the 2012 cash flow calculation as audit evidence to support the valuation of the selected impaired loan failed to comply with PCAOB standards for several reasons:

- GAAP requires that impairment be measured at each reporting date, but Huff failed to obtain any updated impairment calculation from Issuer A;[31]

- Huff and his team failed to assess the reasonableness of the significant assumptions Issuer A used to calculate the 2012 TDR cash flow, including the assumption that the borrower would repay the loans in full; and

- Huff failed to evaluate the effects of the 2012 restructuring in assessing management's conclusion that no specific reserve was necessary. Significantly, as part of that restructuring, the borrower was required to list for sale half of the collateral within two years of the restructuring. Huff, however, failed to perform or ensure the engagement team performed any procedures to develop an understanding of how the forced liquidation of the collateral was proceeding or whether the sales proceeds were sufficient to support repayment of the loans.

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[31] Under ASC 310-10-35-22, impairment should be measured at each reporting date based on the present value of expected future cash flows discounted at the loan's effective interest rate. As a practical expedient, a creditor may measure impairment based on the loan's observable market price or, for collateral dependent loans, the fair value of the collateral. The engagement team, however, did not adequately assess whether Issuer A used either of those methods to determine whether impairment reserves were required. Instead, the engagement team only obtained a comparison of the net present value of pre- and post-modification cash flows assuming 100% repayment and using a market interest rate rather than the loan's effective interest rate.

Substantive Loan File Reviews

30. GT's substantive loan review procedures, which Huff reviewed and signed-off on, failed to address adequately the known risks presented by Issuer A's reported net loans and ALL and did not provide sufficient appropriate evidence to conclude on the reasonableness of those accounts.

31. In testing to determine whether Issuer A properly risk-rated its loans and identified impaired loans, the engagement team relied on a flawed sample by failing to segregate out impaired loans from the population selected for loan reviews, and selecting only two non-impaired legacy loans.[32] Because impaired loans were included within the population eligible for sample selection, the selection of individually significant loans for testing was skewed. Indeed, because the sample selections included loans that had already been identified as impaired and TDRs, the review of such loans failed to achieve the objectives of testing management's rating process or its ability to timely identify impaired loans and TDRs. Huff, however, failed to recognize the problems with the sample, including that GT's loan review test work failed to achieve the objectives of testing management's ability to timely identify impaired loans and TDRs.

32. Huff also failed to obtain sufficient appropriate evidence in connection with certain specific loan reviews because he (a) repeatedly ignored red flags or contradictory evidence indicating that loans may have been improperly risk rated, impaired, and/or require reserves; (b) repeatedly relied on management representations without obtaining relevant and reliable evidence to corroborate those representations; and (c) failed to identify and evaluate potential control deficiencies.

33. Among the most egregious examples of Huff's failures to obtain sufficient appropriate audit evidence are the loan review procedures performed over four impaired loan relationships with a combined carrying value of $162 million. Across each of these loan reviews, which Huff reviewed and signed-off on, the engagement team:

- failed to accurately document and consider important loan terms such as the loan's guarantor, payment terms (e.g., amortizing versus interest only), the terms of any restructuring, and the subordinated position of the loan;

- failed to appropriately evaluate whether there were sufficient sources of repayment;

- relied on non-amortizing debt service coverage ("DSC") ratios;

- relied on loan-to-value ("LTV") ratios calculated using stale pre-financial crisis appraisals;

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[32] See AU §§ 350.16-17.

- failed to identify that the actual operating results of collateral fell far short of the assumptions used to value the collateral at origination;

- failed to evaluate the ability and intent of guarantors and partners to continue to service loans; and

- failed to evaluate the risk associated with the use of mezzanine loans to service loans.

34. With respect to their review of the loan relationship with a carrying value of $38 million, Huff failed to perform or ensure the engagement team performed sufficient procedures to assess whether (i) the ongoing operations of the remaining collateral would be sufficient to repay Issuer A's subordinated loans; or (ii) the proceeds from the sale of collateral would be sufficient to repay the senior and subordinated loans. Specifically, although the work papers cited the strong performance of the hotel properties and lack of an expected decrease in operations, as well as the DSC greater than 1.0 and the LTV of less than 85%, the work papers failed to note that the borrower was required to liquidate half the collateral by October 2014 and had already sold three hotel properties by December 31, 2013. In addition, the DSC that Huff and the engagement team used as audit evidence (i) included only the interest-only debt service on the subordinated loans held by Issuer A; and (ii) failed to include the debt service on more than $1.0 billion in senior loans or the impact of an amortizing payment. The LTV that the engagement team calculated (1.86%) failed to include any of the more than $1 billion in loans senior to Issuer A's loans and included three hotel properties that the borrower had sold prior to December 31, 2013. Moreover, the engagement team failed to note that the loans were only performing because, as a result of the 2012 restructuring, there was no principal debt service required during 2013 and Issuer A was advancing most, if not all, of the interest payments.

35. With respect to review of another loan relationship selected for testing with a carrying value of $33 million, Huff ignored contrary evidence indicating that specific reserves may have been necessary and failed to obtain or instruct his staff to obtain corroborating evidence to support management's representation that the loans were fully collectible. Significantly, Huff was aware or should have been aware that the operations of the property fell short of both the borrower's budget and the projections in the appraisal that the engagement team obtained, which should have prompted Huff to seek, or instruct his staff to seek, additional evidence to support management's assertion that no impairment reserves were required. Indeed, although Huff was aware that shortfalls were being covered by partner capital and additional funding, he failed to perform or instruct the engagement team to perform any procedures to test the ability and intent of the partner to continue to fund shortfalls. Huff also failed to consider the impact of the borrower's reliance on mezzanine funding to service the interest on the senior loan and the future availability of those funds for debt service.

36. Huff and the engagement team's substantive loan review test work over two non-impaired legacy loans selected for testing, with a combined carrying value of

$53 million, was likewise flawed. Huff and the engagement team agreed with management that the loans were (i) properly risk rated green/satisfactory performance, (ii) were not impaired, (iii) did not require specific reserves, (iv) were not TDRs, and (v) did not require charge-off. In both instances, Huff and the engagement team reached their conclusions based primarily on interest-only DSC ratios and LTV ratios calculated using pre-financial crisis appraisals, appraisals that were then more than six years old. Huff and the engagement team failed to note that neither loan was amortizing and that neither loan had sufficient cash flows from operations to repay the principal due at maturity. Huff and the engagement team further failed to identify any source of repayment that was sufficient to repay both the principal and interest due on the loans even though the loans had maturity dates of January 10, 2017 and January 5, 2019, respectively. The work papers, which Huff reviewed and signed-off on, provided no documented basis for how Issuer A and Huff determined that the loans were expected to repay in full.

37. Huff also failed to ensure the performance of any procedures to assess the reasonableness of relying on the pre-financial crisis appraisals when citing the LTV ratios as support for the risk rating and lack of reserves. Critically, Huff also failed to consider whether management's reliance on and use of non-amortizing DSC ratios to risk rate its loans and its failure to obtain current appraisals on its legacy loans constituted control deficiencies.

Troubled Debt Restructuring Disclosure

38. Huff violated PCAOB standards by (i) failing to obtain or instruct his staff to obtain sufficient appropriate evidence as to whether Issuer A had identified all TDRs that occurred during 2013 and (ii) failing to properly evaluate whether Issuer A's TDR disclosures complied with GAAP.[33]

39. Huff failed to test or ensure the engagement team tested the completeness and accuracy of Issuer A's list of restructured loans subject to TDR determinations. All of the loans selected for testing had been classified as TDRs prior to 2013, and thus, Huff failed to perform or ensure the engagement team performed sufficient procedures to evaluate whether Issuer A had missed classifying any loans as a TDR in 2013.

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[33] ASC 310-10-50-33 requires entities to disclose quantitative and qualitative information about TDRs that occurred during each period for which a statement of income is presented, including how the financing receivables were modified and the financial effects of the modifications. The standard also requires disclosure, by portfolio segment, of qualitative information about how such modifications are factored into the determination of the allowance for credit losses.

40. In assessing whether loans should be classified as TDRs, Huff failed to ensure the engagement team appropriately obtained and documented evidence concerning the financial condition of the borrower or whether the borrower was granted a concession.[34]

41. Further, Huff failed to properly evaluate whether Issuer A's financial statements included essential information regarding TDRs.[35] Issuer A disclosed that in 2012 and 2013 it had modified $181 million and $143 million, respectively, in CRE loans that it classified as TDRs. Issuer A also disclosed that all of its CRE loans were performing as of December 31, 2012 and 2013. Huff, however, knew or should have known that many of Issuer A's TDRs were only "performing" because of deferred payments terms included in the restructurings, the use of interest reserves to service debt, and/or the use of mezzanine financing to service debt.[36]

G. Huff Violated PCAOB Rules and Auditing Standards in Connection with GT's Audit of Issuer A's 2013 ICFR

42. Huff, who adopted a controls reliance approach to the financial statement audit, failed to obtain sufficient appropriate evidence and failed to exercise sufficient due professional care and professional skepticism in his assessment of the design and operating effectiveness of certain of Issuer A's controls. Huff failed to test or instruct the engagement team to test the design effectiveness of certain key controls over the adequacy of the ALL for the CRE portfolio including controls concerning the

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[34] Under ASC 310-40, a loan should be classified as a TDR if Issuer A, in the course of restructuring a loan, "for economic or legal reasons related to the [borrower's] financial difficulties grant[ed] a concession to the [borrower] that it would not otherwise consider."

[35] AS No. 14 ¶¶ 30-31 requires that the auditor evaluate whether the financial statements are presented fairly, in all material respects, and that as part of its evaluation of the presentation of the financial statements, the auditor should evaluate whether the financial statements contain the information essential for a fair presentation in conformity with the financial reporting framework.

[36] An auditor's opinion that an issuer's financial statements are presented in conformity with GAAP must be based on an audit performed in accordance with PCAOB standards. PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to GAAP. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Commission has considered or made any determination concerning the issuer's compliance with GAAP.

measurement of impairment, identification of TDRs, and loan reviews. In fact, rather than directly testing certain controls, Huff, instead relied on the results of audit procedures that were substantive in nature.

43. Huff and the engagement team identified inadequate ALL as a significant risk and identified "calculate and record impairment" as a very important process. Huff, however, failed to include in GT's test of controls any procedures to test the design and operating effectiveness of Issuer A's key controls related to the process for measuring impairment for CRE loans. Specifically, Huff failed to identify and test specific controls over Issuer A's calculation of specific reserves.

44. Huff and the engagement team also identified Issuer A's control over the identification of TDRs as a key control. Huff, however, failed to ensure that the engagement team assessed whether the control was designed effectively to assess Issuer A's TDR determinations.

45. In addition, Huff and the engagement team identified as a key control over Issuer A's process for monitoring the CRE loan portfolio the Senior Accountant's review of three loans from the watch list report to determine whether the risk ratings assigned by management were appropriate. Huff, however, failed to assess or instruct the engagement team to assess the design effectiveness of this control. Specifically, Huff failed to assess or instruct the engagement team to sufficiently assess (i) whether the control operator was qualified to perform a review of the loans and assess the appropriateness of the risk ratings assigned by management; (ii) whether the control operator had sufficient and timely information to make risk rating determinations; and (iii) whether the criteria used and sample selected by the control operator was sufficient. Additionally, Huff failed to note the substantive nature of the procedures performed and failed to ensure that any of the loans reviewed by the control operator were subject to control testing.

46. Last, Huff failed to identify or instruct the engagement team to identify any controls related to either the monitoring of collateral or the maintenance of loan files. As a result, neither Huff nor the engagement team performed any procedures to determine whether Issuer A had controls in place to ensure that loan files included timely and complete information and that collateral values for higher risk collateral dependent loans were updated to reflect current market values.

H. Huff Failed to Properly Supervise and Review the Work of the Engagement Team

47. Huff violated PCAOB standards by failing to properly assess the extent of supervision necessary for engagement team members to perform their work and form appropriate conclusions.[37] Specifically, Huff failed to adequately take into account the

[37] See AS No. 10 ¶ 6.

knowledge, skill, and ability of each engagement team member, the nature of the assigned work, and the risks of material misstatement. Huff further violated PCAOB standards because he failed to inform engagement team members of their responsibilities in sufficient detail to ensure that sufficient appropriate evidence was obtained. Huff did not specifically instruct the staff as to which procedures to perform, the objectives of those procedures, or how the procedures should be performed. Instead, Huff relied on the senior manager on the audit, but failed to develop an understanding of the instructions the senior manager provided to the staff.[38] Critically, Huff also failed to inform the engagement team of the fraud risk he claims to have identified concerning the ALL. As a result, the work papers and test work performed failed to reflect and respond to a risk of fraud associated with the ALL.

48. Huff then failed to sufficiently review the work of the engagement team. To the extent Huff did review work papers, he failed to review them at a level sufficient to identify factual inaccuracies, conclusions not supported by sufficient appropriate evidence, various red flags, contrary audit evidence, and indications that audit procedures had not been properly performed. Moreover, Huff failed to discover that the engagement team did not document a fraud risk related to the ALL and did not adequately respond to such fraud risk.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Richard H. Huff, Jr., CPA, is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Richard H. Huff, Jr., CPA, is suspended for a period of one (1) year from the date of this Order from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[39]

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[38] Indeed, Huff spent significantly less time in the field with the team during the 2013 audit despite the results of the 2012 APR and the risks associated with the 2013 Issuer A audit.

[39] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Huff. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain

C. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for one (1) year following the termination of the suspension ordered in paragraph B, Richard H. Huff, Jr.'s role in any "audit" of an "issuer," as those terms are defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), and Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), respectively, shall be restricted as follows: Huff shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's Auditing Standard No. 10 or AS 1201, Supervision of the Audit Engagement; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's Auditing Standard 1220, Engagement Quality Review; (3) serve, or supervise the work of another person serving, in any role that is equivalent to, but differently denominated from, engagement partner (such as "lead partner" or "practitioner-in-charge") or engagement quality reviewer (such as "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer; (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, Part of the Audit Performed by Other Independent Auditors; or (6) serve, or supervise the work of another individual serving as a professional practice director; and

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Richard H. Huff, Jr. is required to complete, within one (1) year from the date of this Order, ten (10) hours of additional financial services related professional education and training, covering among other topics the allowance for loan losses.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

February 26, 2019

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associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of WDM Chartered Professional Accountants,* *Respondent.*	PCAOB Release No. 105-2019-007 March 19, 2019

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring registered public accounting firm WDM Chartered Professional Accountants ("Firm" or "Respondent"), imposing a civil money penalty in the amount of $2,500, and requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements. The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Forms AP, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[1]

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. WDM Chartered Professional Accountants is a chartered accounting firm located in Vancouver, Canada. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, the Firm was the external auditor for Digatrade Financial Corp. ("Digatrade").

B. Respondent Failed to Timely File Form AP Reports in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Forms AP are due by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission ("SEC"),[2] subject to a shorter filing deadline that applies when the audit report is first included in a Securities Act registration statement.[3]

3. WDM conducted audits of the financial statements of Digatrade as of and for the years ended December 31, 2016, and December 31, 2017. WDM issued audit reports dated April 28, 2017, and April 27, 2018, respectively, which were included in Digatrade's Forms 20-F, filed with the SEC on May 2, 2017, and May 9, 2018, respectively.

4. WDM failed to file the required Form AP with the Board by the 35th day after the date the audit reports were first included with the Forms 20-F filed with the SEC in violation of Rule 3211.

5. In connection with a July 2017 inspection of the Firm, the PCAOB inspections staff brought to the Firm's attention its failure to file a Form AP regarding its audit of Digatrade's 2016 financial statements. The Firm responded by representing, among other things, that it planned to file Forms AP within the required time frame in the future.

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[2] See Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the SEC. See Rule 3211(b)(2).

6. Notwithstanding the notice from the inspections staff, the Firm failed to file the Form AP related to its audit of Digatrade's 2016 financial statements. In addition, notwithstanding the Firm's representation as to future filings, the Firm failed to file a Form AP related to its subsequent audit of Digatrade's 2017 financial statements, in violation of Rule 3211.

7. On November 7, 2018, the Division of Enforcement and Investigations sent a charging letter to WDM regarding the Firm's failure to file the Forms AP related to Digatrade's May 2, 2017 and May 9, 2018 filings. WDM filed the aforementioned Forms AP on November 10, 2018, and November 11, 2018, after receiving the charging letter.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), WDM Chartered Professional Accountants is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil monetary penalty in the amount of $2,500 is imposed upon WDM Chartered Professional Accountants. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. WDM Chartered Professional Accountants shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies WDM Chartered Professional Accountants as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), WDM Chartered Professional Accountants is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or review and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB Rule 3211 and that Forms AP are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

March 19, 2019

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of* RSM US LLP*,* *Respondent.*	PCAOB Release No. 105-2019-004 March 19, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring RSM US LLP (the "Firm" or "Respondent"), a registered public accounting firm, and imposing a civil money penalty in the amount of $15,000 upon the Firm. The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. RSM US LLP, is, and at all relevant times was, a limited liability partnership organized under the laws of the state of Illinois, and headquartered in Chicago, Illinois. The Firm is a member of the RSM US Alliance and the RSM International global network. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. As of its 2018 Annual Report on PCAOB Form 2, the Firm had 6,365 accountants.

B. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

2. This matter concerns the Firm's failures to disclose on a timely basis four reportable events, concerning two disciplinary proceedings, to the Board on Form 3 as required by PCAOB rules.

3. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding" ("Item 2.7 Proceeding").[3] Another such specified event occurs when a firm "has become aware that" an Item 2.7 Proceeding "has been concluded."[4] With respect to four such events, involving two Item 2.7 Proceedings, the Firm failed to timely file a Form 3 with the Board.

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[2] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

[4] PCAOB Form 3, at Item 2.10.

4. On or around October 4, 2010, the Firm became aware that the Commodity Futures Trading Commission ("CFTC") had initiated and simultaneously concluded a disciplinary proceeding against it. The CFTC proceeding related to the Firm's provision of professional services to a company that was not an issuer.[5]

5. On or around June 4, 2018, the Firm became aware that the Securities and Exchange Commission ("SEC") had initiated and simultaneously concluded a separate disciplinary proceeding against it. The SEC proceeding related to the Firm's provision of professional services to another company that was not an issuer.

6. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the initiation and conclusion of the CFTC and SEC proceedings until November 30, 2018, around eight years after the Firm learned of the initiation and conclusion of the CFTC proceeding and around four months after it learned of the initiation and conclusion of the SEC proceeding.

7. The Firm's internal compliance and reporting systems failed to identify the initiation and conclusion of the proceedings described above as being reportable to the PCAOB. As a result, the Firm inappropriately delayed notifying the PCAOB of the initiation and conclusion of the disciplinary proceedings.

IV.

8. The Firm has represented to the Board that, since the events described in this Order, it has established and implemented the following changes to its policies and procedures for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements:

a. The Firm has revised and supplemented its policies and procedures for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner; and

b. The Firm has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process.

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[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities and Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. See PCAOB Rule 1001(i)(iii).

9. The Firm has also represented to the Board that it has assigned the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

March 19, 2019

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter RSM Hong Kong,* *Respondent.*	PCAOB Release No. 105-2019-005 March 19, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring RSM Hong Kong (the "Firm" or "Respondent"), a registered public accounting firm, imposing a civil money penalty in the amount of $10,000 upon the Firm, and requiring the Firm to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements. The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. RSM Hong Kong is, and at all relevant times was, a partnership organized under Hong Kong law, and headquartered in Hong Kong. The Firm is a member of the RSM International global network. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. As of its 2018 Annual Report on PCAOB Form 2, the Firm had 276 accountants, issued no audit reports for issuers or broker-dealers during the reporting period, and did not play a substantial role in the preparation or furnishing of an audit report for an issuer or broker-dealer that was issued during the reporting period. The Firm is licensed in Hong Kong by the Hong Kong Institute of Certified Public Accountants ("HKICPA").

B. Summary

2. This matter concerns the Firm's failures to timely disclose two reportable events, concerning two disciplinary proceedings, to the Board on Form 3 as required by PCAOB rules. PCAOB rules required the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm was required to report on Form 3 were its becoming a respondent in certain disciplinary proceedings.

3. Between October 2014 and November 2014, the Firm became a respondent in two separate disciplinary proceedings initiated by the HKICPA. The initiation of each of those two proceedings against the Firm was a reportable event under Form 3. With respect to each of the proceedings, the Firm failed to file a Form 3 reporting that it had become a respondent in the proceeding until approximately two and a half years after learning of the initiation of the proceeding, well after the 30-day reporting deadline.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

4. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has

[2] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3] With respect to two such events occurring in 2014, the Firm failed to timely file a Form 3 with the Board.

5. During October and November 2014, the Firm became aware that the HKICPA had initiated two disciplinary proceedings against it. Each of the proceedings related to the provision of professional services by the Firm to Hong Kong companies that were not issuers.[4] The Firm first learned of the initiation of each of the proceedings on or around the following respective dates:

- Proceeding 1: October 24, 2014
- Proceeding 2: November 4, 2014

6. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the initiation of these two proceedings until May 22, 2017, around two and a half years after learning of the initiation of the proceedings.

7. The Firm's internal compliance and reporting systems failed to identify the initiation of the proceedings described above as being reportable to the PCAOB. As a result, the Firm inappropriately delayed notifying the PCAOB of the initiation of the disciplinary proceedings.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

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[3] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

[4] The term "issuer" means an issuer (as defined in Section 3 of the Securities and Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. See PCAOB Rule 1001(i)(iii).

ORDER

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process;

3. within ninety (90) days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm; and

4. within one hundred twenty (120) days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C.1 through C.3 above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

March 19, 2019

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Deloitte & Touche Ltda.,* *Respondent.*	PCAOB Release No. 105-2019-006 March 19, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Deloitte & Touche Ltda. (the "Firm" or "Respondent"), a registered public accounting firm, and imposing a civil money penalty in the amount of $15,000 upon the Firm. The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Deloitte & Touche Ltda., is, and at all relevant times was, a limited liability corporation organized under Colombian law, and headquartered in Bogota, Colombia. The Firm is a member of the Deloitte Touche Tohmatsu Limited global network. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. As of its 2018 Annual Report on PCAOB Form 2, the Firm had 550 accountants, issued one audit report for one issuer during the reporting period, and did not play a substantial role in the preparation or furnishing of an audit report for an issuer that was issued during the reporting period. The Firm is licensed in Colombia by the Junta Central de Contadores ("JCC"), part of the Colombian Ministry of Commerce, Industry and Tourism, the foreign auditor oversight authority in Colombia.[2]

B. Summary

2. This matter concerns the Firm's failures to timely disclose 12 reportable events, concerning seven disciplinary proceedings, to the Board on Form 3 as required by PCAOB rules. PCAOB rules required the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm was required to report on Form 3 were: (a) its becoming a respondent in certain disciplinary proceedings; and (b) the conclusion of certain disciplinary proceedings in which it had been a respondent.

3. Between August 2014 and October 2016, the Firm became a respondent in seven separate disciplinary proceedings initiated by the JCC. The initiation of each of those seven proceedings was a reportable event under Form 3. With respect to each of the proceedings, the Firm failed to file a Form 3 reporting the initiation of the proceeding until well after the 30-day reporting deadline. The Firm's delays in filing the required Forms 3 for the proceedings ranged from around six months to two years after the Firm learned of the initiation of the proceedings.

4. The Firm also failed to timely file a Form 3 reporting the conclusion of five of the seven proceedings. Specifically, the Firm failed to file the required Form 3 for periods ranging from between around four months to 13 months after learning of the conclusion of these five proceedings.

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[2] A "foreign auditor oversight authority" means any governmental body or other entity empowered by a foreign government to conduct inspections of public accounting firms or otherwise to administer or enforce laws related to the regulation of public accounting firms. See PCAOB Rule 1001(f)(iii).

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[3] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding" ("Item 2.7 Proceeding").[4] Another such specified event occurs when a firm "has become aware that" an Item 2.7 Proceeding "has been concluded."[5] With respect to 12 such events, involving seven Item 2.7 Proceedings, the Firm failed to timely file a Form 3 with the Board.

The Firm Failed to Timely Disclose the Initiation of Seven Reportable Events

6. During 2015 and 2016, the Firm became aware that the JCC had initiated seven disciplinary proceedings against the Firm. Each of the proceedings related to the provision of professional services by the Firm to Colombian companies that were not issuers.[6] The Firm first learned of the initiation of each of the proceedings on or around the following respective dates:

- Proceeding 1: June 3, 2015

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[3] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[4] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

[5] PCAOB Form 3, at Item 2.10.

[6] The term "issuer" means an issuer (as defined in Section 3 of the Securities and Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. See PCAOB Rule 1001(i)(iii).

- Proceeding 2: October 5, 2015
- Proceeding 3: December 17, 2015
- Proceeding 4: January 12, 2016
- Proceeding 5: February 12, 2016
- Proceeding 6: August 16, 2016
- Proceeding 7: December 1, 2016

7. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the initiation of these seven proceedings until June 30, 2017, between around seven months and two years after learning of the initiation of these seven proceedings.

The Firm Failed to Timely Disclose the Conclusion of Five Reportable Events

8. During 2016 and 2017, the Firm became aware that five of the seven disciplinary proceedings against the Firm had concluded. The Firm first learned of the conclusion of each of the proceedings on or around the following respective dates:

- Proceeding 1: February 17, 2017
- Proceeding 2: September 5, 2016
- Proceeding 3: May 26, 2016
- Proceeding 4: November 16, 2016
- Proceeding 5: June 15, 2016

9. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the conclusion of these five proceedings until June 30, 2017, between around four months and 13 months after learning of the conclusion of these five proceedings.

Failures in the Firm's Internal System of Compliance

10. The Firm's internal compliance and reporting systems failed to identify the initiation of the proceedings described above as being reportable to the PCAOB. In addition, the Firm's systems failed to identify the conclusion of the proceedings as being reportable to the PCAOB. As a result, the Firm inappropriately delayed notifying the PCAOB of the initiation and/or conclusion of disciplinary proceedings.

IV.

11. The Firm has represented to the Board that, since the events described in this Order, it has established and implemented the following changes to its policies and procedures for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements:

a. The Firm has revised and supplemented its policies and procedures for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. The Firm has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

c. The Firm has assigned the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and

states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

March 19, 2019

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Bharat Parikh & Associates Chartered Accountants, Bharatkumar Balmukund Parikh, FCA, and Anuj Bharatkumar Parikh*, *Respondents.*	PCAOB Release No. 105-2019-003 March 19, 2019

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Bharat Parikh & Associates Chartered Accountants ("BPA" or the "Firm"), revoking the Firm's registration,[1] and imposing a $15,000 civil money penalty on the Firm; censuring Bharatkumar Balmukund Parikh, FCA ("Bharat Parikh"), and barring him from being an associated person of a registered public accounting firm;[2] and censuring Anuj Bharatkumar Parikh ("Anuj Parikh") and barring him from being an associated person of a registered public accounting firm.[3] The Board is imposing these sanctions on the basis of its findings that the Firm, Bharat Parikh and Anuj Parikh (collectively, "Respondents") violated PCAOB rules and standards in connection with audits of two issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

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[1] The Firm may reapply for registration after five (5) years from the date of this Order.

[2] Bharat Parikh may file a petition for Board consent to associate with a registered public accounting firm after five (5) years from the date of this Order.

[3] Anuj Parikh may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds that:[5]

A. Respondents

1. Bharat Parikh & Associates Chartered Accountants is an accounting firm headquartered in Vadodara, Gujarat, India. The Firm is licensed by the Institute of Chartered Accountants of India ("ICAI") (license no. 101241-W). The Firm is registered with the PCAOB, pursuant to Section 102 of the Act and PCAOB rules. At all relevant times BPA was the external auditor for the issuers identified below.

2. Bharatkumar Balmukund Parikh, FCA, age 65, of Vadodara, Gujarat, India, is a Fellow Chartered Accountant, licensed by the ICAI (member no. 038204). Bharat Parikh is the Senior Managing Partner and Controlling Partner of the Firm, and he served as the engagement partner on each of the audits discussed below. Bharat Parikh is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. Anuj Bharatkumar Parikh, age 31, of Vadodara, Gujarat, India, is the Firm's Senior Consultant and Engagement Manager. Anuj Parikh served as engagement manager on each of the audits discussed below. As engagement

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[4] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

manager, Anuj Parikh was responsible for client contact and coordination, and he was also involved in the supervision and performance of the audits, each of which was performed with the assistance of other junior BPA staff. As discussed below, Anuj Parikh also simultaneously served as the engagement quality reviewer for three of the audits. Anuj Parikh is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

4. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the issuance of audit reports on the financial statements of Issuer A, for the fiscal years ("FY") ended September 30, 2014 through 2017 and Issuer B for the fiscal years ended May 31, 2015 and 2016. As detailed below, Respondents failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence, in connection with the audits. BPA and Bharat Parikh also failed to adequately consider whether a significant scope limitation in the FY 2015 Issuer B audit required BPA to issue a qualified audit report, or disclaim an opinion, for that audit.

5. This matter also concerns Respondents' failure to prepare sufficient audit documentation for each of the Issuer A audits; Bharat Parikh's failure to adequately supervise the Issuer A and Issuer B audits; the Firm's failure to comply with PCAOB quality control standards; and Bharat Parikh's failure to take appropriate steps to establish and monitor an appropriate system of quality control for the Firm.

6. Finally, this matter concerns Respondents' failure to comply with AS 1220, *Engagement Quality Review* (formerly, Auditing Standard No. 7).[6] The Firm failed to have an engagement quality review performed that complied with PCAOB standards during the FY 2014 and 2015 Issuer A audits and the FY 2015 Issuer B audit. In violation of AS 1220, Anuj Parikh served as the engagement quality reviewer on those audits while also acting as an active member of the engagement team. By assigning Anuj Parikh to both roles, Bharat Parikh knowingly or recklessly contributed to the Firm's violation.

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[6] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondents' conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

C. Respondents Violated PCAOB Rules and Standards

7. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[8] Those standards require among other things, that an auditor plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[9] PCAOB standards further require that an auditor exercise due professional care and professional skepticism in performing the audit.[10]

8. PCAOB standards state that, in planning an audit, an auditor should, among other things, establish an overall audit strategy for the engagement and develop an audit plan.[11] The auditor should also identify and assess the risks of material misstatement at the financial statement level and the assertion level, and design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[12] The auditor should perform substantive procedures for each relevant assertion of each significant account and disclosure, regardless of the assessed level of control risk.[13] For significant risks, including fraud risks, the auditor should likewise perform

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[7] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200, *Auditing Standards*.

[8] See AS 3101, *Reports on Audited Financial Statements* (formerly, AU § 508), ¶ 7. AS 3101 was subsequently replaced for audits of fiscal years ending on or after December 15, 2017. All references to AS 3101 in this Order are to the version of that standard in effect as of the Board's December 31, 2016 reorganization of its auditing standards.

[9] See AS 1105, *Audit Evidence* (formerly, Auditing Standard No. 15), ¶ 4.

[10] See AS 1015, *Due Professional Care in the Performance of Work* (formerly, AU § 230).

[11] See AS 2101, *Audit Planning* (formerly, Auditing Standard No. 9), ¶¶ 4-5.

[12] See AS 2110, *Identifying and Assessing Risks of Material Misstatement* (formerly, Auditing Standard No. 12), ¶ 59; AS 2301, *The Auditor's Responses to the Risks of Material Misstatement* (formerly, Auditing Standard No. 13), ¶ 8.

[13] See AS 2301 ¶ 36.

substantive procedures, including tests of details, that are specifically responsive to the assessed risks.[14]

9. To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based.[15] PCAOB standards provide that, "if conditions indicate that a document may not be authentic or that the terms in a document have been modified but that the modifications have not been disclosed to the auditor, the auditor should modify the planned audit procedures or perform additional audit procedures to respond to those conditions and should evaluate the effect, if any, on the other aspects of the audit."[16] When using information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to: test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information; and evaluate whether the information is sufficiently precise and detailed for purposes of the audit.[17]

10. PCAOB standards further require that an auditor evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[18] In forming an opinion on whether the financial statements are presented fairly, in all material respects, the "auditor should take into account all relevant audit evidence, regardless of whether it appears to corroborate or to contradict the assertions in the financial statements."[19] If the auditor has not obtained sufficient appropriate audit evidence about a relevant assertion or has substantial doubt about a relevant assertion, the auditor should perform procedures to obtain further audit evidence to address the matter.[20] If the auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the financial statements as a whole are free of material misstatement, the auditor should express a qualified opinion or a disclaimer of opinion.[21]

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[14] See AS 2301 ¶¶ 11, 13.

[15] See AS 1105 ¶ 6.

[16] AS 1105 ¶ 9.

[17] See AS 1105 ¶ 10.

[18] See AS 2810, *Evaluating Audit Results* (formerly, Auditing Standard No. 14), ¶ 2.

[19] AS 2810 ¶ 3.

[20] See AS 2810 ¶ 35.

[21] Id.

Representations from management are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit.[22]

11. Restrictions on the scope of the audit, whether imposed by the client or by circumstances, may require the auditor to qualify his or her opinion.[23] Restrictions on the application of audit procedures to important elements of the financial statements require the auditor to decide whether he or she has examined sufficient appropriate audit evidence to permit him or her to express an unqualified or qualified opinion, or whether he or she should disclaim an opinion.[24]

12. As described below, Respondents failed to comply with these and other PCAOB rules and standards in connection with the audits of Issuer A and Issuer B.

1. The Issuer A Audits

13. Issuer A is a Delaware corporation with a principal office in Farmingdale, New York. During the relevant time, Issuer A's public filings disclosed that it provided electronic manufacturing services and broad-based industrial services. At all relevant times, Issuer A was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

14. When planning each of the FY 2014 through 2017 Issuer A audits, BPA and Bharat Parikh failed to perform sufficient risk assessment procedures to identify the risks of material misstatement at both the financial statement level and assertion level.[25] Although BPA identified and documented some significant risks for the audits, the Firm failed to assess inherent risk, control risk, or the risk of material misstatement at the financial statement level or at the assertion level for each area of the audit.

15. As detailed below, when performing the audits, Respondents also failed to exercise due professional care and professional skepticism and failed to obtain sufficient appropriate audit evidence to support the opinions expressed in the Firm's audit reports.

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[22] See AS 2805, *Management Representations* (formerly, AU § 333), ¶ 2.

[23] See AS 3101 ¶ 22.

[24] See AS 3101 ¶ 24.

[25] See AS 2110 ¶ 59.

The FY 2014 Issuer A Audit

16. Bharat Parikh served as the engagement partner on the FY 2014 Issuer A audit and Anuj Parikh served as engagement manager. Bharat Parikh authorized the issuance of BPA's audit report, dated December 24, 2014, which contained an unqualified opinion on Issuer A's FY 2014 financial statements. Issuer A included that audit report in its Form 10-K, which was filed with the Commission on December 29, 2014.

17. Issuer A reported accounts receivable of approximately $4.0 million as of September 30, 2014, which constituted approximately 20% of total assets. During the FY 2014 Issuer A audit, Respondents identified accounts receivable as a significant account and identified a significant risk concerning the existence of accounts receivable. Despite this risk, Respondents failed to plan and perform sufficient audit procedures to address the risk and to determine whether the accounts receivable were properly recorded and properly valued.[26] Although confirmation of accounts receivable is a generally accepted auditing procedure,[27] Respondents failed to perform any confirmation procedures, and failed to document how they overcame the presumption that confirmation procedures were required.[28] While Respondents performed certain analytical procedures concerning the accounts receivable balance, those analytical procedures were not tests of details and did not serve as a substantive audit procedure because Respondents failed to develop a sufficiently precise expectation for those analytics to provide the desired level of assurance that potential misstatements would be identified.[29]

The FY 2015 Issuer A Audit

18. Bharat Parikh served as the engagement partner on the FY 2015 Issuer A audit and Anuj Parikh served as the engagement manager. Bharat Parikh authorized the issuance of BPA's audit report, dated December 18, 2015, which contained an unqualified opinion on Issuer A's FY 2015 financial statements. Issuer A included the audit report in its Form 10-K, which was filed with the Commission on December 21, 2015.

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[26] See generally AS 2301 ¶¶ 8-9, 11, 36.

[27] See AS 2310, *The Confirmation Process* (formerly, AU § 330), ¶ 34.

[28] See AS 2310 ¶¶ 34-35.

[29] See generally AS 2305, *Substantive Analytical Procedures* (formerly AU § 329), ¶¶ 5, 9, 11, 17-19.

19. Issuer A reported accounts receivable of approximately $4.8 million as of September 30, 2015, which constituted approximately 21% of total assets. During the FY 2015 audit, Respondents identified a significant risk concerning the existence of accounts receivable. Despite this risk, Respondents failed to plan and perform sufficient audit procedures to address the risk and to determine whether the accounts receivable were properly recorded and properly valued. Respondents failed to perform any confirmation procedures concerning Issuer A's accounts receivable balance, and failed to document how they overcame the presumption that such confirmation procedures were required. Although Respondents examined Issuer A's bank statements and accounts receivable ledger to determine whether customers with large receivable balances made payments after year end, Respondents failed to match any of those cash receipts to invoices outstanding at year-end. As a result, Respondents failed to determine if the payments related to specific accounts receivable balances that should have been recorded at year end.

20. Issuer A reported finished goods and work-in-progress inventory of approximately $3.2 million as of September 30, 2015, which constituted approximately 14% of total assets. Respondents failed to perform sufficient procedures to test whether the finished goods and work-in-progress inventory were properly recorded and properly valued. Specifically, although observing inventory is a generally accepted auditing procedure,[30] Respondents failed to observe the issuer's inventory count for finished goods and work-in-progress and failed to perform any other audit procedures to test the quantities on hand for these inventories.[31] Further, although Respondents obtained Issuer A's computations of the value for certain work-in-progress and finished goods inventory, Respondents failed to perform procedures to evaluate the reasonableness of Issuer A's estimates of the value of these inventories.

The FY 2016 Issuer A Audit

21. Bharat Parikh served as the engagement partner on the FY 2016 Issuer A audit and Anuj Parikh served as the engagement manager. Bharat Parikh authorized the issuance of BPA's audit report, dated December 28, 2016, which contained an unqualified opinion on Issuer A's FY 2016 financial statements. Issuer A included the audit report in its Form 10-K, which was filed with the Commission on the same day.

22. Issuer A reported accounts receivable of approximately $13.6 million as of September 30, 2016, which constituted approximately 24% of total assets. Respondents again identified a significant risk concerning the existence of accounts receivable. Despite this risk, Respondents failed to plan and perform sufficient audit procedures to address the risk and to determine whether the accounts receivable were properly

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[30] See AS 2510, *Auditing Inventories* (formerly, AU § 331), ¶ 1.

[31] See AS 2510 ¶¶ 9-12.

recorded and properly valued. The engagement team sent confirmation requests for accounts receivable of $13.1 million at year-end 2016, but received no responses. The engagement team performed alternative procedures for nonresponses, consisting of tracing the receivables to subsequent cash receipts of approximately $5.7 million, or 44% of the amount selected for confirmation. However, Respondents then failed to evaluate the combined evidence provided by the confirmations and the alternative procedures to determine whether sufficient evidence had been obtained about the existence and value of the receivables balance, or whether additional procedures needed to be performed.[32]

23. Issuer A reported inventory of approximately $14.1 million as of September 30, 2016, which constituted approximately 25% of total assets. Respondents failed to perform sufficient procedures to test whether inventory was properly valued. Specifically, Respondents failed to perform any procedures to test the unit costs assigned to inventory items at year-end 2016. While Respondents performed certain analytical procedures concerning the ending inventory balance, those analytical procedures did not serve as a substantive audit procedure because Respondents failed to develop a sufficiently precise expectation for those analytics to provide the desired level of assurance that potential misstatements would be identified.

24. Issuer A's FY 2016 financial statements consolidated the financial accounts of eight subsidiaries incorporated in four countries.[33] Issuer A's FY 2016 consolidation included the financial accounts for certain subsidiaries which were denominated in currencies other than U.S. dollars and, therefore, needed to be translated into U.S. dollars for consolidation purposes. Issuer A disclosed that it eliminated intercompany transactions and balances such as intercompany purchases and sales and related intercompany payables and receivables. Respondents failed to perform sufficient audit procedures to test whether Issuer A's consolidated financial statements agreed or reconciled with the underlying accounting records, including whether foreign currency translations and intercompany eliminations were appropriately recorded.[34]

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[32] See AS 2310 ¶¶ 33.

[33] A consolidated financial statement is a statement that brings together all assets, liabilities, and operating accounts of a parent company and its subsidiaries. It presents the financial position and results of operation of the parent company and its subsidiaries as if the group were a single company with one or more branches. In order to do this, all intercompany transactions and intercompany relationships must be eliminated. See ASC 810, *Consolidation*.

[34] See AS 2301 ¶ 41a.

The FY 2017 Issuer A Audit

25. Bharat Parikh served as the engagement partner on the FY 2017 Issuer A audit and Anuj Parikh served as the engagement manager. Bharat Parikh authorized the issuance of BPA's audit report, dated December 13, 2017, which contained an unqualified opinion on Issuer A's FY 2017 financial statements. Issuer A included the audit report in its Form 10-K, which was filed with the Commission on the same day.

26. Issuer A reported accounts receivable of $15.5 million as of September 30, 2017, which constituted approximately 22% of total assets. Respondents again identified a significant risk concerning the existence of accounts receivable. Despite this risk, Respondents failed to plan and perform sufficient audit procedures to address the risk and to determine whether the accounts receivable were properly recorded and properly valued. Respondents failed to perform confirmation procedures for two of Issuer A's subsidiaries with accounts receivable totaling $7 million, which constituted approximately 10% of total assets, and failed to document how they overcame the presumption that confirmation procedures at these subsidiaries were required.

27. For Issuer A's other subsidiaries, Respondents selected accounts receivable totaling $6.5 million for confirmation, and performed alternative procedures for nonresponses, consisting of tracing the receivables to subsequent cash receipts. Respondents received responses for accounts totaling approximately $540,000, and traced approximately $2.9 million of the receivable balance to subsequent cash receipts recorded in company-generated spreadsheets.[35] Respondents, however, failed to test the completeness and accuracy of the spreadsheets used to test for subsequent cash receipts. Respondents also failed to evaluate the combined evidence provided by the confirmations and the alternative procedures to determine whether sufficient evidence had been obtained about the existence and value of the total $15.5 million accounts receivable balance, or whether additional procedures needed to be performed.

28. Issuer A's FY 2017 financial statements consolidated the financial accounts of ten subsidiaries incorporated in four countries. Issuer A's FY 2017 consolidation once again included the financial accounts for certain subsidiaries which were denominated in currencies other than U.S. dollars and, therefore, needed to be translated into U.S. dollars for consolidation purposes. Issuer A disclosed that it eliminated intercompany transactions and balances such as intercompany purchases and sales and related intercompany payables and receivables. Respondents failed to perform sufficient audit procedures to test whether Issuer A's consolidated financial statements agreed or reconciled with the underlying accounting records, including

[35] For approximately $3 million of the receivables, Respondents did not receive a confirmation response or obtain evidence of subsequent cash receipts, and failed to perform any other alternative procedure.

whether foreign currency translations and intercompany eliminations were appropriately recorded.

2. The Issuer B Audits

29. Issuer B was, at all relevant times, a Nevada corporation with its principal office located in Gdansk, Poland. Issuer B's public filings disclosed that it was a development-stage company engaged in the distribution of office chair products in the United States. At all relevant times, Issuer B was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

The FY 2015 Issuer B Audit

30. BPA became Issuer B's auditor after responding to an email solicitation. The solicitation requested, among other things, that any recipient interested in performing the audit answer "[i]f you can do everything over email only (no visit required)." After Bharat Parikh expressed interest in the engagement, Issuer B asked for confirmation that BPA would not visit Issuer B during the audit, which Bharat Parikh confirmed. After obtaining this confirmation, Issuer B engaged BPA as its independent auditor.

31. Bharat Parikh served as the engagement partner on the FY 2015 Issuer B audit and Anuj Parikh served as the engagement manager. Bharat Parikh authorized the issuance of BPA's audit report, dated September 18, 2015, which contained an unqualified opinion on Issuer B's FY 2015 financial statements. Issuer B included the report in its Form S-1, which was filed with the Commission on October 13, 2015, and in three subsequent Forms S-1/A.

32. Issuer B was incorporated approximately two months prior to its May 31, 2015 fiscal year end. It disclosed in its Form S-1 that it had no employees, and that its sole officer and director had "no professional training or experience in the distribution of office chair products." Issuer B reported $30,873 in revenues for FY 2015, consisting of a single sale of office chairs five days before the end of the fiscal year, with cost of goods sold of $16,393. Approximately 74% of the company's assets at year-end were attributed to an office building that it reported to have purchased two days before year-end. Its only other asset was cash.

33. When planning the FY 2015 audit, BPA and Bharat Parikh failed to comply with PCAOB standards. They failed to establish an overall audit strategy for the engagement or to develop and document an audit plan that included planned risk assessment procedures and planned responses to the risks of material misstatement.[36] BPA and Bharat Parikh also failed to identify and assess inherent risk, control risk, and

[36] See AS 2101 ¶¶ 4-5, 10; see also AS 2110.

the risk of material misstatement at the financial statement level and the assertion level.[37]

34. Respondents also failed to obtain sufficient appropriate audit evidence concerning the issuer's reported revenue, cost of sales, cash, and real property. In particular, Respondents relied exclusively on audit evidence that was provided by the company, while failing to perform procedures to test the accuracy and completeness of the audit evidence.[38] Respondents' principal audit procedures for revenue, cost of sales, cash, and real property consisted of tracing recorded transactions and balances to entries and balances in company-provided bank statements, copies of checks, invoices and contracts. However, Respondents failed to take any steps to authenticate or otherwise determine the reliability of any of those company-provided documents, and failed to evaluate whether the information contained in them was sufficient and appropriate evidence for purposes of the audit.[39]

35. PCAOB standards provide that an auditor should presume that there is a risk of material misstatement due to fraud for revenue.[40] During the audit, Respondents were aware that Issuer B recorded its single revenue transaction at an 88% mark-up despite disclosing in its Form S-1 that it sold its products at a 15–20% mark-up. Respondents were also aware that Issuer B did not record any marketing or delivery expense related to the sale. Nevertheless, Respondents failed to perform any procedures to respond to the risk of fraud, failed to seek any reliable evidence to corroborate that the purchase or sale transaction had actually taken place, and failed to seek any evidence that Issuer B's supplier or customer actually existed.[41]

36. Respondents likewise failed to seek reliable evidence that the office building in Poland existed, that Issuer B had actually acquired the building, or whether there was any unrecorded debt associated with that asset. Respondents traced the purchase price amount to a bank statement and a check copy, and obtained from management two Polish-language documents which management indicated were related to the building purchase. Respondents, however, failed to perform any procedures to authenticate or otherwise determine the reliability of either document. Additionally, although Polish land and mortgage registry (*księga wieczysta*) information was publicly available over the internet, Respondents did not attempt to independently

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37 See AS 2110 ¶ 59.

38 See AS 1105 ¶ 10.

39 See AS 1105 ¶¶ 8, 10.

40 See AS 2110 ¶ 68.

41 See AS 2301 ¶ 13; AS 1105 ¶¶ 4-6.

verify the existence or the ownership of the building, or to determine whether there were any liens on the property.

37. Finally, although Respondents had planned to perform a bank confirmation procedure to verify the company's cash balance, they failed to perform that procedure at the audit client's request. Respondents also failed to obtain any other reliable evidence to support that the company's reported cash assets actually existed.

38. As a result of the foregoing, Respondents failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for the Firm's opinion.

39. Bharat Parikh also failed to assess with due professional care whether the scope limitations placed on the audit required disclosure in the audit report and a qualified opinion.[42] BPA's audit report failed to disclose that it had been restricted from visiting Issuer B's office and from performing a bank confirmation in connection with the FY 2015 audit.

The FY 2016 Issuer B Audit

40. Bharat Parikh served as the engagement partner on the FY 2016 Issuer B audit and Anuj Parikh served as the engagement manager. Bharat Parikh authorized the issuance of BPA's audit report, dated August 30, 2016, containing an unqualified opinion on Issuer B's FY 2016 financial statements. Issuer B included that report in its Form 10-K, which was filed with the Commission on September 8, 2016.

41. For FY 2016, Issuer B reported revenue of $132,821, and cost of goods sold of $125,434, consisting of four transactions all with the same customer and the same supplier as in FY 2015. Respondents again failed to plan and perform sufficient procedures to respond to the risk of fraud. Similar to the prior year, Respondents exclusively relied upon management-provided documents to test those accounts, while failing to take any steps to authenticate or otherwise determine the reliability of those documents. Respondents' principal test for revenue and cost of sales consisted of matching entries on management-provided bank statements to amounts listed on management-provided invoices. Respondents again failed to seek any evidence that Issuer B's sole customer and sole supplier actually existed, or to obtain reliable evidence that the transactions had actually occurred. Although management provided Respondents with documents that management claimed were proofs of delivery to its customer for three of the sales transactions, those documents were typewritten, bore no signature, and did not indicate: the shipper, the product delivered, or that Issuer B was the seller.

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[42] See AS 3101 ¶¶ 22-24.

42. Respondents also failed to plan and perform sufficient audit procedures to address a fraud risk they identified related to a reported $39,847 expense for the development of a custom brand office chair. The original management-provided invoice for that expense, dated May 3, 2016, identified the customer as another entity with no known connection to Issuer B. After management provided a new copy of the invoice to BPA, which identified Issuer B as the customer, Respondents sent a confirmation request to the vendor, using the email address that appeared on the management-provided invoice, and received a response from that same e-mail address. Respondents, however, failed to obtain evidence to support the validity of the response.[43] In particular, Respondents failed to take any steps to verify the existence of the vendor or that the e-mail address on the invoice was associated with that vendor. Additionally, the confirmation response only acknowledged the existence of a contract, and did not provide evidence concerning the terms of the contract, whether payment had been received, or whether the services of the contract had been provided.

43. In addition, Respondents failed to perform any audit procedures in connection with Issuer B's office building asset, which constituted more than 96% of total assets and was a significant account.

44. As a result of the foregoing, Respondents failed to obtain sufficient appropriate evidence to provide a reasonable basis for the Firm's opinion.

D. Respondents Failed to Prepare Sufficient Audit Documentation

45. PCAOB standards require that auditors document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[44] "Audit documentation must clearly demonstrate that the work was in fact performed."[45] Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to: (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review.[46]

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[43] See AS 2310 ¶¶ 27, 29.

[44] See AS 1215 ¶ 6, *Audit Documentation* (formerly, Auditing Standard No. 3).

[45] Id. ¶ 6.

[46] See id.

46. Respondents violated the foregoing standards during each of the Issuer A audits because the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed.

E. Bharat Parikh Failed to Appropriately Supervise the Audits

47. PCAOB standards require that an audit engagement be supervised.[47] The engagement partner is responsible for proper supervision of the work of engagement team members and for compliance with PCAOB standards.[48] Supervising an audit engagement includes reviewing the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work support the conclusions reached.[49]

48. As the engagement partner, Bharat Parikh was responsible for proper supervision of the work of the Issuer A and Issuer B engagement team members and for compliance with PCAOB standards.[50] Bharat Parikh was required to review the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[51] However, the work papers for the Issuer A and Issuer B audits indicate that Bharat Parikh failed to review any of the documentation relating to the substantive procedures performed by the BPA engagement teams. As discussed above, Bharat Parikh and the engagement teams failed to obtain sufficient appropriate audit evidence in several areas during the Issuer A and Issuer B audits, and failed to adequately document the work performed during those audits. As a result, Bharat Parikh failed to appropriately supervise these audit engagements.

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[47] See AS 1201, *Supervision of the Audit Engagement* (formerly, Auditing Standard No. 10), ¶ 2.

[48] See id. ¶ 3.

[49] See id. ¶ 5c.

[50] See id. ¶ 3.

[51] See id. at ¶ 5c.

F. Respondents Failed to Comply with the Engagement Quality Review Requirements

49. For audit engagements, AS 1220 requires that an engagement quality review be performed pursuant to PCAOB standards.[52] AS 1220 also states that the engagement quality reviewer must be independent of the company, perform the engagement quality review with integrity, and maintain objectivity in performing the review.[53] To maintain objectivity, the engagement quality reviewer should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team.[54]

50. Anuj Parikh concurrently served as both the engagement quality reviewer and engagement manager for the FY 2014 and 2015 Issuer A audits and the FY 2015 Issuer B audit. As engagement manager, Anuj Parikh made decisions on behalf of the engagement team and assumed substantial responsibilities of the engagement team. As a result, Anuj Parikh failed to maintain objectivity as the engagement quality reviewer, and the Firm failed to obtain concurring approvals of issuance from an engagement quality reviewer who maintained objectivity during these audits, in violation of AS 1220.

51. In his roles as the Firm's managing partner and engagement partner for each of those audits, Bharat Parikh was responsible for the assignment of BPA personnel and had direct knowledge that Anuj Parikh was concurrently serving as engagement manager and engagement quality reviewer. As a result, Bharat Parikh knowingly or recklessly contributed to the Firm's violation of AS 1220, in violation of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

G. The Firm Failed to Maintain an Adequate System of Quality Control and Bharat Parikh Contributed to that Failure

52. PCAOB rules and standards require that a registered public accounting firm comply with the Board's quality control standards.[55] PCAOB quality control standards require that a registered public accounting firm "shall have a system of quality

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[52] See AS 1220 ¶ 1.

[53] See id. at ¶ 6.

[54] See id. at ¶ 7.

[55] See PCAOB Rule 3400T, *Interim Quality Control Standards.*

control for its accounting and auditing practice."[56] Pursuant to those standards, a registered firm should establish quality control policies and procedures to provide the firm with reasonable assurance that, among other things: personnel maintain objectivity in discharging their professional responsibilities;[57] and the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[58]

53. Throughout the relevant time period of 2014 through 2017, the Firm violated PCAOB quality control standards because it failed to maintain an adequate system of quality control. As described above, BPA failed to have in place adequate policies and procedures to provide reasonable assurance that the Firm and its personnel maintained objectivity and performed and documented their work in accordance with PCAOB auditing standards. Among other things, BPA's deficient system of quality control permitted the Firm to repeatedly (1) fail to perform procedures necessary to comply with PCAOB standards during the course of the audits described herein, (2) fail to comply with PCAOB audit documentation requirements, and (3) assign the engagement quality reviewer role to a person who was not objective.

54. At all relevant times, Bharat Parikh served as the Firm's managing partner and held ultimate responsibility for the Firm's adopting and maintaining an adequate system of quality control. In that role, Bharat Parikh took, or omitted to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violations of PCAOB's quality control standards. As a result, Bharat Parikh violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Bharat Parikh & Associates Chartered Accountants, Bharatkumar Balmukund Parikh, FCA, and Anuj Bharatkumar Parikh are hereby censured;

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[56] Quality Control ("QC") § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[57] See QC § 20.09.

[58] See QC §§ 20.17-.18.

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Bharatkumar Balmukund Parikh, FCA, and Anuj Bharatkumar Parikh are each barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[59]

C. After five (5) years from the date of this Order, Bharatkumar Balmukund Parikh, FCA, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. After one (1) year from the date of this Order, Anuj Bharatkumar Parikh, may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

E. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Bharat Parikh & Associates Chartered Accountants is revoked;

F. After five (5) years from the date of the Order, Bharat Parikh & Associates Chartered Accountants may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon Bharat Parikh & Associates Chartered Accountants. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay the civil money penalty imposed withinthirty (30) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter that

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[59] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to both Bharatkumar Balmukund Parikh, FCA, and Anuj Bharatkumar Parikh. Section 105(c)(7)(B) provides: “It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission.”

identifies the Firm as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of said cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

March 19, 2019

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Raich Ende Malter & Co. LLP,* *Respondent.*	PCAOB Release No. 105-2019-009 April 9, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Raich Ende Malter & Co. LLP ("Respondent" or "Firm"), imposing a civil money penalty of $15,000 on the Firm, and requiring the Firm to undertake certain remedial measures. The Board is imposing these sanctions on the basis of its findings that Respondent violated Section 10A(j) of the Securities Exchange Act of 1934 ("Exchange Act"), Exchange Act Rule 10A-2, and PCAOB rules and standards in connection with the Firm's audits of two issuer audit clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, the Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Raich Ende Malter & Co. LLP is, and at all relevant times was, a New York limited liability partnership headquartered in East Meadow, New York. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accounting in New York (Lic. No. 77-41150), New Jersey (Lic. No. 20CZ00005800) and other jurisdictions. At all relevant times, the Firm was the independent auditor for the two issuers discussed in this Order.

B. Summary

2. This matter concerns Respondent's violations of Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, and PCAOB rules and standards that require a registered public accounting firm and its associated persons be independent of the firm's issuer audit clients throughout the audit and professional engagement period. Respondent was not independent of Issuer A, an audit client, during one audit and professional engagement period because a Firm partner served as lead or concurring partner on the audits of Issuer A's financial statements for more than five consecutive years.[2]

3. Respondent also violated the mandatory, two-year "cooling-off" period for former engagement partners under Auditing Standard 1220, *Engagement Quality Review* ("AS 1220") (formerly AS 7).[3] For two years of audits of Issuer B, Respondent assigned as the engagement quality reviewer an individual who previously had served as the engagement partner for that client in the prior year, in violation of the mandatory two-year "cooling off" period for former engagement partners.

4. This matter also concerns Respondent's violations of PCAOB quality control standards by failing to establish and implement quality control policies and procedures sufficient to provide Respondent with reasonable assurance that Firm

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[2] See Section 10A(j) of the Exchange Act; Exchange Act Rule 10A-2; PCAOB Rule 3520, *Auditor Independence*; and AS 1005, *Independence* (formerly AU 220). All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017).

[3] See AS 1220.08.

personnel would comply with applicable professional standards, specifically the partner rotation and mandatory two-year "cooling-off" requirements, and that its monitoring procedures were effective.

C. The Firm Violated PCAOB and Exchange Act Rules, and PCAOB Auditing Standards

The Partner Rotation Requirements

5. In connection with the preparation and issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards.[4] PCAOB rules and standards require a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[5] A registered public accounting firm's independence obligation with respect to an issuer audit client encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Securities and Exchange Commission ("Commission") under the federal securities laws.[6]

6. Section 10A(j) of the Exchange Act provides, "It shall be unlawful for a registered public accounting firm to provide audit services to an issuer if the lead (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, has performed audit services for that issuer in each of the 5 previous fiscal years of that issuer." Exchange Act Rule 10A-2 provides that it shall be unlawful for an auditor not to be independent with respect to the partner rotation requirements of Commission Regulation S-X, among other requirements.

7. Rule 2-01 of Commission Regulation S-X provides that an accountant is not independent of an audit client when an audit partner performs the services of lead or concurring audit partner for the same issuer for more than five consecutive years.[7] At all relevant times, the Firm had more than 5 issuer audit clients and more than 10

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[4] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards.*

[5] See PCAOB Rule 3520; see also AS 1005.

[6] See PCAOB Rule 3520, Note 1.

[7] See Rule 2-01(c)(6)(i)(A)(1) of Regulation S-X, 17 C.F.R. § 210.2-01(c)(6)(i)(A)(1).

partners and did not qualify for the exemption in Rule 2-01 from this requirement for small firms.[8]

8. At all relevant times, Issuer A was a limited partnership formed under the laws of the State of Delaware. Its principal business was to invest as a limited partner in other partnerships that were eligible for low-income tax credits under the Tax Reform Act of 1986. Issuer A's limited partnership interests and beneficial assignment certificates were securities registered pursuant to Section 12(g) of the Exchange Act. At all relevant times, Issuer A was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. The Firm audited Issuer A's financial statements for the fiscal years ended ("FYE") March 31, 2012 through FYE March 31, 2017. For each of these six audits of Issuer A, the Firm issued unqualified audit reports that were filed with the Commission. During the FYE 2012 audit of Issuer A, the Firm assigned an individual to serve as the engagement quality review ("EQR") partner. This individual continued to serve on the audits of Issuer A as the engagement partner for FYE 2013 through FYE 2017.

10. During the FYE 2017 audit and professional engagement period, the Firm was not independent of Issuer A because the engagement partner had served for more than five consecutive years on Issuer A's engagement, first as the EQR partner during the FYE 2012 audit followed by his service as the engagement partner for the FYE 2013 through FYE 2017 audits. As a result, the Firm failed to comply with Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520 and AS 1005.

The Cooling Off Period Violations

11. AS 1220.01 requires an EQR be performed on audit engagements, reviews of interim financial information, and certain attestation engagements conducted pursuant to PCAOB standards. AS 1220.08 further provides that "[t]he person who served as the engagement partner during either of the two audits preceding the audit subject to the EQR may not be the engagement quality reviewer."[9] The Firm failed to comply with AS 1220.08 as described below.

12. At all relevant times, Issuer B was an emerging growth company in the beverage industry incorporated in the State of Delaware with its principal office in New York, New York. Its shares were registered under Section 12(g) of the Exchange Act and were quoted on the OTCQB. At all relevant times, Issuer B was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). The Firm audited Issuer B's financial statements for FYE May 31, 2015 through FYE May 31,

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[8] Id. at § 210.2-01(c)(6)(ii).

[9] The Firm did not qualify for the small firm exemption under Rule 2-01(c)(6)(ii) of Regulation S-X, 17 C.F.R. § 210.2-01(c)(6)(ii), which also applies to the mandatory two-year "cooling off" requirement of AS 1220.08.

2017 and issued unqualified audit reports that were filed with the Commission. The engagement partner who served on Issuer B's FYE 2015 audit also served as the engagement quality reviewer on the FYE 2016 and FYE 2017 audits without satisfying the mandatory two-year "cooling-off" period for former engagement partners in violation of AS 1220.

D. The Firm Violated PCAOB Rules and Standards Related to Quality Control

13. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[10] PCAOB quality control standards require that a registered public accounting firm establish policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[11] Quality control policies and procedures should be established to provide the firm with reasonable assurance that personnel maintain independence (in fact and in appearance) in all required circumstances, which includes compliance with the Commission's independence requirements.[12] The policies and procedures also should address EQRs pursuant to AS 1220.[13] A firm should also have monitoring procedures to enable it to obtain reasonable assurance that its system of quality control is effective.[14]

14. Throughout the relevant time period, the Firm failed to implement and maintain a system of quality control that would provide it with reasonable assurance that the work performed by the engagement personnel complied with applicable professional standards. First, the Firm failed to establish policies and procedures to ensure compliance with partner rotation independence requirements, including failing to sufficiently monitor the number of years individuals served as engagement partner or EQR partner on an issuer audit engagement. Second, the Firm also failed to establish and implement quality control policies and procedures to provide reasonable assurance that the Firm would comply with the mandatory two-year "cooling-off" requirement of AS 1220.

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[10] PCAOB Rule 3400T, *Interim Quality Control Standards*.

[11] QC § 20.17, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[12] QC § 20.09.

[13] QC § 20.18.

[14] QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Raich Ende Malter & Co. LLP is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon Raich Ende Malter & Co. LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Raich Ende Malter & Co. LLP shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Raich Ende Malter & Co. LLP as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Raich Ende Malter & Co. LLP is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or review and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with the partner rotation requirements of Section 10A(j) of the Exchange Act, Exchange Act Rule 10A-2 and Rule 2-01 (c)(6)(i)(A)(1) of the Commission's Regulation S-X, and the mandatory two-year "cooling-off" period set forth in AS 1220.08;

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent basis, concerning the partner rotation and mandatory two-year "cooling off" requirements, of any Firm audit personnel who

participate in any way in the planning or performing of any audit services (as defined in PCAOB Rule 1001(a)(vii)); and

3. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

April 9, 2019

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of KPMG Audit Limited and Damion J. Henderson, CA*, *Respondents.*	PCAOB Release No. 105-2019-008 April 9, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring KPMG Audit Limited ("KPMG Bermuda" or the "Firm"); (2) imposing a civil money penalty in the amount of US $250,000 upon the Firm; (3) requiring KPMG Bermuda to undertake and certify the completion of certain improvements to the Firm's system of quality control; (4) censuring Damion J. Henderson, CA (collectively, with KPMG Bermuda, the "Respondents"); (5) imposing a civil money penalty in the amount of US $10,000 upon Henderson; and (6) limiting Henderson's role in the Firm's system of quality control for a period of two (2) years from the date of this Order.

The Board is imposing these sanctions on the basis of its findings that, from 2014 to 2015, KPMG Bermuda's system of quality control failed to provide reasonable assurance that Firm personnel would comply with applicable professional standards and the firm's standards of quality, including with respect to performing all professional responsibilities with integrity. Through his acts and omissions, Henderson directly and substantially contributed to the Firm's violations. Respondents' violations related to current and former Firm personnel re-executing and backdating certain independence affidavits to replace misplaced original documents that they had previously executed, in advance of, and because of, a Board inspection.

I.

On March 21, 2019, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 (the "Act"), as amended, and PCAOB Rule 5200(a)(1) against Respondents. These proceedings were not public pursuant to Section 105(c)(2) of the Act and PCAOB Rule 5203. The Board determined, under Section 105(c)(2) and PCAOB Rule 5203, that good cause was shown to make the hearing in this proceeding public, and the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. Respondents submitted their Offers of Settlement pursuant to PCAOB Rule 5205 on March 22, 2019. Respondents did not file an answer and therefore did not consent to making the hearing public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents each consent to the entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:

A. Respondents

1. **KPMG Audit Limited** is a limited liability company headquartered in Hamilton, Bermuda. KPMG Bermuda registered with the Board on June 14, 2004.[2] The Firm is licensed to practice public accountancy by The Chartered Professional Accountants of Bermuda ("CPA Bermuda"). KPMG Bermuda is a member of the KPMG International Cooperative network of firms.

2. **Damion J. Henderson**, CA, 48, of Hamilton, Bermuda, is a chartered accountant licensed by the Institute of Chartered Accountants of England and Wales (license no. 8440803) and CPA Bermuda. Henderson is a managing director (the equivalent of a partner) of KPMG Bermuda. At all relevant times, Henderson was in charge of the Firm's Ethics and Independence Department ("E&I Department") and supervised the work of E&I Department staff (*e.g.*, the Senior Manager and the Administrative Assistant, as defined below). At all relevant times, Henderson was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[1] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2] On June 14, 2004, the Firm's predecessor, Butterfield & Steinhoff Holdings ("Butterfield"), registered with the Board. On February 1, 2010, Butterfield changed its legal name to "KPMG." And on September 24, 2012, KPMG Bermuda succeeded to KPMG's registration with the Board.

B. Other Relevant Persons

3. The "Senior Manager" is a former employee of KPMG Bermuda who, at all relevant times, provided manager support to the E&I Department. At all relevant times, the Senior Manager was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

4. The "Administrative Assistant" is a former employee of KPMG Bermuda who, at all relevant times, was an administrative assistant at the Firm, and who provided administrative support to the E&I Department.

C. Summary

5. This matter concerns KPMG Bermuda's failure to establish and maintain a system of quality control to provide reasonable assurance that Firm personnel would comply with applicable professional standards and the Firm's own standards of quality. These failures related to the implementation and monitoring of the Firm's own written standards of quality concerning: (a) independence, integrity, and objectivity; (b) preparing and maintaining appropriate documentation for a sufficient period of time; and (c) training Firm personnel concerning the preparation and retention of appropriate documentation, including making appropriate documentation available to the Board's inspectors. This matter also concerns Henderson's conduct, which directly and substantially contributed to the failure of the Firm's system of quality control.

6. In October 2014, E&I Department personnel learned that they had misplaced written independence confirmations, which the Firm referred to as "affidavits," for 27 present and former employees. In response to the discovery of the misplaced affidavits, the E&I Department asked these employees to re-execute the affidavits in the same manner as they had executed the original affidavits, and to backdate the re-executed affidavits to approximate the date that they had signed the originals. Most of these employees complied and returned these documents to the E&I Department. Henderson and the Senior Manager then backdated their own initials on the re-executed affidavits to approximate the date that they had reviewed and dated the original affidavits.

7. The Board conducted an inspection of KPMG Bermuda in the spring of 2015. During the inspection, the Firm made a binder of affidavits available to Board inspectors. That binder included certain of the affidavits that had been re-executed and backdated in advance of the inspection. At no time did Henderson or any other Firm personnel disclose to Board inspectors that the original affidavits had been lost, re-executed, and back-dated.

8. Prior to misplacing the affidavits, KPMG Bermuda had adopted its Quality & Risk Manual ("Manual"), which set forth certain policies and procedures of the Firm.

Among other things, the Manual discussed how Firm personnel should: (a) maintain integrity and objectivity; (b) prepare and maintain appropriate documentation; and (c) conduct themselves in connection with regulatory inspections. However, the Firm failed to implement appropriately these policies and procedures, including by failing adequately to train Firm personnel, such that multiple people at the Firm: (a) failed to maintain appropriate documentation for a sufficient period of time; and (b) failed to understand that it was not permissible to re-execute and backdate missing documents and to present such documents to the Board's inspectors without indicating that these documents were not originals.

9. As a result of this conduct, the Firm failed to comply with PCAOB quality control standards. Through his acts and omissions, Henderson, the head of the E&I Department, directly and substantially contributed to the Firm's violations.

D. Factual Background

The Independence Affidavit Process at KPMG Bermuda

10. During 2014 and 2015, KPMG Bermuda's system of quality control included policies and procedures intended to provide reasonable assurance that Firm personnel maintained independence.[3] Those policies and procedures required, among other things, that Firm personnel execute written independence confirmations ("Independence Affidavits") periodically during their employment at the Firm, including: (a) when an individual joined the Firm ("Starter"); (b) when the individual departed the Firm ("Leaver"); and (c) annually, in October of each year ("Annual").

11. Starters and Leavers were required to fill out Independence Affidavits and present the completed, hard-copy documents to the E&I Department. The Independence Affidavits for the Starters and Leavers were reviewed and signed off by the Senior Manager. The Independence Affidavits were then presented to Henderson for his review and sign off. The sign offs of Henderson and the Senior Manager included their initials and the respective dates that they each had reviewed the executed documents.

12. After review and sign off by Henderson and the Senior Manager, the Administrative Assistant typically placed the completed, hard-copy Independence Affidavits in a binder, and the E&I Department maintained these documents for the

[3] Such policies and procedures are mandated by PCAOB quality control standards. See QC § 20.09, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* (requiring firms to have policies and procedures to provide reasonable assurance that personnel maintain independence).

Firm. The E&I Department did not have any backup system in place in the event that the original Independence Affidavits were lost or destroyed.

The Firm Misplaced 27 Independence Affidavits in Fall 2014

13. In October 2014, the Administrative Assistant, the Senior Manager, and Henderson each understood that the E&I Department had misplaced 27 Independence Affidavits: 10 for Starters; and 17 for Leavers. Among the missing documents were Independence Affidavits for personnel who had worked on issuer audits. As a result of losing these Independence Affidavits, on December 5, 2014, before the Firm was formally notified of an upcoming PCAOB inspection, the Administrative Assistant asked each of the 10 Starters to re-execute their missing Independence Affidavits and to backdate the re-executed affidavits to approximate the date that they had signed the originals. Each of the 10 Starters complied with this request from the E&I Department.

14. Henderson and the Senior Manager in the E&I Department backdated their own sign offs on each of these re-executed Starter Independence Affidavits, to approximate the date that they had originally reviewed and initialed the documents. In doing so, Henderson and the Senior Manager did not indicate that the documents were not originals.

15. At the time that Henderson and the Senior Manager backdated their sign offs on these re-executed Starter Independence Affidavits, they understood that the Board would inspect the Firm in 2015, as part of the Board's inspection program.

16. In December 2014, the E&I Department presented a training module to Firm personnel that discussed the upcoming inspection. The E&I Department advised Firm personnel that the Independence Affidavit process would be an area of focus for the Board during the upcoming 2015 inspection. Specifically, the E&I Department PowerPoint presentation included a reference to "Areas of focus by PCAOB during inspection: E&I training and education; Affidavit process/personal compliance audits."

Steps Taken Following Notice of the Inspection

17. On December 15, 2014, the Board formally notified KPMG Bermuda that inspection field work would take place in May 2015. And in early January 2015, the Board requested documents and information from the Firm including documents and information from the E&I Department.

18. In mid-January 2015, the Firm notified personnel that KPMG Bermuda would be inspected in May 2015. Beginning in February 2015, the Administrative Assistant contacted the 17 Leavers whose Independence Affidavits the Firm had misplaced. The Administrative Assistant asked the Leavers to re-execute their missing Independence Affidavits in the same manner as they had executed the original

affidavits, and to backdate the re-executed affidavits to approximate the date that they had signed the originals. Fifteen of the 17 Leavers complied with these requests. The Administrative Assistant stated "[i]t is imperative that we have [the Independence Affidavits] on file as we are preparing for PCAOB inspection."

19. Significantly, one of the Leavers raised concerns to the Senior Manager about re-executing and backdating his Independence Affidavit. In response to the Leaver's concerns, the Senior Manager emailed the Leaver, on February 9, 2015: "I completely understand where you are coming from, as it is unreasonable of us to expect this. The only reason we are asking is that the Firm, including the E&I function, is being inspected by the PCAOB in May 2015 covering the previous 12 months."

20. As with the missing Starter Independence Affidavits, both Henderson and the Senior Manager backdated their sign offs on the re-executed Leaver Independence Affidavits without indicating that the documents were not originals.

21. In mid-April 2015, the Board requested that the Firm make available to the Board's inspectors Annual Independence Affidavits for Firm partners and managers who worked on the three engagements the inspectors selected for inspection. The Firm instructed Henderson to take responsibility for gathering the requested Independence Affidavits.

22. The Administrative Assistant, acting at the direction of Henderson, assembled a binder to be made available to the Board's inspectors. In addition to the partner and manager Annual Independence Affidavits specifically requested by the inspectors, the Administrative Assistant included Annual Independence Affidavits and Leaver Independence Affidavits for all engagement team members who worked on the audits subject to the inspection. While all of the requested Annual Independence Affidavits included in the binder were originals, at least two of the Leaver Independence Affidavits were re-executed and backdated.

23. On Sunday May 3, 2015, immediately before the Board's inspection commenced on Monday May 4, 2015, the Administrative Assistant emailed Henderson, stating "I have a few affidavits that need to be signed before putting copies in the binder." Henderson replied, one minute later: "On way in now."

24. Henderson and the Administrative Assistant continued their efforts to obtain re-executed and backdated Independence Affidavits after the Board's inspection commenced. On May 5, 2015, Henderson called a Leaver who previously had worked on an issuer audit subject to the inspection who had not yet provided a re-executed and backdated Independence Affidavit. On May 6, 2015, the Leaver emailed her re-executed and backdated Independence Affidavit to the Administrative Assistant and Henderson. That same day, Henderson and the Senior Manager backdated their sign offs on the Leaver's Independence Affidavit to approximate the date that they had

reviewed the original document. The Leaver Independence Affidavit ultimately was placed into the binder that the E&I Department prepared for the Board's inspectors.

25. The E&I Department made the binder available to the Board's inspectors. At no time did Henderson or any other Firm personnel disclose to the Board's inspectors either that the binder contained re-executed documents or that the Firm had lost certain original Starter and Leaver Independence Affidavits.

26. After the Board opened an informal inquiry in this matter, the Firm conducted an internal investigation and the Firm ultimately located substantially all of the misplaced original Independence Affidavits, which were substantially similar to the re-executed documents. None of these misplaced original Independence Affidavits that were located identified violations of independence policies by the Starters and Leavers.

The Firm's Written Policies and Procedures

27. At the time the Independence Affidavits were re-executed and backdated, the Firm's written policies and procedures, as set forth in its Manual, discussed how Firm personnel should: (a) maintain independence, integrity and objectivity; (b) prepare and maintain appropriate documentation; and (c) conduct themselves in connection with regulatory inspections. For instance, the Firm had written policies and procedures, set forth in the Manual: (i) stating that Firm personnel shall maintain their integrity and objectivity, and exercise a high standard of professional judgment; (ii) describing how the Firm should prepare and maintain sufficient documentation to evidence the operation of each element of its system of quality control, including ethics and independence; and (iii) describing how Firm personnel should respond to requests made by regulators in connection with regulatory inspections and investigations. The Firm, however, failed to take appropriate steps to implement and monitor those policies and procedures.

E. Respondents Violated PCAOB Rules and Standards

28. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[4] PCAOB quality control standards require that a registered public accounting firm shall effectively design, implement, and maintain a system of quality control for the firm's accounting and auditing practice.[5] A "system of quality control is broadly defined as a process to

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[4] See PCAOB Rule 3400T, *Interim Quality Control Standards*.

[5] QC §§ 20.01 and 20.02.

provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality."[6]

29. As part of its system of quality control, a firm should establish policies and procedures "to provide the firm with reasonable assurance that personnel maintain independence (in fact and in appearance) in all required circumstances, perform all professional responsibilities with integrity, and maintain objectivity in discharging professional responsibilities."[7]

30. In addition, PCAOB quality control standards require that a firm "should communicate its quality control policies and procedures to its personnel in a manner that provides reasonable assurance that those policies and procedures are understood and complied with."[8]

31. A firm also "should prepare appropriate documentation to demonstrate *compliance* with its policies and procedures for the quality control system discussed herein. . . . Documentation should be retained for a period of time sufficient to enable those performing monitoring procedures and a peer review to evaluate the extent of the firm's compliance with its quality control policies and procedures."[9]

32. Finally, PCAOB quality control standards require each firm to establish policies and procedures "to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied."[10] "Monitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective."[11]

33. During 2014 and 2015, KPMG Bermuda's system of quality control failed to provide reasonable assurance that Firm personnel would comply with professional standards and the Firm's standards of quality, including with respect to: (a)

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[6] QC § 20.03.

[7] QC § 20.09.

[8] QC § 20.23.

[9] QC § 20.25.

[10] QC § 20.20. See also QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice* (same).

[11] QC § 30.03.

independence, integrity, and objectivity; and (b) preparing and maintaining appropriate documentation for a sufficient period of time.

34. Specifically, the Firm failed to maintain appropriate documentation for a sufficient period of time, and multiple Firm personnel failed to understand that it was not permissible, based on Firm policies and professional standards, to re-execute and backdate missing Independence Affidavits and to present those quality control documents to the Board's inspectors without disclosure that the documents were not originals.

35. PCAOB Rule 3502 states that an associated person of a registered public accounting firm shall not "take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[12]

36. As the partner in charge of the E&I Department, Henderson was responsible, in part, for implementing, maintaining, and monitoring portions of the Firm's system of quality control related to the ethics and integrity of Firm personnel. For example, Henderson was responsible for overseeing the documentation of the independence of Firm personnel and the retention of appropriate documentation of such independence for a sufficient period of time. Henderson also was responsible for overseeing the implementation of the Firm's policies and procedures, including through the training of Firm personnel, to provide reasonable assurance that Firm personnel maintained independence. In addition, Henderson was responsible, in part, for overseeing and participating in appropriate interactions with regulators, including the Board's inspectors.

37. Henderson's knowing and/or reckless actions and omissions, described above, directly and substantially contributed to the Firm's violations of Quality Control Sections 20 and 30. As a result, Henderson violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit

[12] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), KPMG Bermuda and Henderson are censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of US $250,000 is imposed upon KPMG Bermuda and a civil money penalty in the amount of US $10,000 is imposed upon Henderson. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. KPMG Bermuda and Henderson shall each pay their respective civil money penalty within 20 days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter that identifies the Firm or Henderson, as applicable, as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006;

C. Henderson Limitation – Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), Henderson shall not play any role in the design, implementation, or monitoring of any aspect of the Firm's system of quality control for a period of two (2) years from the date of this Order; and

D. Firm Undertakings – Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), KPMG Bermuda shall complete the following undertakings:

(1) *Initial Undertakings* – Within thirty (30) days from the date of this Order, the Firm shall establish and implement quality control policies and procedures, or revise and/or supplement existing policies and procedures, to provide reasonable assurance that: (a) personnel perform professional responsibilities with integrity; and (b) personnel maintain appropriate quality control documentation for a sufficient period of time.

(2) *Certification* – Within sixty (60) days of the entry of this Order, the Firm shall provide a certification, signed by the Chairman of KPMG Bermuda and an additional appropriate signatory of the Firm, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Initial Undertakings, described in Section IV(D)(1) above, have been completed.

(3) *Additional Firm Undertakings*

(a) For two (2) years from the date of this Order, the Firm will promptly report to the Board any allegation of improper document alterations in connection with (i) the Firm's system of quality control, (ii) any audit subject to the PCAOB's jurisdiction, or (iii) any PCAOB inspection or investigation.

(b) For two (2) years from the date of this Order, within one week after being notified that the Firm will be inspected, the Firm shall notify personnel of the inspection and shall specifically instruct personnel of their obligation to cooperate with Board inspections, including by not preparing or making available to the Board's inspectors documents containing misleading information.

(c) No later than 30 days after the date of this Order, the Firm shall provide an electronic or paper copy of this Order to all of its associated persons.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

April 9, 2019

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Timothy M. Kosiek*, Respondent.	PCAOB Release No. 105-2019-010 April 26, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Timothy M. Kosiek ("Kosiek" or "Respondent"); (2) barring Kosiek from being an associated person of a registered public accounting firm;[1] and (3) imposing a civil money penalty in the amount of $25,000 on Kosiek. The Board is imposing these sanctions on the basis of its findings that Kosiek violated PCAOB rules and auditing standards in connection with the integrated audit of the financial statements and internal control over financial reporting of Flagstar Bancorp, Inc., as of and for the year ended December 31, 2013.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent

[1] Kosiek may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Timothy M. Kosiek, CPA, 60, of Minneapolis, Minnesota, was, at all relevant times, a certified public accountant licensed by the Minnesota Board of Accountancy (license no. 13127) and a partner of the PCAOB-registered public accounting firm Baker Tilly Virchow Krause, LLP ("Baker Tilly" or "Firm"). Kosiek is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

2. From 1980 until 2000, Kosiek was an auditor at a Big Four accounting firm, eventually rising to the position of partner, with responsibilities that included the audits of financial institutions. In 2000, Kosiek left auditing to become the Chief Financial Officer of a bank holding company. He returned to auditing in 2009 when he joined Baker Tilly as a partner. Kosiek took over as the engagement partner for the Firm's audits of Flagstar Bancorp, Inc. ("Flagstar"), in 2010.

B. Relevant Entities

3. Baker Tilly Virchow Krause, LLP, was, at all relevant times, a limited liability partnership organized under Illinois law, and headquartered in Chicago, Illinois. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and is licensed by the Minnesota Board of Accountancy, among others. The Firm acted as the external auditor for Flagstar for fiscal years 2005 through 2014.

4. Flagstar Bancorp, Inc., was, at all relevant times, a Michigan corporation headquartered in Troy, Michigan, and the holding company for Flagstar Bank, FSB.[4]

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

Flagstar's common stock was registered under Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act") and was traded on the New York Stock Exchange under the symbol "FBC." At all relevant times, Flagstar was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. Flagstar is one of the nation's largest mortgage originators and the largest bank in Michigan, with 99 branches statewide and a mortgage division that operates a network in all 50 states. For the year ended December 31, 2013 ("FY 2013"), Flagstar reported assets of $9.4 billion, which at the time made it one of the ten largest savings banks in the United States. Flagstar is regulated by a number of federal government agencies, including the Office of the Comptroller of the Currency ("OCC").

6. For FY 2013, Flagstar disclosed in its annual report that real estate and economic conditions could adversely affect its business, and specifically that:

> "[t]here is a risk of default with respect to all of our mortgages and other loans, and our remedies to collect, foreclose or otherwise recover may not fully satisfy the debt owed to us. We maintain an allowance for loan losses, which is a reserve established through a provision for loan losses charged to expense, to provide for probable and inherent losses in our loans held for our investment portfolio. Our allowance for loan losses, however, may not be adequate to cover actual credit losses, and future provisions for credit losses could adversely affect our business, financial condition, results of operations, cash flows and prospects."[5]

One of the most important aspects of Flagstar's accounting in FY 2013, therefore, was its allowance for loan and lease losses ("ALLL").

7. This matter concerns Kosiek's failure to comply with PCAOB rules and standards in connection with Baker Tilly's integrated audit of Flagstar's financial statements and internal control over financial reporting ("ICFR") for FY 2013. In particular, Kosiek failed to exercise due professional care, including appropriate professional skepticism, and failed to obtain sufficient appropriate audit evidence in connection with the reported value of and controls over Flagstar's ALLL for year-end 2013.

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[4] Flagstar Bancorp, Inc., and Flagstar Bank, FSB, are referred to jointly in this Order as "Flagstar."

[5] See Flagstar Bancorp, Inc., Form 10-K for the year ended December 31, 2013, filed Mar. 5, 2014 ("Flagstar 10-K"), at 41.

8. First, at the time of his FY 2013 audit of Flagstar ("2013 Audit"), Kosiek was in his fourth year as the engagement partner on Flagstar's audit and understood that Flagstar's ALLL was a financial statement account that presented a high risk of material misstatement. Kosiek also knew that one of Flagstar's principal regulators, the OCC, had for two years been communicating concerns to Flagstar about its methodology for estimating its ALLL and whether that method was consistent with U.S. Generally Accepted Accounting Principles ("GAAP"). Kosiek identified "[c]ontinued criticisms from regulator examination reports" to be a risk of material misstatement, regularly communicated with the OCC, and believed "that the views of regulatory agencies such as the OCC needed to be considered when evaluating any financial statement assertions under GAAP."

9. During the 2013 Audit, Kosiek understood from a "company-prepared summary" that Flagstar was changing its ALLL methodology in the fourth quarter, in part to address the OCC's concerns, by adding improved risk factors to its residential segmentation process and by applying a qualitative adjustment to account for the loss history of certain non-performing loans.

10. By the end of the 2013 Audit, Kosiek became aware that Flagstar was reducing its reported ALLL from $305 million at year-end 2012 to $207 million, and was decreasing the corresponding expense against earnings from $276 million to $70 million.[6] Additionally, by the time Kosiek signed the audit opinion, members of Kosiek's engagement team had received and documented in the audit work papers evidence that Flagstar, based on its quantitative and qualitative assessment set forth in a company-prepared summary, was excluding the loss history of certain non-performing loans from its ALLL model, without applying a planned off-setting qualitative adjustment. Kosiek concurred with this conclusion to exclude the loss history of the non-performing loans from its ALLL model, based on his review of the audit documentation, without noticing that the documentation showed that Flagstar did not apply the planned qualitative adjustment.

11. Second, with respect to Flagstar's internal controls, Kosiek failed to obtain sufficient audit evidence that Flagstar designed its ALLL controls to address the valuation assertion, which Kosiek believed was the most significant financial statement assertion for the ALLL account, and he obtained evidence that the ALLL controls that did exist were not operating effectively. Nevertheless, he concluded that Flagstar's internal controls were designed and operating effectively and relied on those controls in testing the ALLL reported in the financial statements.

12. Third, Kosiek did not sufficiently evaluate the methodology Flagstar used to arrive at the ALLL. In particular, Kosiek (i) failed to obtain sufficient appropriate audit evidence concerning the completeness and accuracy of information produced by Flagstar management, (ii) failed to obtain sufficient appropriate audit evidence

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[6] See id. at 99.

concerning certain aspects of Flagstar's ALLL estimate and failed to evaluate for bias the selection and application of accounting policies related to the estimate, (iii) failed to adequately assess management's estimates as a whole for bias or fraud, and (iv) failed to adequately perform a qualitative assessment of Flagstar's accounting practices.

13. Later, as Kosiek approached the completion of his audit work, he failed to respond to evidence that undermined his understanding that Flagstar had re-introduced the loss history of the non-performing loans back into its ALLL model in the fourth quarter of 2013 through a qualitative adjustment—an understanding on which he based his evaluation of Flagstar's ALLL estimate. Just two weeks before Flagstar filed its Form 10-K, Kosiek learned that Flagstar's reported ALLL was not going to change between the third quarter of 2013 and year-end 2013. Kosiek, however, as part of the overall review, failed to evaluate sufficiently whether this information was unexpected in light of his belief that Flagstar had re-introduced the loss history of the non-performing loans back into its ALLL model in the fourth quarter through a qualitative adjustment. Five days later, Kosiek became aware of evidence that Flagstar's year-end ALLL may have been understated by at least $30 million. Nevertheless, Kosiek authorized the Firm's issuance of an audit report containing an unqualified opinion on Flagstar's ICFR and financial statements.

14. In the first quarter of 2014, Flagstar made an adjustment to its ALLL, increasing it from $207 million to $307 million and recording an increased loss expense against earnings.

15. Finally, Kosiek failed to make certain required disclosures to Flagstar's Audit Committee concerning Baker Tilly's audit of Flagstar's ALLL.

16. As a result of this conduct, Kosiek failed to act with due professional care, failed to obtain sufficient appropriate audit evidence, and failed to perform certain required audit procedures during the 2013 Audit of Flagstar's financial statements and ICFR.

D. Kosiek Violated PCAOB Rules and Standards in Connection with the Audit of Flagstar's FY 2013 Financial Statements and ICFR.

Applicable PCAOB Rules and Auditing Standards

17. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7] An auditor may

[7] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the 2013 Audit. As of December 31, 2016, the PCAOB

express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards,[8] and after the auditor has evaluated whether the financial statements are "presented fairly, in all material respects, in conformity with" applicable accounting principles.[9] Among other things, PCAOB standards require that an auditor (i) exercise due professional care, including professional skepticism, in the performance of the audit,[10] and (ii) plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the audit opinion.[11] Audit evidence is all the information, whether obtained from audit procedures or other sources, that is used by the auditor in arriving at the conclusions on which the auditor's opinion is based.[12] If the auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the financial statements as a whole are free of material misstatement, the auditor should express a qualified opinion or a disclaimer of opinion.

18. PCAOB auditing standards require that, when using information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures both (i) "[t]est[ing] the accuracy and completeness of the information, or test[ing] the controls over the accuracy and completeness of that information," and (ii) "[e]valuat[ing] whether the information is sufficiently precise and detailed for purposes of the audit."[13]

19. PCAOB auditing standards also require auditors to perform certain procedures relating to management estimates. Those standards state that auditors should perform procedures to "obtain sufficient appropriate evidential matter to provide reasonable assurance" that those estimates are reasonable in the context of the

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reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Rel. No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017).

[8] See AU § 508.07, *Reports on Audited Financial Statements.*

[9] Auditing Standard No. 14, *Evaluating Audit Results* ("AS No. 14"), ¶ 30.

[10] See Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS No. 13"), ¶ 7; AU § 150, *Generally Accepted Auditing Standards*; AU §§ 230.01, .07, *Due Professional Care in the Performance of Work*.

[11] See Auditing Standard No. 15, *Audit Evidence* ("AS No. 15"), ¶ 4.

[12] See id. ¶ 2.

[13] AS No. 15 ¶ 10.

financial statements taken as a whole and are presented in conformity with GAAP,[14] and should evaluate whether the company's selection and application of accounting principles related to the estimates indicate management bias.[15] Additionally, in connection with both evaluating management's judgments as a whole and evaluating whether the financial statements might be materially misstated due to fraud, the auditor should perform procedures to evaluate potential bias in estimates, including a retrospective review of significant accounting estimates used in the prior year.[16]

20. When evaluating whether the financial statements as a whole are free of material misstatement, the auditor should: (i) evaluate potential management bias in accounting estimates as part of the larger evaluation of "the qualitative aspects of the company's accounting practices";[17] and (ii) perform analytical procedures to evaluate significant accounts and disclosures, including to evaluate any unusual or unexpected amounts or relationships in the financial statements.[18]

21. PCAOB standards state that, if an auditor obtains "sufficient and appropriate audit evidence...to assess control risk at less than the maximum," the auditor may "modify the nature, timing, and extent of planned substantive procedures" in reliance on the company's internal controls.[19] An auditor should perform control testing procedures to obtain that evidence.[20] If the auditor does not obtain sufficient appropriate audit evidence to support a control risk assessment below the maximum level, he or she should assess control risk at the maximum level for the relevant assertions.[21]

22. In connection with an integrated audit of financial statements and ICFR, the auditor must "plan and perform the audit to obtain appropriate evidence that is sufficient to obtain reasonable assurance about whether material weaknesses exist" in the issuer's ICFR as of the date specified in management's assessment.[22] In doing so,

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[14] AU §§ 342.04, .07.

[15] See AS No. 13 ¶ 5(d).

[16] See AS No. 14 ¶ 27; AU § 316.64, *Consideration of Fraud in a Financial Statement Audit*.

[17] AS No. 14 ¶¶ 24, 25(d).

[18] See id. ¶¶ 5-6.

[19] AS No. 13 ¶ 16 & n.12.

[20] See id. ¶ 9(c)(1).

[21] See id. ¶ 33.

[22] Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements* ("AS No. 5"), ¶ 3. A

the auditor should identify significant accounts and disclosures and their relevant assertions,[23] should test the design effectiveness of controls by determining whether they satisfy the control objectives and can effectively prevent or detect errors or fraud that could result in a material misstatement,[24] and should test those controls that are important to the auditor's conclusion about whether the company's controls sufficiently address the assessed risk of misstatement for each relevant assertion.[25] The evidence necessary to persuade the auditor that the control is effective depends upon the risk associated with the control: as the risk associated with the control being tested increases, the evidence that the auditor should obtain also increases.[26]

23. If an engagement partner supervises the performance of audit procedures by members of the engagement team, the partner is required under PCAOB standards to review the work of the team members to evaluate whether the objectives of the procedures were achieved and whether the results of the work support the conclusions reached.[27] In determining the extent of supervision necessary in such circumstances, the partner should also take into account the assessed risks relating to accounts that present a risk of material misstatement.[28]

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material weakness may exist even when the financial statements are not materially misstated. See id.

[23] See id. ¶ 28.

[24] See id. ¶ 42.

[25] See id. ¶ 39.

[26] See id. ¶ 46.

[27] See Auditing Standard No. 10, *Supervision of the Audit Engagement* ("AS No. 10"), ¶ 5(c).

[28] See AS No. 13 ¶ 5(b).

Background: Flagstar's ALLL

24. When Flagstar disclosed its financial statements for each quarter, one asset on its balance sheet was its portfolio of loans classified as held for investment ("HFI"). Certain of those loans were marked to fair value, but most were recorded at the value of their unpaid balances, with an accompanying ALLL that represented Flagstar's estimate of the probable future losses associated with those loans. Flagstar also disclosed on its income statement the provision for loan losses ("loss expense") by which it was required to reduce pre-tax earnings in order to maintain an adequate ALLL.[29]

25. GAAP required that Flagstar's methodology for estimating its ALLL ("ALLL methodology") include two separate, but related, processes. For impaired loans (i.e., loans for which Flagstar believed it was probable that it would not collect all amounts due based on an individualized assessment), Flagstar was required to establish a separate allowance for each loan.[30] For unimpaired loans, Flagstar was required to estimate its potential losses for the portfolio as a whole.[31] Flagstar calculated these potential losses by dividing the unimpaired portfolio into segments and then estimating the probable losses for each segment based on its historical loss experience.

26. To arrive at the ALLL that it disclosed in its financial statements, Flagstar multiplied the value of each segment of unimpaired loans by the estimated loss percentage for that segment, then aggregated those with the separate allowance for each of its impaired loans.

27. The reasonableness of Flagstar's ALLL, therefore, depended in large part on a number of complex and often subjective decisions, which were subject to the potential for management bias, such as: (i) properly identifying and valuing impaired loans; (ii) appropriately segmenting its unimpaired loans into groups that were sufficiently homogeneous that it was appropriate to apply a single loss rate to the entire group; and (iii) applying an appropriate loss rate, derived from Flagstar's relevant historical experience, to each unimpaired segment.

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[29] See ASC 450-20 (formerly Statement of Financial Accounting Standard ["FAS"] 5, *Accounting for Contingencies*); ASC 310-10-35 (formerly FAS 114, *Accounting by Creditors for Impairment of a Loan*). This Order's description of audit failures relating to Flagstar's application of GAAP necessarily reflects the Board's judgment concerning the proper application of GAAP; any such description, however, should not be understood as an indication that the Board or the Commission has considered or made any determination concerning Flagstar's compliance with GAAP.

[30] See ASC 310-10-35.

[31] See ASC 450-20; see also ASC 310-10-35-33.

28. During the summer of 2013, Flagstar sold two bundles of nonperforming and restructured residential loans ("Spartan Loans").[32] It then removed the data regarding the Spartan Loans' historical losses from its ALLL model.[33]

Background: Kosiek's Awareness of Issues Raised by the OCC Prior to 2013

29. Flagstar's methodology for calculating its ALLL was reviewed by the OCC, one of its federal banking regulators. As part of Baker Tilly's reviews and audits of Flagstar's financial statements, Kosiek regularly communicated directly with the OCC to learn the results of the OCC's reviews. Kosiek gave weight to the OCC's views in making his own determination concerning Flagstar's compliance with GAAP.

30. On October 23, 2012, the OCC and Flagstar agreed to a Consent Order that, among other things, required Flagstar to "adopt written policies and procedures for maintaining adequate [ALLL] in accordance with [GAAP]," including "procedures for validating the ALLL methodology."[34] Specifically, the OCC required Flagstar to adopt "written policies and procedures for maintaining adequate [ALLL] in accordance with [GAAP]." The OCC further required that the policies and procedures at a minimum include procedures for determining loan impairment consistent with GAAP, procedures for segmenting the loan portfolio consistent with GAAP, procedures for validating the ALLL methodology, and a process to ensure that Flagstar's Board of Directors reviewed the ALLL.[35]

31. In its Form 10-K for the year ended December 31, 2012, Flagstar reported an ALLL of $305 million, which required it to take a loss expense against earnings of $276 million, an increase of $100 million from the prior year. For the 2012 fiscal year, the company reported net income of $68 million.

32. As the engagement partner on the Flagstar audit since 2010, Kosiek was familiar with the OCC's views concerning Flagstar's ALLL, the Consent Order generally, and how Flagstar reported on its ALLL at year end.

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[32] "Spartan" referred to an internal project and not the name of a bank.

[33] When non-performing loans are removed from the loss history of an ALLL model, the model's projection for the performance of similar remaining loans that are performing improves because the model considers it less likely that those remaining loans will also become non-performing.

[34] Flagstar Bancorp, Inc., Form 8-K, filed Oct. 24, 2012, attaching the Consent Order.

[35] The Consent Order remained in place during the 2013 Audit discussed herein. On December 20, 2016, Flagstar announced that the OCC had terminated the Consent Order.

2013 Audit

33. Kosiek acted as the engagement partner for the integrated audit of Flagstar's FY 2013 ICFR and financial statements. Based on that audit, the Firm issued an unqualified audit report on March 4, 2014, stating that Flagstar's FY 2013 financial statements were fairly presented in accordance with GAAP and that Flagstar maintained effective ICFR as of December 31, 2013. That report was included in Flagstar's Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") on March 5, 2014.

34. In its Form 10-K for FY 2013, Flagstar reported total assets of $9.4 billion, of which approximately $4 billion were HFI loans.[36] These loans consisted primarily of consumer loans, including approximately $2.7 billion of residential mortgages and home equity lines of credit, but also included commercial real estate and other loans.[37] Of the $4 billion HFI portfolio, $238 million was marked to fair value, while approximately $3.8 billion was recorded as unpaid balances with an accompanying ALLL of $207 million.

Kosiek's Knowledge of Facts Regarding Flagstar's ALLL Methodology

35. At the time of the 2013 Audit, Kosiek had been the engagement partner for Baker Tilly's Flagstar audit since 2010. He was, therefore, on notice, as a result of multiple events, that Flagstar management's process for estimating and reporting its ALLL might be affected by bias. Kosiek knew before and during the 2013 Audit that the OCC had concerns regarding Flagstar's ALLL methodology, and Kosiek identified "[c]ontinued criticisms from regulator examination reports" to be a risk of material misstatement. In response, he planned to monitor Flagstar's progress relative to the Consent Order to understand Flagstar's actions to address the items therein. As part of that monitoring, Kosiek understood that Flagstar had changed its ALLL methodology in part to address the OCC's concerns. Kosiek failed to obtain sufficient evidence to support his understanding, even when presented with indications that Flagstar, based on its assessment of portfolio performance and characteristics, including the exclusion of the actual losses incurred on the sale of the Spartan Loans from its historical loss experience, had not changed its fourth quarter ALLL methodology. He therefore failed during the 2013 Audit to sufficiently evaluate whether Flagstar's approach to its fourth quarter ALLL methodology indicated management bias in the application of the ALLL accounting policy.

36. Kosiek, who had been the engagement partner for Baker Tilly's Flagstar audit since 2010, had knowledge of the OCC's continued concerns about Flagstar's ALLL methodology and was aware that the OCC had not yet terminated the Consent Order. He also knew that Flagstar was planning to reduce its reported ALLL from $305

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[36] See Flagstar 10-K at 127.

[37] See id. at 142, 168.

million to $207 million, resulting in the company recording a loss expense of only $70 million for all of FY 2013. Kosiek failed, however, both to apply appropriate professional skepticism to his audit procedures concerning Flagstar's ALLL methodology and to evaluate whether these events were indications of bias in the application of accounting policies.[38]

37. Regarding segmentation for its residential loans, Flagstar used two factors—loan to value[39] and credit score of the loan holder—to segment the portfolio. Flagstar told Kosiek that: (i) it was adjusting the two risk factors—loan to value and credit score—that it used to segment its residential portfolio, and (ii) it had concluded based on internal analysis that, in light of that adjustment, additional segmentation factors were unnecessary to address the OCC's concerns. Kosiek failed to perform sufficient procedures to determine whether Flagstar's adjustment and internal analysis had been appropriately performed in the fourth quarter of 2013 and if the resulting ALLL was an appropriate estimate. Kosiek thus failed to obtain sufficient appropriate audit evidence to allow him to evaluate whether the data underlying Flagstar's adjusted segmentation was complete and accurate or whether the adjustment obviated the need for additional segmentation factors.

38. Concerning the Spartan Loans, Kosiek came to understand from a "company-prepared summary" that, in part to address the OCC's concerns, Flagstar was adding the Spartan Loans' performance history back into its FY 2013 analysis through a qualitative adjustment during the fourth quarter. Other than reviewing this client-prepared document, however, Kosiek failed to obtain any audit evidence to support his understanding. As discussed below, both his understanding and this failure persisted even after the engagement team received and documented a later representation from Flagstar that contradicted Kosiek's earlier understanding.

Kosiek Violated PCAOB Standards in Auditing Flagstar's ALLL Controls and Methodology During the 2013 Audit.

39. Kosiek failed to obtain sufficient evidence during the 2013 Audit that Flagstar's ALLL controls were designed and operating effectively, and also failed to properly evaluate Flagstar's ALLL methodology in the context of its reported financial statements.[40]

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[38] See AS No. 13 ¶ 5(d).

[39] "Loan to value" is a comparison between the unpaid balance of a loan and the value of its underlying collateral, such as a house in the case of a residential mortgage. Generally, loans that represent a large share of (or exceed) the value of the collateral are considered to pose a higher risk of default.

[40] This Order's description of audit failures relating to Flagstar's ICFR necessarily reflects the Board's judgment concerning the proper application of *Internal*

40. At the time of the 2013 Audit, Kosiek came to understand from a "company-prepared summary" that, for its year-end FY 2013 financial statements, Flagstar would make another attempt to respond to the OCC's concerns by taking a number of steps to improve its ALLL methodology. These steps included adding the loss history of the Spartan Loans back into the ALLL model through a qualitative adjustment. Kosiek carried out the 2013 Audit in reliance on that understanding, despite obtaining no other evidence to support it, and, as discussed below, failed to respond to evidence that Flagstar had not, in fact, added the Spartan Loans back into its model.

Kosiek Failed to Obtain Sufficient Appropriate Audit Evidence Concerning Flagstar's ALLL Controls

41. In anticipation of Baker Tilly's audit report covering Flagstar's financial statements and its ICFR, Kosiek planned to audit Flagstar's ICFR both to support that aspect of the Firm's audit report[41] and to permit reliance on Flagstar's controls over its ALLL to reduce the extent of the engagement team's substantive procedures concerning that account.[42] He failed, however, to obtain sufficient audit evidence to accomplish either objective.

42. In connection with both the ICFR and the financial statement audit, Kosiek determined that the ALLL was one of the highest risk accounts on the balance sheet. He also recognized that the valuation assertion was the most significant assertion for the ALLL account, and that the valuation assertion presented a significant risk of material misstatement. Under PCAOB standards, therefore, Kosiek was required to make the valuation assertion for the ALLL a focus of his attention for the ICFR audit, and to obtain an increased level of evidence to support his conclusions concerning controls over valuation.[43]

43. Kosiek failed, however, to obtain sufficient appropriate audit evidence concerning both the design and the operating effectiveness of Flagstar's ALLL controls. First, Kosiek did not obtain sufficient appropriate audit evidence that the ALLL controls were designed to even address the valuation assertion.

44. Second, Kosiek knew that his team's testing of the operating effectiveness of Flagstar's ALLL controls consisted merely of reviewing and commenting on Flagstar's

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Control – Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission; any such description, however, should not be understood as an indication that the Board or the Commission has considered or made any determination concerning whether Flagstar's ICFR contained a material weakness.

41 See AS No. 5.

42 See AS No. 13 ¶ 16 & n.12.

43 See AS No. 5 ¶¶ 11, 46.

documentation of its internal control testing process, documentation that identified operating deficiencies in the ALLL controls related to management's review process, documentation process, and change control process. Kosiek failed to take any additional steps to obtain sufficient appropriate evidence to conclude that Flagstar's ALLL controls were operating effectively.

45. As a result, Kosiek failed to comply with PCAOB standards when he failed to obtain sufficient appropriate audit evidence to support his unqualified ICFR report, and when he assessed control risk at below maximum without having obtained sufficient appropriate evidence to support an assessment below the maximum level.[44]

Kosiek Failed to Obtain Sufficient Appropriate Evidence Concerning Flagstar's ALLL Methodology for the Financial Statement Audit.

46. Despite failing to obtain sufficient appropriate audit evidence to support a control risk assessment for the ALLL below the maximum level, Kosiek, in fact, modified the nature, timing, and extent of his substantive procedures as if he had. This reliance on Flagstar's controls over its ALLL violated PCAOB standards.[45] Additionally, he failed in other ways to obtain sufficient appropriate evidence that the ALLL, including the valuation assertion, was reasonable when auditing Flagstar's financial statements.

47. As stated above, because the ALLL was an estimate, Kosiek was required by PCAOB standards to perform procedures to evaluate the ALLL both individually and in the larger context of management's financial reporting, including by performing procedures to address the possibility of management bias. Kosiek failed to perform these required procedures with due professional care, including professional skepticism.[46]

48. First, Flagstar's ALLL for its unimpaired loans was calculated by a model that received inputs from multiple internal reports, some of which provided the information on which the model segmented the loan portfolio into what were represented to be homogeneous groups, and some of which fed into the loss rate that the model calculated for each segment based on historical experience. Kosiek planned that the Baker Tilly engagement team would evaluate the reasonableness of the ALLL by reviewing and testing management's process for using those reports in the ALLL model. Consistent with that approach, the team received copies of the internal reports from Flagstar, but PCAOB standards required that in order to use those reports as evidence, Kosiek should have evaluated whether the information was sufficient and

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[44] See AS No. 5 ¶ 3; AS No. 13 ¶ 33.

[45] See AS No. 13 ¶ 33.

[46] See AU § 230.02.

appropriate for purposes of the audit by performing procedures to test the accuracy and completeness of the information.[47]

49. Kosiek failed to perform procedures to obtain sufficient evidence concerning the accuracy and completeness of those management reports. In fact, Kosiek failed to obtain any evidence of completeness as to any of the reports, and as to most of them he failed to obtain any evidence of accuracy. For example:

- The reports from management concerning consumer credit scores and loan-to-value information formed the basis for the segmentation of the residential loans into what were represented to be homogeneous groups within the ALLL model. Kosiek failed to perform any procedures, such as reviewing loan files, to test the accuracy and completeness of the credit score and loan-to-value information.

- Other reports from management contained the historical loss experience that was used to calculate the loss rate for each segment of residential loans. Kosiek failed, however, to perform any procedures to test the accuracy and completeness of the historical loss information.

- For Flagstar's commercial loans, Kosiek planned that the engagement team would perform a review of specific loan files to obtain evidence concerning Flagstar's commercial risk rating process. During the audit, he decided to rely instead on processes conducted by Flagstar and its agents. Kosiek failed, however, to perform procedures to test the accuracy and completeness of the information generated by those processes. For the first half of the year, Flagstar's loan file reviews were performed by an outside consultant; for the second half of the year, they were performed by internal reviewers. Despite the fact that the outside consultant detected weaknesses in Flagstar's risk rating systems caused by "[i]ncomplete or inaccurate credit analyses," Kosiek simply assumed, without evidence, that Flagstar's commercial risk ratings for the entire year were accurate and complete.

50. Second, in evaluating the ALLL estimate itself, Kosiek failed to obtain sufficient evidence that the estimate was reasonable, and failed to adequately evaluate whether Flagstar's application of its ALLL methodology indicated management bias. Other than the management-provided reports mentioned above, the only additional evidence Kosiek gathered concerning Flagstar's ALLL methodology was (i) management documents describing the methodology, (ii) evidence concerning the basis for certain qualitative adjustments that Flagstar made to its projected loss rates, and (iii) evidence from a recalculation procedure that the ALLL model calculations were

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[47] See AS No. 15 ¶ 10.

mathematically accurate. This evidence did not, as a whole, provide him with sufficient appropriate audit evidence to determine whether the ALLL was properly valued, and Kosiek did not adequately evaluate whether management was biased in its application of the ALLL methodology.[48]

51. For example, one important aspect of Flagstar's ALLL estimation process was its identification of impaired loans to be segregated for individual assessment. Kosiek failed to perform, and failed to ensure that his team performed, any procedures, such as reviewing loan files, to obtain evidence concerning Flagstar's process for identifying impaired loans. In fact, Kosiek knew that the Baker Tilly engagement team did not review any loan files, consumer or commercial, during the 2013 Audit. These failures occurred despite Kosiek's knowledge that the OCC had concerns about Flagstar's ALLL methodology, and that the OCC had not yet terminated the Consent Order, which, among other things, required Flagstar to include policies and procedures for determining loan impairment consistent with GAAP.

52. Third, Kosiek failed to properly evaluate management's estimates as a whole, both by failing to evaluate the estimates in total for bias and by failing to conduct a retrospective review of those estimates. During the planning phase of the 2013 Audit, Kosiek planned to conduct a retrospective review of Flagstar's accounting estimates, including its ALLL, and in fact Kosiek believed at the time that such a review was performed. He took no steps, however, to review any work papers to verify that the procedure had been performed or what the results were. He therefore failed both to conduct the retrospective review and to properly supervise his team in the performance of its procedures.[49] Additionally, Kosiek failed to evaluate whether the cumulative effect of differences between estimates included in the financial statements and estimates best supported by the audit evidence indicated potential management bias in the estimates.[50] These failures occurred despite the fact that Kosiek identified the ALLL as a significant risk and identified Flagstar's valuation of its ALLL, a management estimate, as one of the highest risk areas of the audit, which should have affected the extent of the supervision necessary on the engagement team's work concerning the ALLL.[51]

53. Fourth, Kosiek failed at the end of the 2013 Audit to adequately evaluate the qualitative aspects of Flagstar's accounting, including potential management bias in accounting estimates, and to perform adequate analytical procedures to evaluate unusual or unexpected amounts or relationships in Flagstar's financial statements. These failures occurred in part because Kosiek failed to act upon updated management

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[48] See AU §§ 342.04, .07; AS No. 13 ¶ 5(d).

[49] See AU § 316.64; AS No. 10 ¶ 5(c).

[50] See AS No. 14 ¶ 27.

[51] See AS No. 13 ¶ 5(b).

representations that he received in February 2014 concerning Flagstar's treatment of the Spartan Loans.

54. On February 19, 2014, two weeks before Baker Tilly's audit report was issued, Kosiek read and assessed the principal ALLL work paper. The work paper documented Flagstar's decision to set the 2013 year-end ALLL at $207 million—the exact same amount as Flagstar's September 30, 2013 ALLL.

55. The work paper also contained a note from Kosiek's engagement team explaining, in part, why the ALLL had not changed from the third quarter to the fourth quarter—namely, that the team had received a new management representation in January 2014 that, contrary to Kosiek's understanding, Flagstar was not going to re-introduce the Spartan Loans' loss history back into its ALLL model for FY 2013 through an adjustment to its qualitative factors due to a lack of internal follow-up. Kosiek failed to respond to this information.

56. Five days later, on February 24, 2014, the day before Kosiek presented the results of the 2013 Audit to the Flagstar Audit Committee, Kosiek became aware of evidence that Flagstar's year-end ALLL may have been understated by at least $30 million. This $30 million amount represented over 40 percent of the loss expense that Flagstar planned to report for the year, as well as over 25 percent of its net interest income after the provision for loan losses. As part of the overall review, Kosiek failed to evaluate whether no change in the ALLL at year end was unexpected under the circumstances (despite his belief that Flagstar had introduced the Spartan Loans back into its ALLL model in the fourth quarter), and, thereby, failed to evaluate whether the evidence gathered in response to the unexpected ALLL amount was sufficient.[52]

* * *

57. On March 4, 2014, Kosiek authorized Baker Tilly's issuance of an unqualified report on Flagstar's financial statements and ICFR. This authorization was based on his conclusion that Flagstar's financial statements, containing an ALLL of $207 million and a loss expense of $70 million, were fairly stated. In coming to this conclusion, Kosiek failed to adequately evaluate (i) whether the evidence he had gathered in response to unusual or unexpected events was sufficient, and (ii) whether he had obtained sufficient appropriate audit evidence to support his opinion on the financial statements.[53]

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[52] See AS No. 14 ¶ 6.

[53] See id. ¶¶ 6(a), 33.

58. As a result of the above conduct, Kosiek failed to perform the 2013 Audit with due professional care, including professional skepticism.[54]

59. On May 9, 2014, Flagstar filed its Form 10-Q for the first quarter of 2014 with the Commission. In its first-quarter 2014 financial statements, Flagstar reported an ALLL of $307 million, a $100 million increase over year-end 2013, only three months earlier. The higher estimate was due, in part, to Flagstar's adding the loss history of the Spartan Loans back into its model. As a result of its higher ALLL, Flagstar was required for the first quarter to take a provision against earnings of over $112 million.

E. Kosiek Failed to Make All Required Communications to the Flagstar Audit Committee.

Applicable PCAOB Auditing Standards

60. PCAOB Auditing Standard No. 16, *Communications with Audit Committees* ("AS No. 16"), requires that the auditor make certain communications to the client's audit committee at the conclusion of an audit, including: (a) changes in management's significant accounting policies and practices;[55] (b) any significant changes management made to the processes used to develop critical accounting estimates or significant assumptions, a description of management's reasons for the changes, and the effects of the changes on the financial statements;[56] and (c) any other "matters arising from the audit that are significant to the oversight of the company's financial reporting process," including "complaints or concerns regarding accounting or auditing matters that have come to the auditor's attention during the audit and the results of the auditor's procedures regarding such matters."[57]

Kosiek Violated PCAOB Auditing Standards Concerning Audit Committee Communications.

61. As stated above, Kosiek was aware during the 2013 Audit that Flagstar's year-end ALLL may have been understated by at least $30 million. Under the circumstances, Kosiek was required to inform the Flagstar Audit Committee about such evidence. Kosiek was also required to communicate to the Audit Committee more generally the effect of the Spartan Loans sales on Flagstar's accounting estimates. Kosiek failed, however, to communicate any of these matters to the Audit Committee, either at the February 25, 2014 meeting or at any other time. Kosiek therefore failed to comply with AS No. 16.

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54 See AU §§ 230.02, .07.

55 See AS No. 16 ¶ 12(a)(1).

56 See id. ¶ 12(c).

57 Id. ¶ 24.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Timothy M. Kosiek is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Timothy M. Kosiek is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[58]

C. After two (2) years from the date of this Order, Timothy M. Kosiek may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon Timothy M. Kosiek. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Kosiek shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Kosiek as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary,

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[58] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Kosiek. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

April 26, 2019

PCAOB
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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS	PCAOB Release No. 105-2019-012
In the Matter of William Trainor, CPA,	June 4, 2019
Respondent.	

By this Order, the Public Company Accounting Oversight Board: (1) censures William Trainor ("Trainor" or "Respondent"); (2) bars Trainor from being an associated person of a registered public accounting firm, but allows Trainor, after one year, to petition the Board for consent to associate with a registered firm; (3) if the Board later consents to Trainor associating with a registered firm, restricts, for two years from the date of this Order, the roles he may perform on "audits," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"); (4) imposes on Trainor a civil money penalty of $25,000; and (5) requires Trainor to complete forty hours of continuing professional education before filing a petition for Board consent to associate with a registered firm.

The Board is imposing these sanctions on the basis of its findings that Trainor violated PCAOB rules and auditing standards as the engagement partner on the integrated audit of Forest Oil Corporation ("Forest Oil") for the year ended December 31, 2013.

I.

The Board instituted non-public disciplinary proceedings against Respondent on October 17, 2018.[1] Respondent later submitted an Offer of Settlement that the Board accepted. Solely for purposes of these proceedings and any other proceedings brought

[1] Section 105(c)(2) of the Act provides that litigated disciplinary proceedings shall not be public, "unless otherwise ordered by the Board for good cause shown, with the consent of the parties…." Although the Board found good cause for making the proceedings public, Respondent did not consent.

by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Making Findings and Imposing Sanctions as set forth below.[2]

II.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **William Trainor**, age 53, of Parker, Colorado, is a certified public accountant licensed by the State of Colorado (license no. 17081). At all relevant times, he was a partner in the Denver, Colorado office of Ernst & Young LLP ("EY"); he was separated from EY in April 2016. Trainor was the engagement partner for the integrated audit of Forest Oil for the year ended December 31, 2013. He led the EY engagement team, had final responsibility for the integrated audit, and authorized the issuance of EY's audit reports. Trainor was at all relevant times an associated person of a registered public accounting firm.

B. Relevant Entities

2. **Ernst & Young LLP** is a public accounting firm organized as a Delaware limited liability partnership and headquartered in New York, New York. EY has offices in multiple locations, including Denver, and is licensed in multiple jurisdictions, including Colorado (license no. FRM.0000877). It registered with the Board in 2003. EY was the auditor for Forest Oil from 2006 until its dismissal in December 2014 concurrent with the closing of Forest Oil's merger with another company.

3. **Forest Oil Corporation** was a New York corporation with its principal executive offices in Denver, Colorado. Its public filings disclosed that it was an independent oil and gas company engaged in acquiring, exploring, developing, and

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[2] The findings in this Order are based on Respondent's settlement offer and are not binding on any other persons or entities in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

producing oil, natural gas, and natural gas liquids, primarily in the United States. At all relevant times, its common stock was registered under Section 12(g) of the Securities Exchange Act of 1934 and traded on the New York Stock Exchange. At all relevant times, Forest Oil was an "issuer" within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(p)(1).

C. Summary

4. This matter concerns Trainor's failure to adequately evaluate whether Forest Oil's internal control over financial reporting ("ICFR") was effective. During the 2013 audit, Trainor and his engagement team identified pervasive deficiencies in certain information technology ("IT") controls for two significant systems at Forest Oil. These control deficiencies created the risk that Forest Oil personnel could make unauthorized changes to information in the affected systems without detection, potentially leading to material misstatements in Forest Oil's financial statements. These control deficiencies affected essentially every significant account and disclosure ("significant accounts") at Forest Oil.

5. Trainor and his team responded to the deficiencies by identifying other controls that purportedly would detect any unauthorized changes made in the affected IT systems. Trainor concluded that these "compensating controls" were designed and operating effectively during 2013, and mitigated the risks from the IT-related control deficiencies. As a result, he concluded that he did not need to issue an adverse ICFR opinion, or change his strategy for auditing the financial statements, which was to rely on controls and limit substantive testing.

6. During the audit, however, Trainor reviewed evidence indicating that the "compensating controls" did not, in fact, mitigate the risks from the IT-related control deficiencies for a number of reasons. First, some were affected by the same deficiencies for which they were supposed to compensate, or relied on systems whose IT controls had not been tested. Second, some were not relied on by Forest Oil management in its internal control assessment, and Trainor and his team failed to obtain sufficient appropriate evidence that those controls actually were in operation at Forest Oil in 2013. And third, some, by their very design, could not have compensated for the deficiencies.

7. Based on the evidence Trainor reviewed during the audit, he knew, or should have known, that Forest Oil's IT control deficiencies had not been mitigated. He failed, however, to evaluate that evidence with due professional care and recognize that it directly contradicted his audit conclusions. As a result, he failed to obtain sufficient appropriate audit evidence supporting both his ICFR and financial statement audit opinions.

8. Trainor failed to obtain sufficient appropriate audit evidence supporting his financial statement audit opinion for an additional reason. Specifically, he improperly relied on controls that failed to address the risks he had identified for a key process at

Forest Oil—the division of interests process, which the company used to allocate revenues and costs among the fractional owners of its oil and gas properties. Because Trainor improperly relied on ineffective controls, and performed no substantive testing of divisions of interests, he failed to obtain sufficient appropriate audit evidence supporting the relevant assertions for multiple accounts, including revenue.

9. The PCAOB reviewed the 2013 Forest Oil engagement as part of its 2014 inspection of EY. Based on that review, PCAOB inspectors concluded, among other things, that the engagement team had failed to appropriately evaluate the effect of the IT-related control deficiencies identified during the audit. Subsequently, management reevaluated its assessment of ICFR and EY withdrew its 2013 ICFR opinion. After performing additional procedures, EY determined that there were three material weaknesses in Forest Oil's ICFR, two of which related to deficiencies in Forest Oil's IT-related controls and its division of interests controls, and completed a re-audit of Forest Oil's 2013 financial statements using an audit approach that did not rely on Forest Oil's internal controls. EY then issued an amended, adverse 2013 ICFR opinion, which was included in Forest Oil's amended 2013 Form 10-K, filed on October 1, 2014.[4]

D. Background

10. During the 2013 audit, Trainor and his engagement team identified deficiencies in Forest Oil's IT general controls ("ITGCs"). ITGCs apply to a company's IT environment, and help to ensure the integrity of programs, data files, and IT operations. Trainor and his team found deficiencies in two of the most common ITGCs: (1) change management controls, which are designed to ensure that changes to system programming are authorized and effectively implemented; and (2) logical access controls, which are designed to ensure that user access to data, software, and IT infrastructure is authorized and appropriate.

11. The ITGC deficiencies affected two of Forest Oil's most critical IT systems: (1) the general ledger system, which contained all accounts for recording the company's assets, liabilities, revenue, expenses, and shareholders' equity; and (2) the oil and gas reserves system, which tracked the production, pricing, and other data necessary to estimate the value of Forest Oil's oil and gas reserves. The general ledger system was affected by both change management and logical access deficiencies, creating a risk of unauthorized, improper, and undetected changes to the programming and data in that system. The reserves system was affected by the logical access deficiency, creating a risk of improper and undetected changes to data in that system.

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[4] There was no restatement of Forest Oil's 2013 financial statements.

12. As Trainor knew, these ITGC deficiencies were significant and had the potential to lead to material misstatements in the company's financial statements. Moreover, because the deficiencies involved the general ledger system, they affected essentially every significant account at Forest Oil.

13. The ITGC deficiencies also affected the engagement team's audit plan. Trainor and his team had planned to rely on the effectiveness of Forest Oil's internal controls in auditing the financial statements. Thus, they planned to obtain less evidence from substantive audit procedures than would otherwise be needed. The ITGC deficiencies, however, rendered ineffective a substantial number of the controls on which the engagement team planned to rely. Faced with these findings, Trainor either had to obtain additional evidence from his substantive audit testing, or find that Forest Oil had other controls in place to mitigate the risks from the ITGC deficiencies.

14. Trainor's plan for addressing the ITGC deficiencies involved a search for compensating controls. He believed that, if he and his team could identify other controls that, as designed and operating, would detect any unauthorized changes to programming or data in the ineffective systems, he would not then have to modify his audit plan, or issue an adverse ICFR opinion. Trainor thus instructed his team to look for controls that agreed data in the ineffective systems to reliable third-party sources. Such controls, he reasoned, would validate the data in the ineffective systems, despite the ITGC deficiencies.

15. Late in the audit, Trainor's team began their search for compensating controls. They ultimately identified seven controls that purportedly mitigated the risks from the ITGC deficiencies. Four purportedly mitigated risks to revenue estimates,[5] which Trainor and his team identified as a fraud risk; one purportedly mitigated risks to reserves calculations, another identified fraud risk; and one purportedly mitigated risks concerning valuation of derivatives, identified as a significant risk of material misstatement. Finally, the team identified a control that supposedly mitigated the risks in all significant accounts affected by the deficiencies. That control involved reconciliations of "significant or critical accounts" in the general ledger.

16. Trainor determined that these seven controls mitigated the risks to all significant accounts affected by the ITGC deficiencies. As a result, he concluded that the ITGC deficiencies, individually and in combination, did not constitute significant deficiencies or material weaknesses in Forest Oil's ICFR.

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[5] Like other oil and gas companies, Forest Oil initially recorded its revenues as estimates. The estimates were later "trued up" when final pricing and production data became available.

E. Trainor Violated PCAOB Rules and Auditing Standards in Performing EY's Audit of Forest Oil's 2013 ICFR and Financial Statements

17. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[7] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[8]

ICFR Audit

18. Section 404 of the Act requires company management to assess and report on the effectiveness of internal control. The Act also requires a company's independent auditor to attest, in certain circumstances, to management's disclosures regarding the effectiveness of internal control. Effective internal control provides reasonable assurance regarding the reliability of financial reporting and the preparation

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[6] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the 2013 Forest Oil audit. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards.

[7] See AU § 508.07, *Reports on Audited Financial Statements*; see also Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements* ("AS No. 5"), ¶ 85 (ICFR report must state that audit was conducted in accordance with PCAOB standards).

[8] See AU § 150.02, *Generally Accepted Auditing Standards*; AU § 230.01, *Due Professional Care in the Performance of Work*; Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS No. 13"), ¶ 7; Auditing Standard No. 15, *Audit Evidence* ("AS No. 15"), ¶ 4.

of the financial statements for external purposes.[9] However, a company's internal control cannot be considered effective if one or more material weaknesses in internal controls exist.[10]

19. Trainor and his engagement team identified pervasive deficiencies in ITGCs during the 2013 audit. Upon discovering the deficiencies, Trainor was required to evaluate whether the deficiencies, individually or in combination, were material weaknesses in Forest Oil's internal controls.[11] In doing so, it was appropriate for Trainor to evaluate the effect of any compensating controls. But to have a mitigating effect, the compensating controls had to operate at a precise enough level to prevent or detect a material misstatement arising from the ITGC deficiencies.[12] However, as Trainor knew or should have known, all seven of the controls identified by his team failed to mitigate the risks from the ITGC deficiencies. These failures fall into four categories, as described below.

20. First, several of the controls were themselves affected by the same ITGC deficiencies they were meant to address. For example, Trainor relied on a reconciliation control to mitigate the risks from the general ledger system ITGC deficiencies in all significant accounts affected by them. Trainor concurred with his team's conclusion that this control involved company personnel reconciling significant accounts to reliable information outside the general ledger, including to third-party sources. But by its very description, the reconciliation control provided that significant or critical accounts in the general ledger were reconciled "to the Trial Balance," which Trainor knew was a report generated by the ineffective general ledger system. Trainor also reviewed, just days before issuing his audit opinion, an audit work paper that explicitly stated that the reconciliation control was itself affected by the general ledger system ITGC deficiencies.

21. Moreover, Trainor had dealt with reconciliation controls in other audits, including prior audits of Forest Oil. As a result, he knew that many reconciliation controls do not involve reconciling to third-party sources. Instead, many involve agreeing general ledger data to sub-ledgers or other company systems. In fact, Trainor knew from his Forest Oil experience that several of the company's significant accounts were reconciled to data elsewhere in the ineffective general ledger or in the ineffective reserves system. Despite this knowledge and experience, Trainor concluded that the

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[9] AS No. 5 ¶ 2.

[10] Id. ¶ 3.

[11] Id. ¶ 62.

[12] Id. ¶ 68.

reconciliation control was a compensating control for all significant accounts affected by the deficiencies.

22. Second, one of the identified controls involved agreeing inputs for the revenue estimates to information in two IT systems, whose ITGCs the engagement team had not tested.[13] During planning, Trainor and his team discussed testing ITGCs over those systems, but decided not to do so. Trainor later revisited testing the systems during the search for compensating controls, but he again decided against testing them, largely because he did not expect to find them effective. Nevertheless, he ultimately relied on a compensating control whose effectiveness he knew depended on data from those untested—and likely ineffective—systems.

23. Third, Trainor relied on other controls even though they were not included in Forest Oil management's assessment of internal controls, and he and his team failed to obtain appropriate evidence that they were actually in operation at Forest Oil in 2013. For example, Trainor relied on a control that purportedly involved agreeing sales prices used in Forest Oil's revenue estimates to third-party sources. But Trainor and his team failed to obtain any evidence that Forest Oil management relied on that control in its own 2013 internal control assessment. The engagement team also did not identify this control in the documentation of its walkthrough of the revenue estimate process, which Trainor reviewed.[14] In addition, about a month before Trainor signed his audit opinion, his audit senior informed him that the team was not aware of any Forest Oil controls that agreed revenue estimate inputs to third-party support. Trainor never questioned the appropriateness of relying on a control not documented in his team's walkthrough, nor did he attempt to reconcile the identification of this control as a compensating control with audit evidence suggesting it may not have been performed by Forest Oil in 2013.

24. Fourth, other controls failed to mitigate risks from the ITGC deficiencies because, as designed, they would not have detected unauthorized changes to processes or data in the ineffective systems arising from the ITGC deficiencies. For example, Trainor relied on a control that involved a review of information affecting the

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[13] To rely on controls dependent on IT systems, the engagement team needed to test not only the effectiveness of those controls, but also the effectiveness of ITGCs important to the effective operation of the systems or applications used in the performance of those controls. See generally Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS No. 12"), App. B; AS No. 13 ¶¶ 16–18.

[14] In performing a walkthrough, an auditor follows a transaction from its origination through the company's processes, including information systems, until it is reflected in the company's financial records, using the same documents and information technology that company personnel use. AS No. 5 ¶ 37.

calculation of Forest Oil's revenue estimates before that information was entered into the general ledger. That control would not have detected if someone made an unauthorized change that affected the information after it was entered into the general ledger. Nevertheless, Trainor simply accepted this control as compensating for the general ledger system deficiencies, without exercising due professional care or performing an appropriate evaluation of the relevant audit evidence.

25. In sum, for the reasons stated above, Trainor failed to review the audit evidence with due professional care, and he failed to perform procedures necessary to resolve inconsistencies in the audit evidence that showed that the controls identified as compensating could not have mitigated the ITGC deficiencies.[15] As a result, he failed to appropriately evaluate whether the ITGC deficiencies constituted material weaknesses in Forest Oil's ICFR, in violation of PCAOB standards.

Financial Statement Audit

26. In his audit of Forest Oil's financial statements, Trainor planned to rely on controls in significant accounts to reduce the evidence from substantive testing that otherwise would have been necessary to opine on the financial statements.[16] However, to comply with PCAOB standards, he needed first to obtain evidence that the controls he was relying on were designed and operating effectively during all of 2013.[17] If Trainor's control testing determined that the controls he was relying on were ineffective, he needed to either identify other effective controls related to the same financial statement assertions as the ineffective controls, or reduce reliance on controls and modify his audit plan to increase the persuasiveness of the evidence obtained from substantive procedures.[18]

27. Trainor violated PCAOB standards because he failed to modify his audit plan when faced with evidence of ineffective internal controls at Forest Oil.[19] First, he failed to modify his team's audit plan when confronted with evidence that he could no longer rely on Forest Oil's controls in essentially all significant accounts because of the

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[15] AS No. 15 ¶ 29.

[16] AS No. 5 ¶ 8; AS No. 13 ¶ 16 n.12.

[17] AS No. 13 ¶ 16.

[18] Id. ¶¶ 34 and 37.

[19] Id.; see also id. ¶ 6; Auditing Standard No. 9, *Audit Planning* ("AS No. 9"), ¶ 15 ("The auditor should modify the overall audit strategy and the audit plan as necessary if circumstances change significantly during the course of the audit.").

ineffective ITGCs in the general ledger and reserves systems. As a result, Trainor failed to obtain sufficient appropriate audit evidence to support relevant assertions for essentially all significant accounts. Second, regardless of the ITGC deficiencies, Trainor failed to modify his audit plan when confronted with evidence that controls related to the division of interests process were not effectively designed to address the identified risks of material misstatement related to that process. Because Trainor performed no substantive testing of divisions of interests and, instead, relied solely on ineffective controls to address the risks to that process, he failed to obtain sufficient appropriate evidence supporting the relevant assertions for significant accounts affected by divisions of interests, including revenue.

ITGC Deficiencies

28. The ITGC deficiencies rendered ineffective many of the controls on which Trainor and his team had planned to rely. Indeed, controls in essentially all significant accounts were dependent on effective ITGCs over the general ledger and/or reserves systems. Several were application controls, i.e., controls automatically performed by the ineffective system. Others involved a member of Forest Oil management reviewing and analyzing a report generated from information in one of the ineffective systems. And some involved the agreement of information from one of the ineffective systems to other information in that same system or another ineffective system.

29. Nonetheless, Trainor failed to modify his controls-reliance audit plan after detecting the ITGC deficiencies. He justified his decision primarily on identifying and testing the purportedly compensating controls. But Trainor's reliance on the identified compensating controls was unsupported because he knew, or should have known, that those controls did not mitigate the risks of material misstatement resulting from the ITGC deficiencies, for the reasons discussed above.

30. As a result, Trainor should not have relied on controls rendered ineffective by the ITGC deficiencies to reduce the persuasiveness of the evidence needed from substantive testing. Rather, he should have modified the nature, timing, or extent of the substantive testing in the affected significant accounts to reduce the risk of material misstatement in those accounts to an appropriately low level for the audit. Because Trainor did not do so, he failed to obtain sufficient appropriate audit evidence supporting the relevant assertions for significant accounts, in violation of PCAOB standards.

Division of Interests Controls

31. Like other oil and gas companies, Forest Oil had oil and gas properties in which multiple individuals and entities had ownership interests. Forest Oil used a division of interests process to apportion revenues and costs among those with fractional ownership interests. Forest Oil's general ledger included "tables" for each of its properties, identifying the various interest holders and their respective ownership interests. The divisions of interests affected several significant accounts, including revenue.

32. During planning, the engagement team identified several risks associated with the division of interests process, including that personnel could set up fictitious interest owners or make unauthorized changes to the tables in the general ledger. Trainor and his team planned to rely on two controls for the division of interests process, so they performed no substantive testing of the divisions of interests in the 2013 audit.

33. The two controls relied on by Trainor and his team could not, by their design, address the risks of material misstatement from the division of interests process. One involved a review of tables before they were input into the general ledger, so that control could not have prevented or detected unauthorized changes to tables already in that system. The second was an application control that prevented personnel from creating tables in the general ledger that did not sum to 100 percent. That control also could not have prevented or detected improper changes to the tables, so long as the total still summed to 100 percent.

34. Because the controls in the division of interests process were not effectively designed to address the identified risks from that process, Trainor and his team should have performed substantive testing related to divisions of interests. Because they failed to do so, Trainor failed to obtain sufficient appropriate evidence supporting the relevant assertions for several accounts, including revenue, accounts payable, and accounts receivable (all of which were impacted by the divisions of interests), in violation of PCAOB standards.

III.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), William Trainor is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), William Trainor is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[20]

[20] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Trainor. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated

C. After one (1) year from the date of this Order, William Trainor may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. If William Trainor is permitted to associate once again with a registered public accounting firm, pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two (2) years from the date of this Order, his role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Trainor shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to, but differently denominated from, engagement partner (such as "lead partner" or "practitioner-in-charge") or engagement quality reviewer (such as "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, *Part of the Audit Performed by Other Independent Auditors*; or (6) serve, or supervise the work of another individual serving, as a professional practice director;

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon William Trainor. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. William Trainor shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight

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with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies William Trainor as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

F. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), William Trainor is required to complete, before filing any petition for Board consent to associate with a registered public accounting firm, forty (40) hours of continuing professional education in subjects that are directly related to the audits of issuer financial statements under PCAOB standards, including audits of ICFR (such hours shall be in addition to, and shall not be counted in, the continuing professional education he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

June 4, 2019

PCAOB
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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Humayoun G. Khan,* Respondent.	PCAOB Release No. 105-2019-013 June 4, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Humayoun G. Khan ("Khan" or "Respondent"); and (2) barring Khan from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings that Khan failed to cooperate with a Board inspection and violated PCAOB audit documentation standards in connection with one audit of an issuer.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 (the "Act") and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent

[1] Khan may petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. Humayoun G. Khan, 39, of West New York, New Jersey, is a certified public accountant licensed by the New York State Board of Accountancy (License No. 099755) and the Colorado State Board of Accountancy (License No. 0026498). Khan was employed by PricewaterhouseCoopers LLP ("PwC") between October 2005 and March 2018. Khan was an audit manager on PwC's audit of the financial statements of issuer A for the fiscal year-ended October 31, 2015 ("Issuer A Audit").[4] At all relevant times, Khan was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Khan's failure to cooperate with a Board inspection and his improper alteration of audit documentation. After PwC released its audit report for the Issuer A Audit, Khan participated in the process of assembling a complete and final set of audit documentation for retention for the audit. Shortly after completing that process, which is commonly referred to as archiving the work papers, Khan became aware that the Board's inspection staff had selected the Issuer A Audit for review as part of the Board's annual inspection of PwC.

3. In anticipation of the Board's inspection, Khan improperly altered a previously archived work paper for the Issuer A Audit. Then, during the inspection, Khan provided a copy of the improperly altered work paper to the Board's inspection team and failed to disclose the alterations during discussions with the inspection team about the document. Through his actions, Khan violated his obligation to cooperate with the Board's inspection and violated PCAOB audit documentation standards.

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard.

[4] At all relevant times, Issuer A was an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Respondent Violated PCAOB Rules and Standards

Applicable PCAOB Rules and Standards

4. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[5] Auditing Standard No. 3, *Audit Documentation* ("AS3"), requires that a complete and final set of documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its report.[6] After the documentation completion date, audit documentation must not be deleted or discarded from the audit file, but may be added as long as the auditor documents the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding the documentation.[7]

5. PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. "Implicit in" the cooperation requirement of Rule 4006 "is that auditors provide accurate and truthful information."[8]

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Rel. No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017).

[6] AS3 ¶ 15.

[7] See id. ¶ 16.

[8] *Kabani & Company, Inc.*, SEC Release No. 34-80201, at 13-14 (Mar. 10, 2017) (sustaining Board finding that respondents failed to cooperate with inspection where improper work paper alterations "interfered with the PCAOB's ability to fulfill its regulatory function of ensuring that auditors comply with their professional responsibilities"), petition for review denied, 733 Fed. Appx. 918 (9th Cir. 2018); see also *DRT Bagimsiz Denetim ve Serbest Muhasebeci Mali Musavirlik A.Ş.*, PCAOB Rel. No. 105-2017-050 (Dec. 19, 2017).

Khan Improperly Altered Audit Documentation in Connection with the Issuer A Audit and the 2016 Board Inspection

6. On March 2, 2016, Khan learned that the Board's Division of Registration and Inspections ("Inspections") would review the Issuer A Audit as part of its annual inspection of PwC. By that time, the documentation completion date for the Issuer A audit had already passed,[9] and PwC's engagement team had archived the work papers for the audit. In his role as the audit manager on the Issuer A audit, Khan participated in the archiving process. The archived work papers consisted of two types of documents: electronic documents retained in "read-only" form in PwC's electronic work paper archive system and hard-copy documents that the engagement team assembled in a binder and checked into PwC's Records Center.

7. In advance of the inspection, Khan reviewed a memorandum that the engagement team had prepared during the audit to describe certain work the team had performed to evaluate Issuer A's disclosure of liquidity risk ("Liquidity Risk Memo"). The engagement team had previously archived the Liquidity Risk Memo as part of the hard-copy work papers.

8. After reviewing the Liquidity Risk Memo in advance of the inspection, Khan asked a junior member of the engagement team to make changes to an electronic version of the Liquidity Risk Memo that the junior member had maintained on his computer.

9. After the junior member of the engagement team made certain changes, he provided the revised version of the Liquidity Risk Memo to Khan in electronic form on March 12, 2016. Thereafter, on or before March 14, 2016, Khan made further changes to the Liquidity Risk Memo. Through their changes, Khan and the junior member of the engagement team substantially revised the description of the work the engagement team performed in connection with Issuer A's liquidity risk disclosure. Khan thereafter arranged to replace the originally archived version of the Liquidity Risk Memo with the revised version in the hard-copy work paper binder, which the engagement team had checked out of PwC's Records Center.

10. During field work for the inspection, Inspections staff asked the engagement team about the work it had performed concerning Issuer A's liquidity risk. In response, on March 21, 2016, Khan provided the improperly altered version of the Liquidity Risk Memo to Inspections. During the inspection, Khan had discussions with the PCAOB inspectors but did not inform them of the improper alterations that he had made to the Liquidity Risk Memo.

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[9] PwC released its audit report for the Issuer A Audit on December 24, 2015. Thus, the document completion date for the audit was no later than February 7, 2016.

11. Khan's actions violated PCAOB audit documentation standards and his duty to cooperate with Inspections.[10]

Khan Signed a Misleading Engagement Profile

12. Prior to beginning field work for the inspection, Inspections staff sent PwC an "Engagement Profile" for the Issuer A Audit, a document containing various information requests that the engagement team was expected to complete. One of the questions in the Engagement Profile asked: "Have there been any changes made to the audit documentation subsequent to the documentation completion date?" In response to this question, the engagement team stated "No."

13. Khan helped to complete the Engagement Profile and reviewed the final document, including the question and answer concerning whether any changes had been made to audit documentation subsequent to the documentation completion date. Despite having made the improper alterations to the Liquidity Risk Memo described above, Khan did not revise the statement that no changes to the audit documentation had been made after the documentation completion date. Instead, on March 14, 2016, he signed the misleading Engagement Profile, which was then provided to Inspections. Through these actions as well, Khan failed to cooperate with the PCAOB's inspection.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Humayoun G. Khan is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Humayoun G. Khan is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[11]

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[10] See AS3 ¶ 16; PCAOB Rule 4006.

[11] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Khan. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of

C. After one (1) year from the date of this Order, Humayoun G. Khan may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

June 4, 2019

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reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS	PCAOB Release No. 105-2019-014
In the Matter of Pritchett, Siler & Hardy, P.C. and Douglas W. Child, CPA,	June 5, 2019
Respondents.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring the registered public accounting firm Pritchett, Siler & Hardy, P.C. ("PSH" or "Firm") and revoking PSH's registration; and censuring Douglas W. Child, CPA ("Child"), barring Child from being an associated person of a registered public accounting firm,[1] and if Child is permitted to associate again with any registered public accounting firm, limiting his activities in connection with an "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for one year from the date his bar is terminated, by prohibiting Child from serving in the role of engagement partner or engagement quality reviewer.

The Board is imposing these sanctions on the basis of its findings that PSH and Child (collectively, "Respondents") violated PCAOB rules and standards as follows: (1) PSH repeatedly violated the Act, and PCAOB rules and standards by permitting two partners at PSH, both of whom were subject to a Board-ordered bar or suspension, to become or remain an "associated person" of PSH during the period of the suspension or bar; (2) PSH violated PCAOB quality control standards; and (3) Child substantially contributed to the Firm's violation of PCAOB quality control standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondents.

[1] Child may petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondents' Offers, the Board finds that:[3]

A. Respondents

1. Pritchett, Siler & Hardy, P.C. is, and at all relevant times was, a professional corporation organized under the laws of the state of Utah and headquartered in Salt Lake City, Utah, with an additional office in Farmington, Utah. The Firm is licensed to practice public accounting by the state of Utah, (License No. 106597-2603). The Firm is registered with the Board under Section 102 of the Act and PCAOB rules.

2. Douglas W. Child, CPA, 59, of East Eden, Utah, is a certified public accountant licensed by the Utah Division of Occupational and Professional Licensing (License No. 153074-2601). At all relevant times, Child was a partner at PSH and a partner at the unregistered public accounting firm, Pinnacle Accountancy Group, PLLC ("Pinnacle"). Child was, at all relevant times, "an associated person of a registered public accounting firm" (PSH) as that term is defined in Section 2(a)(9) of the Act, and PCAOB Rule 1001(p)(i). Child was the auditor with final responsibility for, and authorized the issuance of, PSH's audits of the financial statements of all PSH issuer audit clients from January 12, 2015 through January 12, 2016.

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[2] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[3] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Other Relevant Entities and Individuals

3. Pinnacle Accountancy Group, PLLC is, and at all relevant times was, a professional limited liability company organized under the laws of the state of Utah and headquartered in Farmington, Utah. The Firm is licensed to practice public accounting by the state of Utah (License No. 8399081-2603). At all relevant times, Child and Douglas W. Morrill, CPA ("Morrill") were partners at Pinnacle. The firm has never been registered with the Board under Section 102 of the Act and PCAOB rules.[4]

4. Douglas W. Morrill, 49, of West Haven, Utah, is a certified public accountant licensed by the state of Utah (License no. 3082647-2601). At all relevant times, Morrill was a partner at PSH and/or a partner at Pinnacle. Morrill was, at all relevant times, an "associated person of a registered public accounting firm" (PSH) as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i), including after the settlement that resulted in the Board's issuance of the Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions, *In the Matter of Morrill & Associates, LLC, Douglas W. Morrill, CPA, and Grant L. Hardy, CPA*, PCAOB Rel. No. 105-2015-001 (Jan. 12, 2015) ("Settled Order"). Morrill purportedly left PSH after the Board's issuance of the Settled Order, but remained a partner at Pinnacle. The Settled Order, among other things, censured Morrill, barred him from being an "associated person of a registered public accounting firm" for a period of three years from the date of the Settled Order, with a right to petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of the Settled Order, and made him jointly and severally liable for the civil monetary penalty imposed on the then-registered public accounting firm, Morrill & Associates, LLC ("Morrill & Associates"), in the amount of $20,000.

5. Grant L. Hardy ("Hardy"), 66, of Salt Lake City, Utah, is a certified public accountant licensed by the state of Utah (License no. 141081-2601).[5] At all relevant times, Hardy was a partner at PSH. Hardy was, at all relevant times, an "associated person of a registered public accounting firm" (PSH) as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i), including after the settlement that resulted in the Board's issuance of the Settled Order. The Settled Order, among other things, censured Hardy and suspended him from being an "associated person of a registered public accounting firm" for a period of one year from the date of the Settled Order.

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[4] *Pinnacle Accountancy Group, PLLC and Douglas W. Child, CPA*, Exchange Act Release No. 86034 (June 5, 2019)

[5] *Grant L. Hardy, CPA,* PCAOB Release No. 105-2019-015 (June 5, 2019)

C. Summary

6. This matter concerns PSH's violations of the Act and PCAOB rules when it permitted Morrill, a former PSH partner, and Hardy, a PSH partner, to each become or remain an associated person of PSH during the time that Morrill and Hardy were each subject to a Board order barring Morrill, and suspending Hardy, from being "associated with a registered public accounting firm," in violation of Section 105(c)(7)(A) of the Act, and Rule 5301(b).

7. This matter also concerns PSH's failure to establish and effectively maintain a system of quality control policies and procedures to ensure that Morrill and Hardy complied with the Settled Order, in violation of QC § 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice,* and QC § 30, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

8. This matter further concerns Child's direct and substantial contribution to PSH's violations of the Act and PCAOB rules and standards in contravention of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

D. PSH Violated the Act and PCAOB Rules Related to Associated Persons

1. Background

9. On January 12, 2015, the Board issued the Settled Order, with the consent of Morrill and Hardy, on a neither admit nor deny basis. The Settled Order resulted from violations by Morrill and Hardy of PCAOB rules and auditing standards; specifically, when Morrill served as the engagement partner for the audits of the financial statements of four issuer clients, and Hardy served as the engagement quality reviewer for the audits of the financial statements of three issuer clients of Morrill & Associates. Among other things, the Settled Order barred Morrill for a period of three years ("three-year bar"), with a right to petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of the Settled Order, and suspended Hardy for a period of one year (the "suspension year") from the date of the Settled Order. Specifically, the Settled Order precluded Morrill and Hardy from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act, and PCAOB Rule 1001(p)(i) during the period of their respective bar or suspension. Morrill's three-year bar included the period January 12, 2015 through January 12, 2018; Hardy's suspension year covered the period January 12, 2015 through January 12, 2016.

10. Under the Act and PCAOB rules, a registered public accounting firm that knows an individual is suspended or barred from associating with any registered firm may not permit him or her to become or remain an "associated person" of the firm

without the consent of the Board or the United States Securities and Exchange Commission ("Commission").[6] The Act and PCAOB rules define an "associated person" as, among other things, any "professional employee of a public accounting firm . . . that, in connection with the preparation or issuance of any audit report (i) shares in the profits of, or receives compensation in any other form from, that firm; or (ii) participates as agent or otherwise on behalf of such accounting firm in any activity of that firm."[7]

11. After the Board issued the Settled Order, PSH permitted Morrill and Hardy to each become or remain an associated person of the Firm by allowing both Morrill and Hardy to engage in activities in connection with the preparation or issuance of issuer audit reports in violation of the Act and PCAOB Rules. It did so despite its knowledge of the Settled Order and without the consent of the Board or the Commission. Further, PSH failed to develop sufficient policies and procedures to ensure that Morrill and Hardy did not remain associated with the Firm during their bar or suspension year.

12. After the issuance of the Settled Order, Morrill purportedly severed his ties with PSH due to the three-year bar, but remained, at all relevant times, a partner at Pinnacle.[8] In addition, after the issuance of the Settled Order, Hardy continued to serve as a partner at PSH, but the firm prohibited him from signing audit opinions for public company clients, from accepting new public company audit engagements, and from serving as an engagement quality reviewer on such engagements. Hardy was also prohibited from sharing in the profits of, or receiving compensation in any other form in connection with, PSH's preparation or issuance of audit reports.

13. Shortly after the Board issued the Settled Order, PSH notified its "shareholders and management" that the Firm's issuer audit practice would be led by Child, who would serve as the engagement partner on all of the Firm's issuer audits and reviews during the period of Hardy's suspension. In addition, PSH sent its issuer clients a form letter which notified those clients of certain "partner assignment changes": specifically, that Child would be the engagement partner for all of PSH's issuer audit practice. PSH did not indicate in the letter to its issuer audit clients the reasons for the changes, that Hardy and Morrill had been sanctioned by the Board, or that Morrill was no longer associated with PSH. Indeed, Morrill was not even mentioned in the letter.

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[6] Act § 105(c)(7)(A); PCAOB Rule 5301(b).

[7] Act § 2(a)(9); PCAOB Rule 1001(p)(i).

[8] At all relevant times, pursuant to an oral agreement between PSH and Pinnacle, Pinnacle audit staff and Child, who was a partner at both PSH and Pinnacle, performed all of the audit work with respect to PSH's audits of the financial statements of its issuer audit clients during the first year of Morrill's bar and Hardy's suspension year. Pinnacle shared office space with PSH at the satellite office of PSH in Farmington, Utah.

14. After the Settled Order's issuance, PSH and Pinnacle orally agreed that Pinnacle audit staff and Child, who was a partner at both PSH and Pinnacle, would perform all of the audit work with respect to PSH's audits of the financial statements of its issuer audit clients. PSH reimbursed Pinnacle for all costs associated with PSH's use of Pinnacle's audit staff on PSH issuer audits. Funds paid to Pinnacle by PSH were deposited into a general purpose bank account maintained by Child on behalf of Pinnacle.

15. PSH did not implement or otherwise document any changes to its quality control policies and procedures to address, among other things, potential issues related to Morrill or Hardy after the Board issued the Settled Order.[9] Child was the person principally charged by PSH with monitoring the effectiveness of the Firm's system of quality control, including the firm's compliance with the PCAOB order sanctioning Morrill and Hardy.

16. As described below, PSH permitted Morrill and Hardy to become or remain associated persons of the Firm by allowing them to engage in activities in connection with the preparation or issuance of issuer audit reports in violation of the Act and PCAOB Rules.

2. Morrill Was an Associated Person of PSH While Barred

Morrill's Role at PSH

17. During the pendency of his bar, Morrill, while working at Pinnacle, interacted with PSH issuer engagement teams and the management of PSH issuer clients after the Board issued the Settled Order in January 2015. Specifically, Morrill consulted with, assisted, and/or advised PSH engagement teams regarding significant matters. In each instance, Morrill communicated directly with an audit engagement team member or a member of management who was seeking advice or assistance from him regarding an audit.

Issuer A

18. Issuer A is a Nevada corporation with a principal office in Salt Lake City, Utah. PSH audited the financial statements of Issuer A for fiscal year ending ("FYE")

[9] Each registered public accounting firm is required to develop, implement, and maintain a system of quality control for its accounting and audit practice. A firm's system of quality control is designed to provide the "firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality." QC § 20.03; see also PCAOB Rule 3400T, *Interim Quality Control Standards*; QC § 20.01.

December 31, 2014 and issued an audit report on those financial statements on March 27, 2015. At all relevant times, Issuer A was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

19. During his bar, Morrill participated in substantive audit decisions in connection with the preparation and issuance of PSH's audit report on Issuer A's FYE December 31, 2014 financial statements ("Issuer A Audit"). Morrill served previously as the PSH engagement partner on the Issuer A Audit and completed the quarterly reviews for the first three quarters of that audit. However, after the Board sanctioned Morrill in January 2015, he was replaced by Child.

20. At the commencement of the audit, neither Morrill nor Child informed Issuer A's CEO that the reason Morrill was replaced as the engagement partner on that audit was due to Morrill's three-year bar. Issuer A's CEO was told that Morrill had been replaced as engagement partner by Child so that Morrill could focus more on Pinnacle's audit practice.

21. Beginning in at least February 2015, approximately one month after he was sanctioned by the Board, Morrill communicated with Issuer A's CEO regarding the audit. Specifically, on multiple occasions Morrill discussed the following matters with Issuer A's CEO: the progress of the audit, a significant account involving a debt extinguishment transaction, and the CEO's complaints regarding the non-responsiveness of the engagement team. Child was aware of Morrill's communications with Issuer A's CEO.

22. In March 2015, Morrill consulted with Issuer A's CEO and the engagement team regarding the nature and accounting treatment of a complex debt extinguishment transaction pertaining to the audit. Specifically, Morrill advised Child and other members of the engagement team by providing his analysis regarding the selection of accounting principles for debt extinguishment and his views on the appropriate accounting treatment for that transaction. He also advised the engagement team to perform certain auditing procedures with respect to the debt extinguishment.

23. Further, Morrill's consultations and involvement with the engagement team on the Issuer A Audit continued after Child received the following email on March 18, 2015, from a consultant retained by PSH who had been copied on one of a series of emails discussing the debt extinguishment transaction issue:

> Why is a barred individual talking to the client, the staff and providing guidance? Doug M[orrill] should not be talking to clients, talking to staff, taking up the issues etc. . . . See definition below of associated person (with my bold). Unless we have clearance from the PCAOB otherwise, this and Grant [Hardy] being on the occasional e-mail can cause significant issue.

Later the same day, Child responded to the consultant's email by thanking him for "calling that out" and promised to "point out that can't happen again."

24. On the next day (March 19, 2015), Morrill, Child and another engagement team member exchanged a series of emails which discussed the options for accounting principles used for the debt extinguishment transaction and questions related to those options. Those discussions included Morrill's advice on the issue to the engagement team.

25. Morrill's communications with the engagement team, including Child, and the CEO of Issuer A regarding the debt extinguishment issue and other issues continued until the day before PSH issued its audit opinion on the financial statements of Issuer A for FYE December 31, 2014, on March 27, 2015.

Issuer B

26. Issuer B is a Nevada corporation with a principal office in Irvine, California. PSH audited the financial statements of Issuer B for FYE December 31, 2013 and 2014, and issued an audit report on those financial statements on May 13, 2015, and May 29, 2015, respectively. At all relevant times, Issuer B was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

27. During his bar, Morrill participated in substantive audit decisions in connection with the preparation and issuance of the Firm's audit reports for Issuer B's FYE December 31, 2013, and 2014 financial statements. Morrill previously served as the PSH engagement partner on those audits (collectively, the "Issuer B Audits"). However, after the Board sanctioned Morrill, he was replaced by Child.

28. On January 23, 2015, less than two weeks after he was sanctioned by the Board, Morrill sent an email to the president of Issuer B, with a copy to Issuer B's external accountant and members of the PSH engagement team, including Child. In the January 23rd email, Morrill advised the president of Issuer B that, he had "sat down" with the PSH audit engagement team regarding the Issuer B Audits. Morrill further stated that Issuer B's external accountant would "need to help [a member of the engagement team] to understand [a certain] Settlement Agreement and the accounting for it." Morrill also advised the president of Issuer B to expand one of the disclosures in Issuer B's fiscal year 2013 financial statements, which involved a related party transaction and the settlement of an associated debt liability.

29. During March and April 2015, Morrill advised the Issuer B engagement team about significant accounts and disclosures pertaining to a debt liability associated with the Settlement Agreement and a related party transaction. Morrill also met with the engagement team to discuss those issues.

30. In April 2015, at Child's request, Morrill advised Child about the methodology for computing the valuation of warrants and related accounting for the Settlement Agreement, and a related Settlement Agreement Release entered into by Issuer B and certain third parties.

Issuer C

31. Issuer C is a Nevada corporation with a principal office in Wyckoff, New Jersey. PSH audited the financial statements of Issuer C for FYE June 30, 2015, and issued an audit report on those financial statements on October 13, 2015. At all relevant times, Issuer C was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

32. During his bar, Morrill participated in the Firm's audit of Issuer C's FYE June 30, 2015 financial statements. Specifically, on behalf of Child and the PSH engagement team, in February 2015, Morrill contacted Issuer C directly to obtain financial information necessary for PSH to conduct the FYE June 30, 2015 audit of Issuer C and updated the engagement team regarding the status of the request for financial information.

33. Morrill further assisted the PSH engagement team, including Child, in connection with the preparation and issuance of the Firm's reviews of the financial statements of Issuer C for the third quarter of fiscal year 2015 by sending similar requests to Issuer C for financial information.

3. Hardy Was an Associated Person of PSH While Suspended

Hardy's Role at PSH

34. During the suspension year, Hardy's role was to "oversee" PSH's "private company audit practice". However, Hardy communicated with PSH engagement teams on multiple occasions in connection with the audits of several issuer clients.

Issuer D

35. Issuer D is a Nevada corporation with a principal office in Pocatello, Idaho. PSH audited the financial statements of Issuer D for FYE December 31, 2014, and issued an audit report on those financial statements on March 27, 2015. At all relevant times, Issuer D was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

36. During the suspension year, Hardy participated in the audit of Issuer D's FYE December 31, 2014 financial statements. Specifically, in late February 2015, Hardy worked with members of the Issuer D engagement team to coordinate how to plan and perform the 2014 Issuer D audit. He also met with members of that engagement team because of their request "to see and discuss some of the documents" related to the 2014 Issuer D audit. Hardy also assisted the team regarding the timing of field work for the performance of fiscal year 2014 field procedures.

37. Further, Hardy advised Child on the accounting principles used for certain significant accounts receivable concerning related parties, and the disclosure of those amounts in Issuer D's financial statements made in a prior year, which were to be disclosed on a comparative basis in Issuer D's financial statements for FYE December 31, 2014.

38. In October 2015, nine months after his suspension, Hardy participated in a conference call initiated by an investor in Issuer D and executives of a third-party target company regarding confidential discussions for an audit of the private entity, which was considering entering into a reverse merger with Issuer D. Hardy subsequently emailed Child describing, among other things, the nature of the call, some details of the contemplated transaction, Issuer D's Form 10-K filing plans for fiscal year 2015 in light of the potential transaction and the investor's and the private company's representation to him that, "they would like PSH to continue as their auditors post acquisition."

39. Subsequently, during the engagement team's review of Issuer D's financial statements for the third quarter of fiscal year 2015, Child requested Hardy's advice regarding whether Issuer D was required to disclose the proposed acquisition in those financial statements. Hardy responded, in a series of emails, that disclosure of the proposed acquisition was not required.

Issuer E

40. Issuer E was a Nevada corporation with a principal office in Concord, New Hampshire. PSH audited the financial statements of Issuer E for FYE June 30, 2014 and 2015, and issued an audit report on those financial statements on August 8, 2014 and October 9, 2015, respectively. At all relevant times, Issuer E was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

41. Issuer E was an issuer audit client of PSH for both FYE June 30, 2014 ("2014 Issuer E Audit") and FYE June 30, 2015 ("2015 Issuer E Audit"). Hardy was the engagement partner on the 2014 Issuer E Audit and Child was the engagement partner on the 2015 Issuer F Audit.

42. During the 2015 Issuer E Audit conducted in October 2015, the PSH engagement team determined that a restatement of Issuer E's 2014 financial statements might be necessary. The issue related to a liability incurred by Issuer E in

connection with the issuance of stock pursuant to a Stock Purchase Agreement that occurred in June 2014.

43. During Hardy's suspension, a member of the PSH engagement team, with Child's approval, sought Hardy's advice regarding the potential restatement. Child also discussed with Hardy the "propriety of a restatement and the necessity of a restatement," because he was soliciting Hardy's "views, perspective and advice . . . with respect to what could be done to address the restatement issue." In addition, over a period spanning several days, Hardy exchanged emails with a member of the 2015 Issuer E engagement team informing the engagement team as to his views of the alternatives (i.e., restatement versus no restatement). On October 13, 2015, Issuer E filed its fiscal year 2015 financial statements and announced a restatement of its fiscal year 2014 financial statements.

Issuer F

44. Issuer F is a Nevada corporation with a principal office in Santa Fe, New Mexico. PSH audited the financial statements of Issuer F for FYE December 31, 2014, and issued an audit report on those financial statements on March 27, 2015. At all relevant times, Issuer F was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

45. PSH audited the financial statements of Issuer F for FYE December 31, 2013 ("2013 Issuer F Audit") and FYE December 31, 2014 ("2014 Issuer F Audit"). Hardy was the engagement partner on the 2013 Issuer F Audit and quarterly reviews of Issuer F for fiscal year 2014 until his suspension by the Board on January 12, 2015. Child was the engagement partner on the 2014 Issuer F Audit. Issuer F filed its financial statements for FYE December 31, 2014 with the Commission on March 31, 2015.

46. During the 2014 Issuer F Audit conducted in March 2015, Child consulted with Hardy regarding two issues. The first issue involved the accounting principles used for certain warrants related to equity transactions entered into by Issuer F during 2014. Child communicated with Hardy to "make sure [Child] had all information . . . needed to conclude on the accounting treatment" for purposes of the 2014 Issuer F Audit. Child also communicated with Hardy regarding the potential disclosure of the dissolution of a private consulting company subsidiary of Issuer F as a discontinued operation in the quarterly filings of Issuer F for fiscal year 2014. Child determined, based upon Hardy's advice and management representations, that Issuer F's decision not to report the dissolution as a discontinued operation was appropriate.

4. Additional Associated Person Actions of Morrill and Hardy While Barred or Suspended

Issuer G

47. Issuer G is a Nevada corporation with a principal office in Wilton, Connecticut. PSH audited the financial statements of Issuer G for FYE June 30, 2014 and 2015, and issued an audit report on those financial statements on October 14, 2014, and October 13, 2015, respectively. At all relevant times, Issuer G was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

48. During May 2015, in response to a request by Child, Hardy communicated with Child about several significant accounting and auditing matters related to the filing of Issuer G's unaudited quarterly financial statements with the Commission for the nine months ended March 31, 2015.

49. First, Hardy advised Child on the issue of whether a subsidiary had been consolidated with Issuer G. Hardy's conclusion, which was that the consolidation had not occurred as of March 31, 2015, was consistent with the disclosures ultimately made by Issuer G for the quarterly period ending March 31, 2015.

50. Second, Hardy advised Child on the issue of whether the amortization of certain warrant expenses was being accounted for appropriately in accordance with U.S. generally accepted accounting procedures. Upon receipt of this information, Child instructed an engagement team member to place the email containing Hardy's advice in the audit work papers for the 2015 Issuer G Audit and quarterly reviews file.

51. Child also solicited Morrill and Hardy's advice concerning a comment letter Issuer G received from the Commission dated March 13, 2015, related to the Form 10-K filed by that issuer for FYE June 30, 2014, which included an unqualified audit report issued by PSH. Specifically, on April 25, 2015, Child emailed Morrill and Hardy requesting a meeting to discuss the comment letter from the SEC and to "revisit conclusions reached on prior audits," regarding the revenue recognition procedures of Issuer G and the impairment of a material significant oil and gas asset. Morrill had served as the engagement partner on the FYE June 30, 2012 audit of Issuer G, performed by the then-registered accounting firm, Morrill & Associates. Hardy previously served as the engagement partner for the FYE June 30, 2013 audit of Issuer G performed by PSH.

52. Child requested the meeting to discuss the comment letter, because he "wanted to get Grant [Hardy's] and Doug Morrill's perspective on [Issuer G] engagement, with respect to why they recognized revenue on assumptions and estimates when the SEC was having a problem with it." In addition, Child wanted Morrill's and Hardy's "input in responding to the SEC for the years that they did the audits as to the extent or what they might have done for the impairment analysis."

Depending on the outcome of the Commission's inquiry, the then-current FYE June 30, 2015 audit might have been affected, and the financial statements of Issuer G restated for FYE June 30, 2014.

53. Morrill and Hardy subsequently met with Child and provided their perspectives on the accounting used and auditing procedures performed in prior years regarding Issuer G's revenue recognition policies and the impairment of a material significant oil and gas asset about which the Commission was inquiring.

54. On October 7, 2015, Issuer G filed a response to the Comment Letter with the Commission. On October 13, 2015, Child issued an audit report containing an unqualified audit opinion on behalf of PSH, which was included in the financial statements of Issuer G for FYE June 30, 2015, filed with the Commission. In November 2015, the Commission completed its review of the filings of Issuer G without further action.

5. PSH Violated the Act and PCAOB Rules and Standards by Permitting Morrill and Hardy to Associate with the Firm While Barred or Suspended

55. By its acts and omissions described above, PSH permitted Morrill and Hardy to become or remain associated persons by engaging in activities on PSH's behalf in connection with the preparation or issuance of audit reports for PSH's issuer clients, during the pendency of the bar and suspension, respectively. As a result of the actions and omissions described above, PSH violated Section 105(c)(7)(A) of the Act, and PCAOB Rule 5301(b).

E. Respondents Violated PCAOB Rules and Standards Related to Quality Control

56. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[10] PCAOB quality control standards require that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[11] PCAOB quality control standards provide that policies and procedures "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied,"

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[10] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T.

[11] QC § 20.02.

and that "its system of quality control is effective."[12] Under PCAOB standards, quality control policies and procedures should also be communicated to a firm's personnel in a manner that provides reasonable assurance that they are understood and complied with.[13]

57. PCAOB rules prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation of Board standards by that firm.[14]

58. By its acts and omissions described above, PSH permitted Morrill and Hardy to become or remain an associated person by engaging in activities on PSH's behalf in connection with the preparation or issuance of audit reports of PSH's issuer clients during Morrill's bar and Hardy's suspension.

59. PSH's policies or procedures were not sufficient to ensure that Morrill and Hardy complied with the terms of the Settled Order. PSH also did not appropriately instruct anyone at PSH concerning how to monitor Morrill's and Hardy's compliance with the Settled Order.

60. Child was the sole audit partner at PSH serving as the engagement partner on the Firm's issuer audits at the times the acts and omissions described above occurred. He also was the individual at the Firm principally responsible for the development, maintenance, communication, and monitoring of the Firm's quality control policies and procedures. In connection with the acts and omissions described herein, Child took, or omitted to take, actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of PCAOB quality control standards, in contravention of PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Pritchett, Siler & Hardy, P.C. is hereby censured;

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[12] QC § 20.20; see also QC § 30.03.

[13] See QC § 20.23.

[14] PCAOB Rule 3502.

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Pritchett, Siler & Hardy, P.C. is revoked;

C. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Douglas W. Child is hereby censured;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Douglas W. Child is barred from being "an associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[15]

E. After two (2) years from the date of this Order, Douglas W. Child may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

F. If Douglas W. Child is permitted to associate once again with a registered public accounting firm, pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one (1) year from the date his bar is terminated, his role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Child shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to, but differently denominated from, engagement partner (such as "lead partner" or "practitioner-in-charge") or engagement quality reviewer (such as "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) assist the engagement partner in fulfilling his or her responsibilities under paragraph 4 of AS 1201, *Supervision of the Audit Engagement*; (6) serve, or supervise the work of another person serving,

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[15] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Child. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, *Part of the Audit Performed by Other Independent Auditors*; or (7) serve, or supervise the work of another individual serving, as a professional practice director.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

June 5, 2019

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS	PCAOB Release No. 105-2019-015
In the Matter of Grant L. Hardy, CPA,	June 5, 2019
Respondent.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Grant L. Hardy, CPA ("Hardy" or "Respondent"), and barring Hardy from being an associated person of a registered public accounting firm.[1] The Board is imposing these sanctions on the basis of its findings that Hardy violated the Sarbanes-Oxley Act of 2002, as amended (the "Act") and PCAOB rules by remaining an "associated person of a registered public accounting firm" while subject to a Board-ordered suspension.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[2]

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[1] Hardy may petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. Grant L. Hardy ("Hardy"), 66, of Salt Lake City, Utah, is a certified public accountant licensed by the state of Utah (license no. 141081-2601). At all relevant times, Hardy was a partner at Pritchett, Siler & Hardy, P.C. ("PSH").[4] Hardy was, at all relevant times, an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i), including after the settlement that resulted in the Board's issuance of the Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions, *In the Matter of Morrill & Associates, LLC, Douglas W. Morrill, CPA, and Grant L. Hardy, CPA*, PCAOB Rel. No. 105-2015-001 (Jan. 12, 2015) ("Settled Order"). The Settled Order, among other things, censured Hardy and suspended him from being an "associated person of a registered accounting firm" for a period of one year from the date of the Settled Order.

B. Other Relevant Entities and Individuals

2. Pritchett, Siler & Hardy, P.C. is, and at all relevant times was, a professional corporation organized under the laws of the state of Utah and headquartered in Salt Lake City, Utah, with an additional office in Farmington, Utah. The Firm is licensed to practice public accounting by the state of Utah, (License No. 106597-2603). The Firm is registered with the Board under Section 102 of the Act and PCAOB rules.

3. Douglas W. Child, CPA ("Child"), 59, of East Eden, Utah, is a certified public accountant licensed by the Utah Division of Occupational and Professional Licensing (License No. 153074-2601). At all relevant times, Child was a partner at PSH and an "associated person of a registered public accounting firm" (PSH) as that term is defined in Section 2(a)(9) of the Act, and PCAOB Rule 1001(p)(i). Child was the auditor

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[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] *Pritchett, Siler & Hardy, P.C. and Douglas W. Child, CPA*, PCAOB Release No. 105-2019-014 (June 5, 2019)

with final responsibility for, and authorized the issuance of, PSH's audits of the financial statements of all PSH issuer audit clients from January 12, 2015 through January 12, 2016.[5]

C. Summary

4. This matter concerns Hardy's violations of the Act and PCAOB rules when Hardy remained an "associated person" of PSH during the time that he was subject to a Board order suspending him from being "an associated person of a registered public accounting firm."

D. Hardy Violated the Act and PCAOB Rules Related to Associated Persons

1. Background

5. On January 12, 2015, the Board issued the Settled Order with the consent of Hardy, on a neither admit nor deny basis. Among other things, the Settled Order resulted from violations by Hardy of PCAOB rules and auditing standards when he served as the engagement quality reviewer for the audits of the financial statements of three issuer clients of Morrill & Associates, LLC, then a PCAOB registered public accounting firm. The Settled Order suspended Hardy for a period of one year from the date of the Settled Order ("suspension-year") from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act, and PCAOB Rule 1001(p)(i) (i.e., January 12, 2015 to January 12, 2016).

6. Under the Act and PCAOB rules, it is unlawful for any person that is suspended or barred from being associated with a registered public accounting firm to become or remain an "associated person" of the firm without the consent of the Board or the United States Securities and Exchange Commission ("Commission").[6] The Act and PCAOB rules define an "associated person of a public accounting firm" as, among other things, any "professional employee of a public accounting firm . . . that, in connection with the preparation or issuance of any audit report . . . (ii) participates as agent or otherwise on behalf of such accounting firm in any activity of that firm."[7]

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[5] Id.

[6] Act § 105(c)(7)(A); PCAOB Rule 5301(b).

[7] Act § 2(a)(9); PCAOB Rule 1001(p)(i). The definition of "associated person" also includes an individual who, "in connection with the preparation or issuance of any audit report," "shares in the profits of, or receives compensation in any other form from," a registered public accounting firm. Act § 2(a)(9)(A)(i); PCAOB Rule 1001(p)(i)(1).

7. As described below, after the Board issued the Settled Order, Hardy continued to be a partner at PSH and remained an "associated person" of PSH by engaging in activities in connection with the preparation or issuance of issuer audit reports in violation of the Act and PCAOB Rules. Hardy did so without the consent of the Board or the Commission.

2. Hardy's Involvement in PSH Audits

Hardy's Role at PSH

8. During the suspension year, Hardy's role was to "oversee" PSH's "private company audit practice." However, Hardy communicated with PSH engagement teams on multiple occasions in connection with the audits of several issuer clients.

Issuer A

9. Issuer A is a Nevada corporation with a principal office in Pocatello, Idaho. PSH audited the financial statements of Issuer A for FYE December 31, 2014, and issued an audit report on those financial statements on March 27, 2015. At all relevant times, Issuer A was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

10. During the suspension year, Hardy participated in the audit of Issuer A's FYE December 31, 2014 financial statements. Specifically, in late February 2015, Hardy worked with members of the Issuer A engagement team to coordinate how to plan and perform the 2014 Issuer A audit. He also met with members of that engagement team because of their request "to see and discuss some of the documents" related to the 2014 Issuer A audit. Hardy also assisted the team regarding the timing of field work for the performance of FYE December 31, 2014 field procedures.

11. Further, Hardy advised Child on the accounting principles used for certain accounts receivable concerning related parties, and the disclosure of those amounts in Issuer A's financial statements made in a prior year, which were to be disclosed on a comparative basis in Issuer A's financial statements for FYE December 31, 2014.

12. In October 2015, nine months after his suspension, Hardy participated in a conference call initiated by an investor in Issuer A and executives of a third-party target company regarding confidential discussions for an audit of the private entity which was considering entering into a reverse merger with Issuer A. Hardy subsequently emailed Child describing, among other things, the nature of the call, some details of the contemplated transaction, Issuer A's Form 10-K filing plans for FY 2015 in light of the potential transaction and the investor's and the private company's representation to him that "they would like PSH to continue as their auditors post acquisition."

13. Subsequently, during the engagement team's review of Issuer A's financial statements for the third quarter of fiscal year 2015, Child requested Hardy's advice regarding whether Issuer A was required to disclose the proposed acquisition in those financial statements. Hardy responded, in a series of emails, that disclosure of the proposed purchase was not required.

Issuer B

14. Issuer B was a Nevada corporation with a principal office in Concord, New Hampshire. PSH audited the financial statements of Issuer B for FYE June 30, 2014 and 2015, and issued an audit report on those financial statements on August 8, 2014 and October 9, 2015, respectively. At all relevant times, Issuer B was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

15. Issuer B was an issuer audit client of PSH for both FYE June 30, 2014 ("2014 Issuer B Audit") and FYE June 30, 2015 ("2015 Issuer B Audit"). Hardy was the engagement partner on the 2014 Issuer B Audit and Child was the engagement partner on the 2015 Issuer B Audit.

16. During the 2015 Issuer B Audit conducted in October 2015, the PSH engagement team determined that a restatement of Issuer B's 2014 financial statements might be necessary. The issue related to a liability incurred by Issuer B in connection with the issuance of stock pursuant to a Stock Purchase Agreement that occurred in June 2014.

17. During Hardy's suspension, members of the PSH engagement team, including Child, sought Hardy's advice regarding the "propriety of a restatement and the necessity of a restatement." In addition, over a period spanning several days, Hardy exchanged emails with a member of the 2015 Issuer B engagement team informing the engagement team as to his views of the alternatives (i.e., restatement versus no restatement). On October 13, 2015, Issuer B filed its FY 2015 financial statements and announced a restatement of its FY 2014 financial statements.

Issuer C

18. Issuer C is a Nevada corporation with a principal office in Santa Fe, New Mexico. PSH audited the financial statements of Issuer C for FYE December 31, 2014, and issued an audit report on those financial statements on March 27, 2015. At all relevant times, Issuer C was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

19. PSH audited the financial statements of Issuer C for FYE December 31, 2013 ("2013 Issuer C Audit") and FYE December 31, 2014 ("2014 Issuer C Audit"). Hardy was the engagement partner on the 2013 Issuer C Audit and quarterly reviews of Issuer C for fiscal year 2014 until his suspension by the Board on January 12, 2015.

Child was the engagement partner on the 2014 Issuer C Audit. Issuer C filed its financial statements for FYE December 31, 2014 with the Commission on March 31, 2015.

20. During the 2014 Issuer C Audit conducted in March 2015, Hardy advised Child concerning two issues. The first issue involved the accounting principles used for certain warrants related to equity transactions entered into by Issuer C during 2014. Child communicated with Hardy to "make sure [Child] had all information . . . needed to conclude on the accounting treatment" for purposes of the 2014 Issuer C Audit. Child also communicated with Hardy regarding the potential disclosure of the dissolution of a private consulting company subsidiary of Issuer C as a discontinued operation in the quarterly filings of Issuer C for FY 2014. Child determined, based upon Hardy's advice and management representations, that Issuer C's decision not to report the dissolution as a discontinued operation was appropriate.

Issuer D

21. Issuer D is a Nevada corporation with a principal office in Wilton, Connecticut. PSH audited the financial statements of Issuer D for FYE June 30, 2014 and 2015, and issued an audit report on those financial statements on October 14, 2014, and October 13, 2015, respectively. At all relevant times, Issuer D was an "issuer" as the term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

22. During May 2015, Hardy communicated with Child about several significant accounting and auditing matters related to the filing of Issuer D's unaudited quarterly financial statements with the Commission for the nine months ended March 31, 2015.

23. First, Hardy advised Child on the issue of whether a subsidiary had been consolidated with Issuer D. Hardy's conclusion, which was that the consolidation had not occurred as of March 31, 2015, was consistent with the disclosures ultimately made by Issuer D for the quarterly period ending March 31, 2015.

24. Second, Hardy advised Child on the issue of whether the amortization of certain warrant expenses was being accounted for appropriately in accordance with U.S. generally accepted accounting procedures. Upon receipt of this information, Child instructed an engagement team member to place the email containing Hardy's advice in the audit work papers for the 2015 Issuer D Audit and quarterly reviews file.

25. Third, Hardy advised Child concerning a comment letter Issuer D received from the Commission dated March 13, 2015, related to the Form 10-K filed by that issuer for FYE June 30, 2014, which included an unqualified audit report issued by PSH. Specifically, on April 25, 2015, Child emailed Hardy requesting a meeting to discuss the comment letter from the SEC and to "revisit conclusions reached on prior audits" regarding the revenue recognition procedures of Issuer D and the impairment of

a material significant oil and gas asset. Hardy previously served as the engagement partner for the FYE June 30, 2013 audit of Issuer D performed by PSH.

26. Child requested the meeting to discuss the comment letter because he wanted Hardy's perspective on the 2015 Issuer D engagement. Specifically, Child wanted to understand why at the time Hardy served as engagement partner, Issuer D had recognized revenue on assumptions and estimates "when the SEC was having a problem with it." In addition, Child wanted Hardy's input in responding to the SEC for the year that Hardy performed the Issuer D audit and what Hardy "might have done for the impairment analysis." Depending on the outcome of the Commission's inquiry, the then-current FYE June 30, 2015 audit, might have been affected, and the financial statements of Issuer D restated for FYE June 30, 2014.

27. Hardy subsequently met with Child and provided his perspective on the accounting used and auditing procedures performed in prior years regarding Issuer D's revenue recognition policies and the impairment of a material significant oil and gas asset about which the Commission was inquiring.

28. On October 7, 2015, Issuer D filed a response to the Comment Letter with the Commission. On October 13, 2015, Child also issued an audit report containing an unqualified audit opinion on behalf of PSH, which was included in the financial statements of Issuer D for FYE June 30, 2015, filed with the Commission. In November 2015, the Commission completed its review of the filings of Issuer D without further action.

3. Hardy Violated the Act and PCAOB Rules by Associating with PSH While Suspended

29. By the acts and omissions described above, Hardy became or remained an associated person of PSH by engaging in activities on PSH's behalf in connection with the preparation or issuance of audit reports for PSH's issuer clients, during the pendency of his suspension. As a result of the actions and omissions described above, Hardy violated Section 105(c)(7)(A) of the Act, and PCAOB Rule 5301(a).

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Grant L. Hardy is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Grant L. Hardy is barred from being "an associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[8] and

C. After one (a) year from the date of this Order, Grant L. Hardy may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

June 5, 2019

[8] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Hardy. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Jeffrey T. Gross Ltd. and Jeffrey T. Gross, CPA* *Respondents.*	PCAOB Release No. 105-2019-016 July 23, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring registered public accounting firm Jeffrey T. Gross Ltd. ("Firm") and permanently revoking the Firm's registration; and censuring Jeffrey T. Gross, CPA ("Gross") and permanently barring Gross from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings that the Firm and Gross (collectively, "Respondents") violated PCAOB rules and standards in connection with the audits of multiple issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted,

Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **Jeffrey T. Gross Ltd.** registered with the Board pursuant to Section 102 of the Act and PCAOB rules on February 12, 2010. The Firm was a Chicago-based limited liability company, organized under the laws of Illinois (License No. 066.004311), until its involuntary dissolution in 2013. At all relevant times, the Firm was the external auditor for the issuers identified below.

2. **Jeffrey T. Gross, CPA**, age 52, is a certified public accountant licensed by the state of Illinois (License No. 065.036441). According to the Firm's filings with the PCAOB, Gross is the president and sole owner of the Firm. At all relevant times, Gross served as the engagement partner on the audits discussed below, and is an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001 (p)(i).

B. Summary

3. This matter concerns Respondents' multiple violations of PCAOB rules and standards in connection with the Firm's audits of the financial statements of Issuer A for the fiscal year ended July 31, 2017 ("FYE 2017") and Issuer B for the fiscal year ended October 31, 2017 ("FYE 2017") (collectively, "Issuer Audits").[3] As detailed below, Respondents failed, among other things, to exercise due professional care and professional skepticism in the performance of the audits. Specifically, in both audits, Respondents failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinions regarding the financial statements of the Issuer Audits.

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[1] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5) of the Act, which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audit or review.

4. The Firm also failed to comply with AS 1220, *Engagement Quality Review*, by failing to obtain an engagement quality review of the Issuer Audits, even though it was required for both of the Issuer Audits. Gross also violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations,* because he took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of AS 1220.

5. The Firm also failed to timely file ten Form AP reports, as required by PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants,* relating to the Firm's issuance of audit reports for multiple issuer audit engagements. Gross also violated PCAOB Rule 3502 because he took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of Rule 3211.

C. Respondents Violated PCAOB Rules and Standards

6. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards.[4] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards. Those standards require, among other things, that an auditor plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.[5] PCAOB standards require that an auditor exercise due professional care, including professional skepticism, in the performance of the audit and preparation of the report.[6]

7. Under PCAOB standards, the auditor should properly plan the audit.[7] Planning the audit includes establishing the overall audit strategy for the engagement and developing an audit plan, which includes planned risk assessment procedures and planned responses to the risks of material misstatements.[8] PCAOB standards also state that the auditor should perform risk assessment procedures that are sufficient to provide

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[4] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[5] See AS 1105, *Audit Evidence,* ¶ .04.

[6] See AS 1015, *Due Professional Care in the Performance of Work*, ¶ .07.

[7] See AS 2101, *Audit Planning*, ¶ .04.

[8] See AS 2101.05.

a reasonable basis for identifying and assessing the risks of material misstatement, whether due to error or fraud, and designing further audit procedures.[9]

8. Appropriate audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based.[10] If the auditor has not obtained sufficient appropriate audit evidence about a relevant assertion or has substantial doubt about a relevant assertion, the auditor should perform procedures to obtain further audit evidence to address the matter.[11] Representations from management are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit.[12]

9. PCAOB standards also require that an engagement quality review be performed on audit engagements, a review of interim financial information, and certain attestation engagements conducted pursuant to PCAOB standards.[13] AS 1220 also provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance of the report.[14]

10. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation" of PCAOB rules or standards.

11. As described below, Respondents failed to comply with PCAOB rules and standards in connection with the Issuer Audits.

Audit of Issuer A's FYE 2017 Financial Statements

12. Issuer A, at all relevant times, was a development stage company headquartered in the Czech Republic. Issuer A's public filings disclose that, at all relevant times, it distributed office equipment to the wholesale market in the United

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[9] See AS 2110, *Identifying and Assessing Risks of Material Misstatement*, ¶ .04.

[10] See AS 1105.06.

[11] See AS 2810, *Evaluating Audit Results*, ¶ .35.

[12] See AS 2805, *Management Representations*, ¶ .02.

[13] See AS 1220, *Engagement Quality Review*.

[14] See AS 1220.13, AS 1220.18, and AS 1220.18C.

States. At all relevant times, it was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

13. Gross, as the engagement partner, authorized the Firm's issuance of an audit report, dated September 4, 2017, expressing an unqualified opinion, which included a going concern explanatory paragraph, on Issuer A's financial statements for the year ended July 31, 2017. The audit report was included with Issuer A's Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") on September 19, 2017.

14. In connection with the audit of Issuer A's financial statements, Respondents failed to exercise due professional care, including professional skepticism, by failing to plan and perform the audit in accordance with PCAOB standards.[15] Respondents failed to establish an overall audit strategy for the engagement and to develop an audit plan.[16] Respondents also failed: to establish a materiality level for the financial statements as a whole;[17] determine an amount or amounts of tolerable misstatement;[18] or perform any risk assessment procedures to identify and assess the risks of material misstatement, whether due to error or fraud.[19]

15. Respondents further failed to obtain sufficient appropriate audit evidence concerning significant accounts and disclosures in Issuer A's financial statements.[20] Other than obtaining representations from management and certain source documents from Issuer A, including bank statements, certain sales and vendor invoices, and copies of disbursement checks, Respondents failed to perform any procedures relating to Issuer A's reported assets, liabilities, stockholders' equity, revenue, cost of goods sold, and expenses.

16. The Firm also failed to obtain an engagement quality review for the audit, even though it was required to be performed.[21] The Firm improperly permitted the issuance of its audit report, which was included in Issuer A's Form 10-K filed with the

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[15] See AS 1015.01-.02 and AS 1015.07-.09.

[16] See AS 2101.05 and AS 2101.08-.10.

[17] See AS 2105, *Consideration of Materiality in Planning and Performing an Audit*, ¶ .06.

[18] See AS 2105.08.

[19] See AS 2110.04.

[20] See AS 1105.04-.06; AS 2810.32-.36.

[21] See AS 1220.01.

Commission, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 1220.

17. Gross, the sole owner of the Firm, was the engagement partner for the audit conducted by the Firm and was responsible for the audit. Accordingly, he had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Gross knew, or was reckless in not knowing, that, when he caused the Firm to grant permission to Issuer A to use the audit report without the Firm having obtained the required engagement quality review and concurring approval of issuance, he was directly and substantially contributing to the Firm's violations of AS 1220. As a result, Gross violated PCAOB Rule 3502.

Audit of Issuer B's FYE 2017 Financial Statements

18. Issuer B, at all relevant times, was a development stage company, headquartered in Madona, Latvia. Issuer B's public filings disclose that, at all relevant times, it was in the business of distributing pillows. At all relevant times, it was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

19. The Firm was appointed as Issuer B's independent registered public accounting firm on January 19, 2018, following the predecessor auditor's resignation. Gross's first year audit of Issuer B was the FYE 2017 financial statements.

20. Gross, as the engagement partner, authorized the Firm's issuance of an audit report, dated January 22, 2018, expressing an unqualified opinion on Issuer B's financial statements for the year ended October 31, 2017. The audit report was included with Issuer B's Form 10-K filed with the Commission on February 13, 2018.

21. Respondents failed to obtain sufficient appropriate audit evidence concerning significant accounts and disclosures in Issuer B's financial statements.[22] Other than completing audit programs and checklists, and obtaining a bank reconciliation as of year-end, Respondents failed to perform any audit procedures relating to Issuer B's reported assets, liabilities, stockholder's equity, revenue, cost of goods sold, and expenses.

22. The Firm also failed to obtain an engagement quality review for the audit, even though it was required to be performed.[23] The Firm improperly permitted the issuance of its audit report, which was included in Issuer B's Form 10-K filed with the Commission, without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 1220.

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[22] See AS 1105.04-06; AS 2810.32-.36.

[23] See AS 1220.01.

23. Gross, the sole owner of the Firm, was the engagement partner for the audit conducted by the Firm and was responsible for that audit. Accordingly, he had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Gross knew, or was reckless in not knowing, that, when he caused the Firm to grant permission to Issuer B to use the audit report without the Firm having obtained the required engagement quality review and concurring approval of issuance, he was directly and substantially contributing to the Firm's violations of AS 1220. As a result, Gross violated PCAOB Rule 3502.

Failure to Timely File Form AP Reports

24. PCAOB Rule 3211, effective for issuer audit reports issued on or after January 31, 2017, provides that, for each audit report a registered public accounting firm issues for an issuer, the firm must file with the Board a report on Form AP, *Auditor Reporting of Certain Audit Participants*, in accordance with the instructions to that form.[24] Form APs are due by the 35th day after the date the audit report is first included in a document filed with the Commission,[25] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement under the Securities Act of 1933, as amended.[26]

25. In connection with a March 2018 inspection of the Firm, the PCAOB inspections staff brought to the Firm's attention its failure to file Form APs regarding the FYE 2017 audits of Issuer A and Issuer B's financial statements. The Firm responded by representing, among other things, that it had made note of the Form AP requirement and would file the Form APs shortly.

26. Despite the notice from the inspections staff, the Firm failed to file the Form APs related to these audits.

27. On September 14, 2018, the Division of Enforcement and Investigations sent the Firm a request for information and documents, inclusive of requests relating to the Firm's failure to comply with PCAOB Rule 3211. On November 15, 2018, the Firm filed one Form AP relating to an audit opinion issued on September 4, 2017. The Firm's failure to timely file this Form AP violated PCAOB Rule 3211.

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[24] The disclosure requirement for the engagement partner was effective for audit reports issued on or after January 31, 2017. The required disclosure of other accounting firms participating in the audit was effective for audit reports issued on or after June 30, 2017.

[25] See Rule 3211(b)(1).

[26] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. See Rule 3211(b)(2).

28. On April 17, 2019, the Firm filed four Form APs relating to audit opinions issued on September 12, 2017, January 22, 2018, March 12, 2018, and July 20, 2018. The Firm's failure to timely file these Form APs violated PCAOB Rule 3211.

29. On April 18, 2019, the Firm filed five Form APs relating to audit opinions issued on October 12, 2018, November 2, 2018, November 19, 2018, December 12, 2018, and February 8, 2019. The Firm's failure to timely file these Form APs violated PCAOB Rule 3211.

30. Gross, the sole owner of the Firm, was the engagement partner responsible for the audits conducted by the Firm where the Firm failed to timely file Form APs after issuing the audit reports. Accordingly, he had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Gross knew, or was reckless in not knowing, that, for each audit report the Firm issued for an issuer without subsequently timely filing the required Form APs, he was directly and substantially contributing to the Firm's violations of PCAOB Rule 3211. As a result, Gross violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Jeffrey T. Gross Ltd. and Jeffrey T. Gross, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jeffrey T. Gross, CPA is permanently barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[27] and

[27] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Gross. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

C. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Jeffrey T. Gross Ltd. is permanently revoked.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

July 23, 2019

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2019-017
In the Matter of PricewaterhouseCoopers, S.C.,	August 1, 2019
Respondent.	

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring PricewaterhouseCoopers, S.C. (the "Firm," or "Respondent"), imposing a civil money penalty of $100,000 on the Firm, and requiring the Firm to undertake certain remedial measures, including measures to establish, implement, and monitor policies and procedures to provide reasonable assurance of compliance with auditor independence requirements and with audit committee communication requirements. The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and standards related to the Firm's independence, audit committee communications, and system of quality control.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary

Proceedings, Making Findings, and Imposing Sanctions (the "Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. PricewaterhouseCoopers, S.C. is a civil partnership organized under the laws of Mexico and headquartered in Mexico City, Mexico. The Firm is a member firm in the PricewaterhouseCoopers International Limited network ("PwC International"). It currently serves as the auditor for approximately two issuer audit clients, and plays a role in approximately 54 other issuer audits, performing audit work that other PCAOB-registered firms, including member firms of PwC International, use or rely on in issuing audit reports for their issuer clients. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Other Relevant Entity

2. "Client Bank" is a variable capital corporation incorporated in accordance with the laws of Mexico, and is headquartered in Mexico City, Mexico. According to Client Bank's filings with the U.S. Securities and Exchange Commission (the "Commission"), the bank is one of the largest financial services holding companies in Mexico based on total loans, among other things. At all relevant times, Client Bank's American Depository Shares were listed on the New York Stock Exchange, and Client Bank was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

3. This matter concerns the Firm's violations of PCAOB Rule 3520, *Auditor Independence*, which requires a registered public accounting firm to be independent of the firm's issuer audit clients throughout the audit and professional engagement period. Under PCAOB Rule 3520, a firm's independence requirements include an obligation to satisfy the independence criteria set out in Commission rules and regulations. During the audit and professional engagement periods for the Firm's audits of the 2016 and 2017 financial statements of Client Bank, covered persons in the Firm had personal financial relationships with Client Bank that were inconsistent with the independence criteria set out in Commission regulations. Accordingly, the Firm violated PCAOB Rule 3520.

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

4. This matter also concerns the Firm's failure to comply with PCAOB Rule 3526, *Communication with Audit Committees Concerning Independence*. Among other things, PCAOB Rule 3526 requires that, before accepting an initial engagement, and at least annually for each audit client, a registered firm describe in writing to the audit committee of the audit client certain relationships that may reasonably be thought to bear on independence. The Firm failed to timely make such required written communications with respect to the above-mentioned financial relationships that Firm covered persons had with Client Bank.

5. Finally, the Firm failed to comply with PCAOB rules and quality control standards requiring that a registered public accounting firm: (1) establish policies and procedures for its accounting and auditing practice that, among other things, provide the firm with reasonable assurance that its personnel maintain independence in all required circumstances and perform engagement work in accordance with applicable regulatory requirements; and (2) adequately monitor the design and application of such policies and procedures. Because of these failures, certain aspects of the Firm's system of quality control did not conform to PCAOB standards, and failed to provide the Firm with reasonable assurance that its personnel would comply with the rules governing independence and communications with audit committees.

D. The Firm Violated Rules Related to Independence

Rules Related to Independence

6. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[2] PCAOB rules and standards also require a registered public accounting firm and its associated persons to be independent of the firm's audit clients throughout the audit and professional engagement period.[3]

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[2] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200, *Auditing Standards* (formerly PCAOB Rule 3200T, *Interim Auditing Standards*).

[3] PCAOB Rule 3520, *Auditor Independence*; AS 1005, *Independence* (formerly AU § 220). As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017), https://pcaobus.org/Standards/Auditing/ Documents/PrintableReferenceTable.pdf.

7. A registered public accounting firm's or associated person's independence obligation with respect to an issuer audit client encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws.[4]

8. Rule 2-01 of Commission Regulation S-X ("Rule 2-01") states that an accountant is not independent of an audit client if, at any point during the audit and professional engagement period, the accounting firm, any covered person in the firm, or any of his or her immediate family members has certain personal financial relationships with an audit client.[5] Prohibited personal financial relationships include, among other things, certain loans to or from the audit client, and any brokerage account with the client where the value of the assets in the account exceeds the amount that is protected by the Securities Investor Protection Corporation or is insured by its non-US equivalent.[6] A "covered person" includes any partner from an office of the accounting firm in which the lead audit engagement partner primarily practices in connection with the audit.[7]

Covered Persons Had Personal Financial Relationships with Client Bank

9. On June 13, 2016, the Firm signed an engagement letter ("Engagement Letter") accepting an initial engagement with Client Bank to be its external auditor for fiscal year 2016.[8] At that time, and unbeknownst to the Firm, at least six of its partners had personal financial relationships with Client Bank that Rule 2-01 identifies as inconsistent with a firm's obligation to maintain independence from its audit client. These six partners were located in the Firm office where the lead audit engagement partner for the Client Bank engagement primarily practiced, so they were "covered persons" under Rule 2-01.[9] Three of the six partners were in prohibited debtor-creditor relationships with Client Bank because they each had obtained a margin loan or

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[4] PCAOB Rule 3520, Note 1.

[5] See, e.g., 17 C.F.R. § 210.2-01(c)(1)(ii).

[6] 17 C.F.R. §§ 210.2-01(c)(1)(ii)(A) & (C).

[7] 17 C.F.R. § 210.2-01(f)(11)(iv).

[8] On July 20, 2017 and June 18, 2018, the Firm signed engagement letters extending the engagement through fiscal years 2017 and 2018, respectively.

[9] According to the Firm's records, none of the six partners have worked on the Client Bank engagement.

mortgage for a second residence from the client (the "Debtor-Creditor Relationships").[10] The other three partners held uninsured assets in brokerage accounts with Client Bank or an affiliate (the "Uninsured Brokerage Interests").[11]

10. Although the Debtor-Creditor Relationships were discovered by the Firm shortly after the Engagement Letter and then unwound by September 2016, the Uninsured Brokerage Interests were not identified by the Firm and were not unwound until approximately June 2018, two years after the Engagement Letter. During those two years, the Firm issued audit reports on Client Bank's 2016 and 2017 financial statements included in the Forms 20-F filed with the Commission in April 2017 and March 2018, respectively. In both audit reports, Respondent affirmed that it was independent of Client Bank.

11. As a result of the conduct described above, the Firm violated PCAOB rules by failing to satisfy applicable independence criteria set out in Commission regulations with respect to the audit and professional engagement periods for the Firm's audits of the 2016 and 2017 financial statements of Client Bank.[12]

E. The Firm Violated PCAOB Rules Related to Certain Required Communications With the Audit Committee of Client Bank Concerning Independence

PCAOB Rule Related to Communications with Audit Committee Concerning Independence

12. PCAOB rules require auditors to provide to an issuer client's audit committee or equivalent certain independence communications.[13] PCAOB Rule 3526 requires, among other things, that prior to accepting an initial engagement, and at least annually for each audit client, a firm describe in writing to the audit client's audit committee all relationships between the firm and the client that, as of the date of the communication, may reasonably be thought to bear on independence.

Failure to Provide Rule 3526 Letter Prior to Accepting Initial Engagement

13. When the Firm accepted the initial engagement to be Client Bank's external auditor, the Firm failed to disclose the Debtor-Creditor Relationships and

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[10] See 17 C.F.R. § 210.2-01(c)(1)(ii)(A).

[11] See 17 C.F.R. § 210.2-01(c)(1)(ii)(C).

[12] See PCAOB Rule 3520; AS 1005; 17 C.F.R. § 210.2-01(c)(1).

[13] PCAOB Rule 3526.

Uninsured Brokerage Interests to the client's audit committee, as required by Rule 3526. Neither the Firm's June 13, 2016 Engagement Letter, nor any previous document from the Firm, disclosed the prohibited financial relationships between the Firm's covered persons and Client Bank. The Firm was unaware of such financial relationships at the time because its system of quality control relating to independence failed to detect them.

Failure to Provide Sufficient Annual Rule 3526 Letters for the 2016 and 2017 Audit and Professional Engagement Periods

14. For nearly two years after issuing the June 13, 2016 Engagement Letter, the Firm failed to provide Client Bank's audit committee with any written description of the relationships between the Firm's covered persons and Client Bank that might reasonably have been thought to bear on the Firm's independence. Indeed, the Firm did not provide Client Bank's audit committee with a written description of the Debtor-Creditor Relationships until May 2018.

15. As mentioned above, during that two-year delay, the Firm issued two audit reports affirming that it was independent of Client Bank. The Firm also issued a Rule 3526 letter to Client Bank's audit committee during that two-year period. But that letter, dated June 16, 2017, failed to identify either the Debtor-Creditor Relationships or the Uninsured Brokerage Interests. Instead, the letter represented that the Firm was not aware of any relationship between the Firm and Client Bank that had continued or arisen since June 13, 2016 and that may reasonably be thought to bear on the Firm's independence. The Firm should have known that this Rule 3526 letter was inaccurate, though, because the Firm had discovered the Debtor-Creditor Relationships *after* June 13, 2016, and knew that those personal financial relationships ran afoul of applicable independence criteria, and thus may reasonably be thought to bear on independence. As for the Uninsured Brokerage Interests, the Firm failed to provide Client Bank's audit committee with any written description of those relationships until January 2019.

16. As a result of the conduct described above, the Firm violated PCAOB Rule 3526 by failing to timely make required written communications to Client Bank's audit committee with respect to the Debtor-Creditor Relationships and the Uninsured Brokerage Interests.

F. The Firm Failed to Comply With PCAOB Quality Control Standards

17. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[14] which provide that registered firms "shall have a

[14] PCAOB Rule 3400T, *Interim Quality Control Standards*.

system of quality control for its accounting and auditing practice."[15] PCAOB quality control standards further state that policies and procedures should be established to provide the firm with reasonable assurance that "personnel maintain independence (in fact and appearance) in all required circumstances" and "that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[16] Additionally, PCAOB quality control standards provide that policies and procedures for monitoring "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied," and that its system of quality control is effective.[17]

18. During the audit and professional engagement periods for the 2016 and 2017 audits of Client Bank, the Firm failed to suitably design, effectively apply, and appropriately monitor quality control policies and procedures to provide reasonable assurance (a) that its personnel maintained independence in all required circumstances, and (b) that its engagement personnel met applicable regulatory requirements, including the requirements of PCAOB Rule 3526. Those failures resulted in, or contributed to, the independence and Rule 3526 violations described above.

19. As a result, the Firm violated PCAOB quality control standards during the audit and professional engagement periods for the 2016 and 2017 Client Bank audits.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Respondent's Offer. In determining to accept Respondent's Offer, the Board considered, among other things, the firm's willingness to settle this matter at an early stage of the investigation and remedial actions undertaken by the Firm prior to the issuance of this Order. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), PricewaterhouseCoopers, S.C. is hereby censured;

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[15] Interim Quality Control Standard ("QC") § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[16] QC §§ 20.09 and 20.17.

[17] QC § 20.20; see also QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $100,000 is imposed upon PricewaterhouseCoopers, S.C. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. PricewaterhouseCoopers, S.C. shall pay this civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies PricewaterhouseCoopers, S.C. as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

C. Pursuant to Sections 105(c)(4)(F) and (G) of the Act and PCAOB Rules 5300(a)(6) and (9), PricewaterhouseCoopers, S.C. is required:

1. within ninety (90) days from the date of this Order, to establish or revise, as necessary, policies and procedures, including monitoring procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB Rule 3526, *Communication with Audit Committees Concerning Independence,* and auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards;

2. within ninety (90) days from the date of this Order, to establish or revise, as necessary, policies to ensure training of Firm personnel concerning PCAOB Rule 3526, *Communication with Audit Committees Concerning Independence,* and auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(2) above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written

evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

August 1, 2019

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Thomas Kober, CPA* *Respondent.*	PCAOB Release No. 105-2019-019 August 21, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Thomas Kober, CPA ("Kober" or "Respondent"); and barring him from being an associated person of a registered public accounting firm, but allowing Kober, after two years, to petition the Board for consent to associate with a registered firm. The Board is imposing these sanctions on the basis of its findings that Kober violated PCAOB rules and standards in connection with the audit of the 2015 year-end financial statements of Issuer A.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Thomas Kober, CPA**, 62, of East Quogue, New York, is a certified public accountant licensed by the New York State Education Department (License. No. 051160). He is a partner at BMKR LLP ("BMKR" or "Firm"). He was the lead engagement partner on BMKR's audit of Issuer A's 2015 year-end financial statements ("FY 2015 Audit"). At all relevant times, Kober was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Kober's violations of PCAOB rules and standards in connection with the FY 2015 Audit. The violations primarily relate to his audit work around Issuer A's acquisition of a business. On the date of the acquisition, Issuer A recognized approximately $2 million in goodwill, and then determined that it was fully impaired that same day. Kober failed, among other things, to evaluate whether Issuer A's accounting for the acquisition was in conformity with U.S. Generally Accepted Accounting Principles ("GAAP").

3. Also as part of the FY 2015 Audit, Kober failed to obtain sufficient appropriate audit evidence about whether Issuer A's revenue was properly valued and recorded in the proper period. In addition, he failed to perform sufficient procedures to evaluate whether Issuer A's related party transactions were properly identified, accounted for, and disclosed in the financial statements.

C. Respondent Violated PCAOB Rules and Standards

4. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply

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[2] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

with the Board's auditing and related professional practice standards.[3] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[4] Among other things, those standards require that an auditor exercise due professional care and professional skepticism in the performance of the audit.[5] PCAOB standards also require that an auditor plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[6]

5. As part of assessing audit results, "[t]he auditor must evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework."[7] In evaluating the information disclosed in the financial statements, an auditor must consider the form, arrangement, and content of the financial statements, including matters such as "the bases of amounts set forth."[8] In forming an opinion, the auditor should take into account all relevant audit evidence, regardless of whether it appears to corroborate or to contradict the assertions in the financial statements.[9]

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[3] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the 2015 Audit. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Rel. No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017).

[4] See AU § 508.07, *Reports on Audited Financial Statements.*

[5] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*.

[6] See Auditing Standard ("AS") No. 15, *Audit Evidence*, ¶ 4.

[7] AS No. 14, *Evaluating Audit Results*, ¶ 30.

[8] Id. ¶ 31.

[9] See id., ¶ 3.

6. Where fair value measurements and disclosures are in the financial statements, PCAOB standards require that an auditor obtain sufficient appropriate audit evidence to provide reasonable assurance that they are in conformity with GAAP.[10]

7. Also, among the procedures that an auditor may perform to obtain sufficient appropriate audit evidence is audit sampling—the application of an audit procedure to less than 100 percent of the items within an account balance or class of transactions to evaluate some characteristic of the balance or class.[11] When planning a particular sample for a substantive test of details, an auditor should consider the relationship of the sample to the relevant audit objective and the characteristics of the population.[12] An auditor should also determine that the population from which the sample is drawn is appropriate for the specific audit objective.[13] An auditor should select sample items in such a way that the sample can be expected to be representative of the population.[14]

8. PCAOB standards further require an auditor to evaluate a company's identification of, accounting for, and disclosure of relationships and transactions between the company and its related parties.[15] Evaluating whether a company has properly identified its related parties and relationships and transactions with related parties involves assessing the process used by the company and making inquiries of management, the audit committee, and others.[16] It also requires an auditor to perform procedures to test the accuracy and completeness of the related parties and relationships and transactions with related parties identified by the company, taking into account the information gathered during the audit.[17] And an auditor must evaluate whether related party transactions have been properly accounted for and disclosed in the financial statements.[18]

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[10] See AU § 328, *Auditing Fair Value Measurements and Disclosures*, ¶¶ .03, .15.

[11] See AU § 350.01, *Audit Sampling*.

[12] See id., ¶ .16.

[13] See id., ¶ .17.

[14] See id., ¶ .24.

[15] See AS No. 18, *Related Parties*.

[16] See id., ¶¶ 3-9.

[17] See id., ¶ 14.

[18] See id., ¶ 17.

9. As described below, Kober failed to comply with the applicable PCAOB rules and standards during the FY 2015 Audit.

Audit of Issuer A's FY 2015 Financial Statements

10. Kober was the engagement partner on the FY 2015 Audit. He authorized the Firm's issuance of an unqualified audit report, which included a going concern explanatory paragraph, on Issuer A's FY 2015 financial statements. The Firm's audit report, dated May 25, 2016, was included in Issuer A's Form S-1/A filed with the U.S. Securities and Exchange Commission ("Commission" or "SEC") on June 6, 2016.

11. Issuer A was, at all relevant times, a Florida corporation headquartered in Fort Lauderdale, Florida. Issuer A's public filings disclose that it was a development stage company providing document, project, marketing and sales management systems to its clients through its website and proprietary software. At all relevant times, Issuer A was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

12. On January 5, 2015, Issuer A disclosed that it acquired 100% ownership of a business for purchase consideration of $1,999,474 in Issuer A stock.[19] Issuer A further disclosed that the acquisition was accounted for as a purchase transaction.[20] On the date of acquisition, Issuer A recorded net assets of the acquired business at fair market value of $4,833 resulting in goodwill of $1,994,641. On that same day, Issuer A determined that goodwill was fully impaired and recorded an impairment charge.

Kober Failed to Evaluate Whether Issuer A's Accounting for the Business Acquisition Was in Conformity with GAAP

13. Kober failed to evaluate whether Issuer A's purchase accounting for the business acquisition was in conformity with GAAP. GAAP requires that the identifiable assets acquired and liabilities assumed, and the consideration exchanged, be measured

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[19] See June 6, 2016 Issuer A, Form S-1/A at 45. Issuer A determined the fair value of the shares of the common stock issued in exchange for the 36 million outstanding shares of the acquired entity, which was recorded as purchase consideration, to be $0.055 per share by using Issuer A's quoted share price on the over-the counter market pink sheets of the common stock on the acquisition date.

[20] See FASB Accounting Standards Codification ("ASC") 805, *Business Combinations.* Purchase transactions are accounted for using the acquisition method of accounting. Under this method, a company must, among other things, recognize and measure the assets acquired and the liabilities assumed, and recognize and measure goodwill.

at fair value.[21] Kober, however, failed to perform any procedures to determine whether the assets acquired and liabilities assumed were recorded in conformity with GAAP.[22]

14. In addition, he failed to perform sufficient procedures to determine whether the acquisition was properly valued as required by GAAP.[23] Although he recalculated the number of shares times the stock price, Kober failed to perform any procedures to determine whether this acquisition was properly recorded at fair value, even though he knew Issuer A's stock was not trading in an active market.[24]

15. Also, despite the fact that Issuer A fully impaired approximately $2 million of goodwill[25] on the date of acquisition, Kober failed to perform any procedures to determine whether goodwill was properly valued.

16. In addition, Kober failed to evaluate evidence that contradicted the reasonableness of the value assigned to the purchase consideration, including the value assigned to the shares of the common stock issued on the acquisition date to the acquired entity's CEO[26] and Issuer A's determination that goodwill was impaired on the acquisition date.[27]

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[21] See ASC 805.

[22] See AU 328 ¶¶ .03, .15.

[23] See ASC 820-10-20, *Fair Value Measurements and Disclosures*. See also AS No. 15 ¶¶ 4-6, 11.

[24] An "active market" refers to a market in which transactions for the asset or liability take place with sufficient frequency and volume to provide pricing information on an ongoing basis. See ASC 820-10-20, *Fair Value Measurement – Overall – Glossary*.

[25] Goodwill is periodically tested for impairment—the condition that exists when the carrying amount of goodwill on a company's books exceeds its implied fair value. See ASC 350, *Intangibles – Goodwill and Other.* Such testing must occur annually, or more frequently if there is an indication of impairment. If the testing results in an impairment, the carrying amount of the goodwill must be reduced by the amount of the impairment. See id.

[26] As part of the acquisition, Issuer A satisfied a $22,000 debt owed to the acquired entity's CEO in exchange for Issuer A stock valued at only $.0003 per share—far less than the $.055 quoted share price Issuer A used to value the acquisition.

[27] See AS No. 14, ¶ 3; AU 328 ¶¶ .03, .15.

Kober Failed to Appropriately Audit Issuer A's Revenue

17. Issuer A reported total revenue of $110,431 for FY 2015.[28] To test revenue for the FY 2015 Audit, Kober selected a sample consisting of all sales transactions recorded in two different months, June and December, for testing, representing 34% of total revenue. Kober's selection of sales for testing did not constitute sufficient sampling under PCAOB standards because the selection of items for testing was not representative of the population.[29] Kober's sampling was done in such a way that sales transactions representing 66% of Issuer A's revenue did not have an opportunity for selection.[30]

18. In addition, although Kober agreed each recorded sales transaction in the month to a sales invoice and, where applicable, traced cash deposit amounts to bank statements, these audit procedures were not appropriate because they failed to provide a reasonable basis to determine whether the cash deposits were generated from the sales from document, project, marketing and sales management systems, were recorded in the proper period, and were properly valued.

Kober Failed to Appropriately Audit Issuer A's Related Party Transactions

19. Issuer A disclosed that a member of its board of directors served as a managing partner, director, chief executive officer, or chief operating officer of other companies identified as related parties. Issuer A's transactions with these related parties accounted for 9% of its total FY 2015 revenue.

20. Kober understood Issuer A did not have a system or process in place for identifying related party transactions. Kober asked Issuer A's CEO about related parties and performed a Google search of Issuer A's officers and directors. He also relied on management representations for identified related party transactions.

21. Kober failed to perform sufficient procedures to identify and test related party transactions. Other than inquiring of management and performing a Google search as described above, Kober failed to perform procedures to identify related parties, identify the issuer's relationships and transactions with related parties, and evaluate the accuracy and completeness of Issuer A's disclosures.[31]

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[28] See June 6, 2016 Issuer A, Form S-1/A at 37.

[29] See AU § 350.24.

[30] See id.

[31] See AS No. 18 ¶¶ 14-15, 17.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Thomas Kober, CPA, is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Thomas Kober, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[32] and

C. After two (2) years from the date of this Order, Thomas Kober, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

August 21, 2019

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[32] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Kober. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Thayer O'Neal Company, LLC and Thomas M. O'Neal, CPA,* *Respondents.*	PCAOB Release No. 105-2019-021 August 21, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring Thayer O'Neal Company, LLC ("Thayer O'Neal" or the "Firm"), a registered public accounting firm; and imposing a civil money penalty in the amount of $15,000 on the Firm; and (2) censuring Thomas M. O'Neal, CPA ("O'Neal"); barring him from being an associated person of a registered public accounting firm, but allowing O'Neal, after two years, to petition the Board for consent to associate with a registered firm; and requiring O'Neal to complete, before filing any petition for Board consent to associate with a registered public accounting firm, forty (40) hours of professional education directly related to the audits of issuer and broker-dealer financial statements under PCAOB standards. The Board is imposing these sanctions on the basis of its findings that the Firm and O'Neal (collectively, "Respondents") violated PCAOB rules and standards in connection with the audit of the 2015 year-end ("FY 2015") financial statements of Issuer A, and the audit of the 2017 year-end ("FY 2017") financial statements of Issuer B.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, each Respondent submitted an Offer of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except

as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **Thayer O'Neal Company, LLC** is a limited liability company organized under the laws of the state of Texas with headquarters in Sugar Land, Texas. The Firm registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accounting by the Texas State Board of Public Accountancy (License No. C09097) and the Puerto Rico Board of Public Accountancy (License No. LLC-344).

2. **Thomas M. O'Neal, CPA** (also known as Mickey O'Neal), age 66, of Houston, Texas, is a certified public accountant licensed by the Texas State Board of Public Accountancy (License No. 018559) and the Puerto Rico Board of Public Accountancy (License No. R-205). He was the Managing Partner and an associated person of Thayer O'Neal. At all relevant times, O'Neal was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns O'Neal's violations of PCAOB rules and standards during the audit of the FY 2015 financial statements of Issuer A, a construction

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[1] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

company that installs solar panels for residential and commercial customers. As detailed below, O'Neal failed to obtain sufficient appropriate audit evidence and exercise due care including professional skepticism in connection with this audit.

4. This matter also concerns the Firm's failure to comply with AS 1220, *Engagement Quality Review* (formerly, Auditing Standard No. 7),[3] for an issuer audit client. In the case of the Firm's audit of Issuer B's FY 2017 financial statements, the Firm failed to have an engagement quality review performed by a partner or another individual in an equivalent position.

C. Respondents Violated PCAOB Rules and Auditing Standards

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[4] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[5] Among other things, those standards require that an auditor exercise due professional care and professional skepticism in the performance of the audit.[6]

6. PCAOB standards also require that an auditor plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable

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[3] All references to PCAOB rules and standards are to the versions of those rules and standards, and to the organization and numbering thereof, in effect at the time of the relevant audits and reviews. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017).

[4] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*; PCAOB Rule 3200, *Auditing Standards*.

[5] See AU § 508.07, *Reports on Audited Financial Statements*.

[6] See AU § 150, *Generally Accepted Auditing Standards*; AU § 230, *Due Professional Care in the Performance of Work*; Auditing Standard ("AS") No. 13, *The Auditor's Responses to the Risks of Material Misstatement*, ¶ 7.

basis for the opinion.[7] PCAOB standards state that the "auditor should design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure."[8]

7. When using "information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate" by both: (a) "[t]est[ing] the accuracy and completeness of the information, or test[ing] the controls over the accuracy and completeness of that information"; and (b) "[e]valuat[ing] whether the information is sufficiently precise and detailed for purposes of the audit."[9]

8. The auditor's evaluation of audit results should include evaluation of "[t]he sufficiency and appropriateness of the audit evidence obtained."[10] In concluding whether sufficient appropriate audit evidence has been obtained, an auditor must factor in the significance of uncorrected misstatements and the likelihood of their having a material effect, individually or in combination, on the financial statements, considering the possibility of further undetected misstatements.[11] If the auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the financial statements as a whole are free of material misstatement, the auditor should express a qualified opinion or a disclaimer of opinion.[12]

9. Among the procedures that an auditor should perform to obtain sufficient appropriate audit evidence is an evaluation of the accounting estimates used by management. Accordingly, when planning and performing procedures to evaluate accounting estimates, the auditor is required to consider, with an attitude of professional skepticism, both subjective and objective factors.[13] The objective when evaluating accounting estimates is to obtain sufficient appropriate evidence to provide reasonable assurance that, among other things, the accounting estimates are reasonable in the circumstances and presented in conformity with applicable

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[7] See AS No. 15, *Audit Evidence*, ¶ 4.

[8] AS No. 13 ¶ 8.

[9] AS No. 15 ¶ 10.

[10] AS No. 14, *Evaluating Audit Results*, ¶ 4(f).

[11] See id. ¶ 34(a).

[12] See id. ¶ 35.

[13] See AU § 342.04, *Auditing Accounting Estimates*.

accounting principles.[14] In evaluating the reasonableness of an estimate, "the auditor should obtain an understanding of how management developed the estimate."[15]

10. Additionally, AS 1220 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[16] AS 1220 also provides that an engagement quality reviewer from the firm that issues the engagement report must be a partner or another individual in an equivalent position.[17]

11. Finally, PCAOB rules prohibit an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the [Securities and Exchange] Commission issued under the Act, or professional standards."[18]

12. As described below, Respondents failed to comply with PCAOB rules and standards.

O'Neal Violated PCAOB Rules and Standards with Respect to the FY 2015 Audit of Issuer A

13. Issuer A is a Nevada corporation with headquarters in Tucson, Arizona. Issuer A's public filings disclose that it is a commercial and residential installer of Photovoltaic solar systems, LED lighting solutions, and electrical services, and a provider of financing for energy saving products. At all relevant times, Issuer A was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[14] See id. ¶ .07.

[15] Id. ¶ .10.

[16] See AS 1220.01.

[17] See id. ¶ .03.

[18] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

14. The Firm served as external auditor for Issuer A for the FY 2015 Audit.[19] The Firm's audit report for Issuer A's FY 2015 financial statements, dated April 8, 2016, was included in Issuer A's Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission"), on April 11, 2016. The Firm expressed an unqualified opinion that Issuer A's FY 2015 financial statements presented fairly, in all material respects, Issuer A's financial position, results of operations, and cash flows in conformity with U.S. generally accepted accounting principles ("GAAP"). O'Neal, as engagement partner, authorized the issuance of the Firm's audit report.

15. Issuer A reported cost of sales of $1.3 million on reported revenue of $1.89 million in FY 2015,[20] including revenue of $1.83 million from its solar contracts.[21] Ninety-nine percent of the revenue from solar contracts was related to incomplete contracts as of the fiscal year ended December 31, 2015.[22]

16. Issuer A disclosed that revenues from these solar contracts were accounted for under the percentage-of-completion ("POC") method of accounting in accordance with GAAP.[23] To apply POC, some basis or standard for measuring the progress to completion for each contract at particular interim dates is necessary. Issuer A also disclosed that its basis for measuring progress to completion was contract costs (*i.e.*, cost-to-cost). Under the POC cost-to-cost method, all contract costs are expensed as incurred, and the incurred cost as a percentage of the total estimated costs measures the progress to completion. Therefore, under the cost-to-cost method, revenue and gross profits are recognized based on the estimated progress to completion for each incomplete contract.

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[19] See Issuer A Form 10-K for the fiscal year ended December 31, 2015 ("Issuer A Form 10-K") at 12.

[20] See id. at 15.

[21] See id.

[22] See id. at 21.

[23] See Financial Accounting Standards Board ("FASB") Accounting Standard Codification ("ASC") 605-35, *Revenue Recognition – Construction-Type and Production-Type Contracts*. Under GAAP, POC is the preferred method for recognizing revenue when reasonably dependable estimates of contract revenues, contract costs, and the extent of progress toward completion can be made. Otherwise, POC should not be used, and revenue should be recognized only when a contract is completed or substantially completed.

Cost of Sales

17. In auditing Issuer A's $1.3 million of reported cost of sales, O'Neal planned to substantively test the actual contract costs that Issuer A charged on each contract to ensure that costs were recorded in the proper period and properly valued. He failed to do so.

18. Instead, O'Neal obtained a management prepared schedule ("POC schedule") of actual costs incurred by Issuer A on each incomplete contract. He tested the POC schedule for mathematical accuracy and agreed the actual costs incurred amounts to Issuer A's general ledger.

19. O'Neal, however, failed to perform sufficient procedures to test the cost of sales. Specifically, he failed to perform any audit procedures to test the accuracy and completeness or processes and controls concerning the recording, allocation, and classification of the costs recorded in the general ledger.[24] For example, O'Neal could have traced actual costs incurred from the general ledger to invoices from vendors as well as other supporting documents to determine whether costs were properly recorded on Issuer A's books and records, but did not do so. O'Neal also could have tested the design and operating effectiveness of Issuer A's controls over purchases and tracking of costs associated with a specific contract, yet he did not. As a result, O'Neal failed to obtain sufficient appropriate evidence about whether Issuer A's cost of sales was recorded in the proper period and properly valued or allocated to Issuer A's contracts.[25]

Revenue

20. As set forth above, Issuer A reported that, for FY 2015, 99% of its reported revenue from solar contracts related to incomplete contracts,[26] for which Issuer A used the POC method to estimate revenue. As part of the risk assessment, O'Neal identified that a significant risk of material misstatement and fraud risk existed for revenue. The identified risk specifically related to whether revenue was appropriately recognized in the proper period and properly valued. In particular, O'Neal believed that "timing of revenue" was a significant risk. O'Neal specifically identified a risk of material misstatement associated with estimates used in the POC calculation for incomplete construction contracts.

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[24] See AS No. 15 ¶ 10.

[25] See AS No. 15 ¶ 4.

[26] See Issuer A Form 10-K at 21.

21. In response to these identified risks, O'Neal obtained Issuer A's POC schedule. In addition to the actual costs incurred by Issuer A for each incomplete contract, the POC schedule also contained management's estimates of the progress towards completion to determine estimated revenue for each incomplete contract. As discussed above, O'Neal failed to perform any audit procedures to test the accuracy and completeness or processes and controls concerning the recording, allocation, and classification of the costs recorded in the general ledger.

22. O'Neal also failed to obtain sufficient appropriate evidence that Issuer A's use of the POC method to estimate revenue was in conformity with GAAP.[27] Specifically, O'Neal understood that Issuer A lacked the ability to estimate total construction costs—the key to the POC cost-to-cost method. Accordingly, he concluded that Issuer A's use of POC to recognize revenue from solar contracts did **not** reflect a correct application of GAAP.[28] Despite this knowledge, he improperly concluded that Issuer A's revenue was recorded in the proper period and was properly valued, in violation of PCAOB standards.[29]

Respondents Violated PCAOB Rules and Standards with Respect to the FY 2017 Audit of Issuer B

23. The Firm was engaged to audit the financial statements of Issuer B for FY 2017. The Firm issued an audit report, dated July 6, 2018, which was included in Issuer B's Form 10-K filed with the Commission on July 9, 2018.

24. The Firm issued its audit report after obtaining an engagement quality review and concurring approval of issuance from an individual at the Firm. That individual who performed the engagement quality review was an employee of the Firm who was not a partner or another individual in an equivalent position. As a result, the Firm violated AS 1220.

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[27] See AU § 342.07(c).

[28] O'Neal never obtained an understanding of how Issuer A management developed its estimates of progress towards completion. O'Neal performed his own calculation of Issuer A's revenue and compared it against the revenue estimated by Issuer A. O'Neal's calculation was less than one percent different from Issuer A's estimate. But his calculation relied on management's untested representations on the estimated progress toward completion for each incomplete contract.

[29] See AS 15 ¶ 4.

25. O'Neal served as the head of the assurance practice at the Firm. He also served as the engagement partner on the FY 2017 audit of Issuer B. He determined who served as the engagement quality reviewer on the FY 2017 audit of Issuer B.

26. O'Neal knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violation when he improperly allowed an individual at the Firm who was not a partner or another individual in an equivalent position to perform the engagement quality review. As a result, O'Neal violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Thayer O'Neal Company, LLC, and Thomas M. O'Neil, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Thomas M. O'Neal, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[30]

C. After two (2) years from the date of this Order, Thomas M. O'Neal, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Thomas M. O'Neal, CPA is required to complete, before filing any petition for Board consent to associate with a registered public accounting firm, forty (40) hours of professional education and training directly related to

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[30] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to O'Neal. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

the audits of issuer and broker-dealer financial statements under PCAOB standards (such hours shall be in addition to, and shall not be counted in, the continuing professional education he is required to obtain in connection with any professional license); and

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 payable by the Firm is imposed. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within 10 (ten) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

August 21, 2019

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Gregory & Associates, LLC, and Alan D. Gregory, CPA* *Respondents.*	PCAOB Release No. 105-2019-018 August 21, 2019

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is: censuring Gregory & Associates, LLC (the "Firm"), a registered public accounting firm, and revoking the Firm's registration;[1] imposing a civil money penalty in the amount of $15,000 on the Firm; and censuring Alan D. Gregory, CPA ("Gregory") and barring him from being an associated person of a registered public accounting firm.[2] The Board is imposing these sanctions on the basis of its findings that the Firm and Gregory (collectively, "Respondents") violated PCAOB rules and standards in connection with four audits of two issuer clients.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1), against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents each have submitted an Offer of Settlement (the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party,

[1] The Firm may reapply for registration after two (2) years from the date of this Order.

[2] Gregory may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **Gregory & Associates, LLC** is, and at all relevant times was, a limited liability company organized under the laws of the State of Utah and headquartered in Salt Lake City, Utah. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm was licensed to practice public accountancy by the Utah Board of Accountancy (License No. 5541392-2603). Its license expired on December 31, 2018. At all relevant times the Firm was the external auditor for the issuers discussed below.

2. **Alan D. Gregory, CPA**, of Salt Lake City, Utah, is a certified public accountant who was licensed by the Utah Board of Accountancy (License No. 271609-2601). His license expired on December 31, 2018. At all relevant times, Gregory was the sole proprietor of the Firm and served as engagement partner on the audits discussed below. Gregory is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Respondents' violations of PCAOB rules and auditing standards in connection with four audits—comprised of consecutive Firm audits

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

of two issuers' consolidated financial statements as of and for the years ended December 31, 2016 ("FY 2016") and December 31, 2017 ("FY 2017").

4. During consecutive audits of one of the issuers, Respondents failed to exercise due professional care and professional skepticism and failed to plan and perform sufficient audit procedures to obtain sufficient appropriate audit evidence in the area of inventory.

5. In addition, during each of the four audits, Respondents identified revenue as a significant risk and fraud risk. Notwithstanding the assessed risks, Respondents failed during three of the four audits to exercise due professional care and professional skepticism, and failed to plan and perform sufficient audit procedures to obtain sufficient appropriate audit evidence with respect to the issuers' stated revenue.

C. Respondents Violated PCAOB Rules and Standards

6. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6] Those standards require, among other things, that an auditor plan

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits.

[6] See AS 3101.07, *Reports on Audited Financial Statements (*applicable to the relevant audits for the year ended December 31, 2016) ("The auditor's standard report states that the financial statements present fairly, in all material respects, an entity's financial position, results of operations, and cash flows in conformity with generally accepted accounting principles. This conclusion may be expressed only when the auditor has formed such an opinion on the basis of an audit performed in accordance with the standards of the PCAOB."); AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*, (applicable to the relevant audits for the fiscal years ending on or after December 15, 2017) ("The auditor is in a position to express an unqualified opinion on the financial statements when the auditor conducted an audit in accordance with the standards of the Public Company Accounting Oversight Board ("PCAOB") and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.").

and perform audit procedures to obtain appropriate audit evidence that is sufficient to provide a reasonable basis for the opinion expressed in the auditor's report.[7]

7. PCAOB standards also require that an auditor exercise due professional care and professional skepticism in performing the audit.[8] PCAOB standards further require that auditors evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[9]

8. The auditor considering whether he may serve as principal auditor may have performed all but a relatively minor portion of the work, or significant parts of the audit may have been performed by other auditors. In the latter case, he must decide whether his own participation is sufficient to enable him to serve as the principal auditor and to report as such on the financial statements. If the auditor decides that it is appropriate for him to serve as the principal auditor, he must then decide whether to make reference in his report to the audit performed by another auditor.[10]

9. Whether or not a principal auditor decides to make reference to the audit of another auditor, the principal auditor is required to make inquiries concerning the professional reputation and independence of the other auditor. The principal auditor should adopt appropriate measures to assure the coordination of his or her activities with those of the other auditor in order to achieve a proper review of matters affecting the consolidating or combining of accounts in the financial statements.[11] In addition, when the principal audit decides not to make reference to the audit of the other auditor, he or she must obtain, and review and retain, certain information from the other auditor.[12]

10. PCAOB standards also require auditors to design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for

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[7] See AS 1105.04, *Audit Evidence*.

[8] See AS 1015.01 &.07, *Due Professional Care in the Performance of Work*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*.

[9] See AS 2810.30, *Evaluating Audit Results*.

[10] See AS 1205.02, *Part of the Audit Performed by Other Independent Auditors*.

[11] Id. at AS 1205.10.

[12] Id. at AS 1205.12.

each relevant assertion of each significant account and disclosure.[13] For significant risks, the auditor is required to perform substantive procedures, including tests of details, that are specifically responsive to the assessed risks.[14]

11. PCAOB standards also require auditors to evaluate the reasonableness of accounting estimates made by management in the context of the financial statements taken as a whole, in order to obtain sufficient appropriate evidential matter to provide reasonable assurance that those accounting estimates are reasonable under the circumstances.[15]

12. PCAOB standards further require auditors to evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[16] If the auditor has not obtained sufficient appropriate audit evidence about a relevant assertion or has substantial doubt about a relevant assertion, the auditor is required to perform procedures to obtain further audit evidence to address the matter.[17]

Audits of Issuer A's FY 2016 and FY 2017 Financial Statements

13. "Issuer A" is a Nevada corporation headquartered in Ballerup, Denmark. Issuer A's public filings disclose that, at all relevant times, it manufactured and sold ceramic membranes and systems for the filtration of liquid and diesel exhaust particles. At all relevant times, Issuer A was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

14. Issuer A filed Forms 10-K with the Securities and Exchange Commission ("Commission" or "SEC") on March 30, 2017 for FY 2016 and on March 23, 2018 for FY 2017. These filings included the Firm's audit reports containing unqualified audit opinions dated March 30, 2017 and March 23, 2018, respectively.

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[13] See AS 2301.08, *The Auditor's Responses to the Risks of Material Misstatement*.

[14] See id. at 11.

[15] See AS 2501.04 & .07, *Auditing Accounting Estimates*.

[16] See AS 2810.02.

[17] See id. at .35.

15. For both the Firm's FY 2016 and FY 2017 audits of Issuer A (collectively, the "Issuer A Audits"), Respondents identified inventory as a "medium" risk, and revenue was identified as a significant risk and a fraud risk.[18]

16. As detailed below, notwithstanding the assessed risks, Respondents failed to exercise due professional care and professional skepticism,[19] and failed to plan and perform sufficient audit procedures to obtain sufficient appropriate audit evidence in the areas of inventory and revenue.[20]

Inventory

17. Issuer A reported net inventories of $5.2 million and $4.7 million as of December 31, 2016 and 2017, respectively, representing approximately 45% and 40% of Issuer A's total assets. More than 89% of these inventories were held in Issuer A's two Danish subsidiaries as of December 31, 2016 and 2017.

18. Respondents were aware that Issuer A had engaged a Danish auditor (the "statutory auditor") to perform statutory audits of the Danish subsidiaries in FY 2016 and FY 2017. They understood that the statutory auditor had performed audit procedures related to Issuer A's Danish-held inventory. Although Respondents obtained and reviewed the statutory auditor's work papers related to the inventory, they failed to perform any other audit procedures regarding the Danish inventory.

19. In addition, in using the statutory auditor's work, Respondents failed to adopt appropriate measures to assure coordination of their activities with those of the statutory auditor.[21] Respondents failed to: document any inquiries concerning the professional reputation and standing of the other auditor; obtain representations from the statutory auditor that it was independent under the requirements of the PCAOB and the requirements of the Commission; and ascertain through communications with the statutory auditor that he or she was familiar with U.S GAAP and standards of the PCAOB and would conduct the audit in accordance with them. Respondents also failed to obtain, and review and retain, among other things, an engagement completion document

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[18] See generally AS 2110.65;.70-.71, *Identifying and Assessing Risks of Material Misstatement*.

[19] See AS 1015.01 and .07; AS 2301.07.

[20] See AS 1105.04.

[21] See AS 1205.10.

consistent with PCAOB standards.[22] Respondents also failed to evaluate whether the work performed by the statutory auditor complied with AS 2510, Auditing Inventories.

Revenue

20. Issuer A reported total revenue of approximately $13.9 million in FY 2016, derived from product sales and long-term contracts and government grants.[23]

Product Sales Revenue

21. Included in the product sales revenue that Respondents selected for testing during the FY 2016 audit were sales based on two key customer contracts from a subsidiary, from which Issuer A recognized approximately $1.8 million, or approximately 13% of its FY 2016 revenue.

22. During the 2016 audit, Respondents failed to evaluate whether Issuer A appropriately recognized the $1.8 million in revenue in conformity with U.S GAAP.[24] They obtained two key contracts, but one of the contracts was unexecuted. Respondents failed to evaluate whether a valid agreement had been reached and whether persuasive evidence of an arrangement existed. In addition, both contracts made references to appendices containing deliverables under the contracts and the contracted price for one of the contracts, but no copy of the appendices was attached. As a result, Respondents could not evaluate whether Issuer A had completed the delivery of products or services prior to the recognition of revenue from these contracts, and whether the contract price had been fixed or determinable. Respondents also failed to obtain and inspect the appendices, or to evaluate the effect of provisions in those appendices on revenue recognition. As a result, Respondents failed to have a reasonable basis for evaluating whether revenue was recognized in conformity with GAAP.

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[22] See id. at .12 (describing certain information that the principal auditor must obtain, review, and retain).

[23] Issuer A's financial statements disclosed that its recognition of revenue was in accordance with Commission Staff Accounting Bulletin No. 101, *Revenue Recognition in Financial Statements*, and FASB ASC 605, *Revenue Recognition*, and that it recognized product sales revenue when all of the following had been met: (1) rights and the risk of ownership passed to the customer, (2) there was persuasive evidence of an arrangement, (3) the product had been shipped or delivered to the customer, (4) the price and terms were finalized, and (5) collection of the resulting receivable was reasonably assured.

[24] See FASB ASC 605, *Revenue Recognition;* AS 2810.30.

Long-term Contracts and Government Grant Revenue

23. With respect to its other source of revenue, long-term contracts and government grants, Issuer A reported revenue in FY 2016 of approximately $3 million, or 23% of FY 2016 revenue. Issuer A disclosed that it used the percentage of completion ("POC") method of accounting for these contracts and grants.[25]

24. In order to apply POC, a basis or standard for measuring the progress to completion for each contract at particular interim dates is necessary. Issuer A disclosed that its basis for measuring progress to completion was contract costs (*i.e.,* "cost-to-cost"). Under the POC cost-to-cost method, the incurred cost as a percentage of total estimated costs measures the progress to completion. Therefore, revenue and gross profit are recognized based on the estimated progress to completion for each incomplete contract.

25. To test revenue from long-term contracts and government grants, Respondents obtained an issuer-prepared POC schedule, which contained the total estimated cost to complete that Issuer A used in measuring the progress towards completion for each contract. Other than relying on management representations, Respondents failed to perform any audit procedures to test the reasonableness of Issuer A's total estimated costs to complete.[26] As a result, Respondents failed to obtain sufficient appropriate evidence to determine whether revenue from long-term contracts and government grants was properly valued and was recorded in the proper period.[27]

Audit of Issuer B's FY 2016 and FY 2017 Financial Statements

26. "Issuer B" is a Nevada corporation headquartered in Pittsburgh, Pennsylvania. Issuer B's public filings disclose that, at all relevant times, it was a podcast service provider offering hosting and distribution tools, including storage, bandwidth, RSS creation (i.e., "really simple syndication" scripts to generate subscribers to podcasts), distribution, and statistics tracking. At all relevant times, Issuer B was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[25] See FASB ASC 605-35, *Revenue Recognition–Construction-Type and Production Type Contracts*.

[26] See AS 2501.07.

[27] See AS 1105.04.

27. Issuer B filed Forms 10-K with the Commission on March 31, 2017 for FY 2016 and on March 26, 2018 for FY 2017. These filings included Firm audit reports containing unqualified audit opinions dated March 31, 2017 and March 26, 2018, respectively.

Revenue

28. For both the Firm's FY 2016 and FY 2017 audits (collectively, the "Issuer B Audits"), Respondents identified revenue as a significant risk and fraud risk. Notwithstanding the assessed risks, Respondents failed to perform sufficient audit procedures to obtain sufficient appropriate audit evidence in connection with Issuer B's FY 2016 and FY 2017 reported revenue.[28]

29. For FY 2016 and FY 2017, Issuer B reported approximately $8.8 million and $10.5 million in revenue, respectively. One hundred percent (100%) of Issuer B's FY 2016 revenue was derived from a group of services termed "podcast hosting services," and nearly all its revenue came from provision of these services in FY 2017.[29]

30. Issuer B disclosed that its podcast hosting services revenue was broken down into multiple sources, including providing data storage and distribution services to podcasters. Issuer B also disclosed that it provided customized solutions and specialized support to its customers, and earned revenue based on bandwidth used, advertising revenue from insertion of digital advertising to podcasts ("ad insertion"), and sale of premium podcasts. Issuer B further disclosed that the majority of its contracts consisted of providing multiple products or services *(i.e.,* multiple-element arrangements).[30]

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[28] See id.

[29] Similar to Issuer A, Issuer B disclosed that it recognized revenue when there is persuasive evidence of an arrangement; the service has been or is being provided to the customer; the collection of the fees is reasonably assured; and the amount of fees to be paid by the customer is fixed or determinable.

[30] See ASC 605-25, *Revenue Recognition (Topic 605) - Multiple-Deliverable Revenue Arrangements*, which provides guidance regarding revenue recognition when a company provides multiple products or services ("deliverables") to a customer in a single arrangement, but the deliverables may occur at different times.

31. Respondents failed to evaluate whether Issuer B's revenue recognition for its multiple-element arrangements was in conformity with U.S. GAAP.[31] To test revenue, Respondents selected certain revenue transactions recorded in Issuer B's accounting records, and agreed the recorded revenue to invoices and/or cash receipts. This procedure failed, however, to provide reasonable assurance that revenue in fact came from the sale of podcast products and services, and was properly valued; and failed to provide a reasonable basis to determine whether Issuer B had actually delivered the products or services (whether, *e.g.*, asserted revenue from a podcast with ad insertion had been downloaded by an end-user prior to the recognition of revenue),[32] or whether revenue was recognized in the appropriate period.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Gregory & Associates, LLC, and Alan D. Gregory, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Alan D. Gregory, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[33]

C. After two (2) years from the date of this Order, Alan D. Gregory, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

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[31] See generally AS 2810.30.

[32] See AS 1105.04.

[33] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Gregory. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

D. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Gregory & Associates, LLC, is revoked; and

E. After two (2) years from the date of the Order, Gregory & Associates, LLC, may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon Gregory & Associates, LLC. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Gregory & Associates, LLC shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Gregory & Associates, LLC as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

August 21, 2019

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Cameron Terry, CPA* *Respondent.*	PCAOB Release No. 105-2019-020 August 21, 2019

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is: (1) censuring Cameron Terry ("Terry" or "Respondent"); (2) suspending Terry from being an associated person of a registered public accounting firm for the period of one year from the date of this Order; (3) imposing on Terry a civil money penalty in the amount of $10,000; and (4) requiring Terry to complete 20 hours of additional continuing professional education as described in Section IV herein.

The Board is imposing these sanctions on the basis of its findings that Terry violated PCAOB rules and auditing standards in connection with the audit of the 2016 financial statements of Service Team, Inc.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted,

Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Cameron Terry, CPA**, age 37, of Spring, Texas, is a certified public accountant licensed by the Texas State Board of Public Accountancy (license no. 088724). Terry has worked at registered public accounting firm M&K CPAS, PLLC ("Firm") since 2012 and became a partner in 2014. Terry was the engagement partner on the Firm's audit of the financial statements as of and for the year ended August 31, 2016 ("Audit") of Service Team, Inc. ("Service Team"). Terry, as engagement partner, authorized the issuance of the Firm's December 14, 2016 audit report containing an unqualified opinion on Service Team's financial statements and a going concern explanatory paragraph. At all relevant times, Terry was an "associated person of a registered public accounting firm" as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities

2. M&K CPAS, PLLC is a professional limited liability company organized under the laws of the state of Texas and located in Houston, Texas. The Firm registered with the Board on July 18, 2006, pursuant to Section 102 of the Act and PCAOB rules.

3. Service Team is a Wyoming corporation with headquarters in Villa Park, California. Service Team's public filings disclose that its wholly owned subsidiary is principally involved in the manufacturing, maintenance, and repair of truck bodies. At all relevant times, Service Team's common stock was registered under Section 12(g) of the Securities Exchange Act of 1934 and was traded on the OTC Bulletin Board. At all relevant times, Service Team was an "issuer" as the term is defined in Section 2(a)(7) of

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

the Act and PCAOB Rule 1001(i)(iii). The Firm has served as Service Team's independent auditor since 2011.

C. Summary

4. During the Audit, Terry obtained contradictory evidence from Service Team about whether its liabilities included a $244,000 loan from a third party. After management mistakenly told Terry that the loan funds were not received until after fiscal year end (August 31, 2016), and without obtaining sufficient corroborating audit evidence, Terry proposed an audit adjustment to eliminate the loan from Service Team's annual financial statements. Service Team recorded the adjustment and filed August 31, 2016 financial statements with the Securities and Exchange Commission ("SEC") that omitted the loan. The omission of the $244,000 loan understated total liabilities reported in Service Team's financial statements by 45%.

5. Less than three weeks after the filing, as part of the Firm's review of Service Team's financial statements for the first quarter of the next fiscal year, Terry reviewed Service Team's bank statements and identified a $244,000 deposit before year end that reflected receipt of the loan funds. Terry determined that the loan should have been recorded in Service Team's August 31, 2016 financial statements and informed Service Team management, which filed restated financial statements the next day.

6. Terry's failures during the Audit resulted in violations of PCAOB rules and auditing standards.[3]

D. Terry Violated PCAOB Rules and Auditing Standards[4]

Facts

7. During the Audit, Terry obtained from Service Team a trial balance as of August 31, 2016 that reflected a $244,000 note payable owed by Service Team. Terry

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[3] PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards. See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[4] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audit or review. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules, PCAOB Release No. 2015-002 (March 31, 2015); see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering (January 2017).

sent a request to the lender for confirmation of that loan balance, but never received a response.

8. Terry also obtained from Service Team a debt roll-forward schedule as of August 31, 2016—a list of debts owed by Service Team at the start and end of the fiscal year, with descriptions and amounts of items affecting Service Team's debt balance between those two points in time. The debt schedule omitted the $244,000 loan and thus indicated that the loan was not among Service Team's liabilities as of fiscal year end. Noting the loan's inclusion in the trial balance but its omission from the debt schedule, Terry asked Service Team's management about the loan. Terry was told in error by management that the loan funds had not been received until after August 31, 2016. Terry then reviewed Service Team's bank account balances as of August 31, 2016 and observed that the amount of each individual balance was less than $244,000.

9. After obtaining management's representation about the loan and noting that no individual bank account maintained by the company contained $244,000 as of year end, Terry proposed an audit adjustment to eliminate the $244,000 loan from Service Team's financial statements. Service Team made that adjustment and, on December 14, 2016, filed August 31, 2016 financial statements with the SEC that omitted the loan.

10. In late December 2016 or early January 2017, Terry obtained a new debt roll-forward schedule from Service Team as part of the Firm's interim review procedures for the first quarter of the next fiscal year. Unlike the debt schedule obtained during the Audit, this debt schedule reflected the $244,000 loan as among Service Team's debts as of August 31, 2016. On January 3, 2017, Terry reviewed Service Team's bank statements for entries corresponding to a $244,000 deposit of loan funds. He found such an entry and understood it reflected the receipt of those funds on August 25, 2016. Terry determined that Service Team's August 31, 2016 financial statements were misstated and notified Service Team's management. The next day, on January 4, 2017, Service Team filed restated financial statements that included the loan among the company's liabilities.

Violations

11. Terry failed to obtain sufficient appropriate audit evidence concerning Service Team's notes payable. Terry failed, for example, to review Service Team's bank statements during the Audit for any deposit of the $244,000 loan amount. Terry's comparison of year-end bank balances to the loan amount, standing alone, did not constitute sufficient evidence of the timing of the loan's receipt. Among other things, that comparison was not designed to detect, and could not have identified, an initial deposit and a subsequent withdrawal in the same amount—or, indeed, in any amount that

brought the balance under $244,000—before year end.[5] Terry accordingly violated Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"),[6] and Auditing Standard No. 15, *Audit Evidence* ("AS 15").[7]

12. Terry also violated AS 15 when, faced with an inconsistency between a trial balance reflecting a loan balance as of year end and a debt schedule and management representation indicating the contrary, he failed to perform audit procedures necessary to resolve the matter.[8] Instead, Terry relied on the representation of Service Team's management regarding receipt of the loan funds. Accordingly, Terry also violated AU § 333, *Management Representations*, because when faced with this contradictory audit evidence he failed to "investigate the circumstances and consider the reliability of the representation made."[9]

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[5] The bank statements that Terry reviewed a few weeks later during the Firm's subsequent interim review procedures contained entries reflecting an incoming transfer of $244,000 on August 25 and an outgoing transfer of $244,000 on August 29.

[6] See AS 13 ¶ 36 ("The auditor should perform substantive procedures for each relevant assertion of each significant account and disclosure, regardless of the assessed level of control risk.").

[7] See AS 15 ¶ 4 ("The auditor must plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.").

[8] See AS 15 ¶ 29 ("If audit evidence obtained from one source is inconsistent with that obtained from another, or if the auditor has doubts about the reliability of information to be used as audit evidence, the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit.").

[9] AU § 333.04; see id. § 333.02 ("[R]epresentations from management are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."); AS 13 ¶ 39 ("Inquiry alone does not provide sufficient appropriate evidence to support a conclusion about a relevant assertion."); see also Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), ¶ 3 ("In forming an opinion on whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework, the auditor should take into account all relevant audit evidence, regardless of whether it appears to corroborate or to contradict the assertions in the financial statements.").

13. Furthermore, when Terry received no response to the Firm's confirmation request concerning the $244,000 loan balance, and relied on management's representations rather than performing alternative confirmation procedures, he violated AU § 330, *The Confirmation Process*.[10]

14. Terry's conduct with respect to the loan and the related audit adjustment showed a lack of due professional care in violation of AU § 150.02, *Generally Accepted Auditing Standards*, and AU § 230, *Due Professional Care in the Performance of Work*. That conduct also violated AS 14[11] and AU § 508, *Reports on Audited Financial Statements*.[12]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. In determining to accept Respondent's Offer, the Board considered, among other things, Terry's willingness to settle this matter at an early stage of the investigation. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Cameron Terry, CPA is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Cameron Terry, CPA is suspended for a period of one (1) year from the date of this Order from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[13]

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[10] See AU § 330.31 ("When the auditor has not received replies to positive confirmation requests, he or she should apply alternative procedures to the nonresponses to obtain the evidence necessary to reduce audit risk to an acceptably low level.").

[11] See AS 14 ¶ 2 ("The objective of the auditor is to evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.").

[12] See AU § 508.07 (an auditor may express an unqualified opinion on an issuer's financial statements "only when the auditor has formed such an opinion on the basis of an audit performed in accordance with generally accepted auditing standards").

[13] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Terry. Section 105(c)(7)(B) provides: "It

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Cameron Terry, CPA. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Terry shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Terry as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006;

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Cameron Terry, CPA is required to complete, within one (1) year from the date of this Order, twenty (20) hours of continuing professional education in subjects that are directly related to the audits of issuer financial statements under PCAOB auditing standards, covering among other topics professional skepticism and management representations (such hours shall be in addition to, and shall not be counted in, the continuing professional education he is required to obtain in connection with any professional license); and

E. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Cameron Terry, CPA is required to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, his compliance with paragraph D above. The certification shall identify the continuing professional education completed and be supported by exhibits sufficient to demonstrate compliance. Cameron Terry, CPA shall submit such certification within one (1) year plus thirty (30) days from the date of this Order. Cameron Terry, CPA shall also submit such additional

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shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

August 21, 2019

PCAOB
Public Company Accounting Oversight Board

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Marcum LLP and Alfonse Gregory Giugliano, CPA,* *Respondents.*	PCAOB Release No. 105-2019-022 September 10, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Marcum LLP ("Marcum" or "Firm") and Alfonse Gregory Giugliano, CPA ("Giugliano" and, together with Marcum, "Respondents"); (2) imposing civil money penalties of $450,000 on Marcum and $25,000 on Giugliano; and (3) requiring Marcum to engage an independent consultant to review and make recommendations concerning Marcum's policies, procedures, staffing, and training with respect to auditor independence.

The Board is imposing these sanctions on the basis of its findings that Marcum repeatedly violated PCAOB rules and standards over the course of four years by failing to satisfy applicable independence criteria, including as set out in U.S. Securities and Exchange Commission ("Commission") rules. Marcum's independence violations resulted from Respondents' conduct in connection with the Firm's annual Marcum MicroCap Conference ("MicroCap Conference") from 2012 through 2015. Specifically, Marcum was not independent with respect to audits and reviews of 62 issuers that participated in the MicroCap Conference. In addition, from 2012 through 2017—including after PCAOB staff brought independence concerns to the Firm's attention in 2015—Marcum failed to take sufficient steps to ensure that its system of quality control would provide reasonable assurance that the Firm would identify and appropriately address potential independence issues.

I.

The Board instituted non-public disciplinary proceedings against Respondents on April 10, 2019.[1] Pursuant to PCAOB Rule 5205, Respondents later submitted Offers of

[1] Section 105(c)(2) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), provides that litigated disciplinary proceedings shall not be public, "unless otherwise ordered by the Board for good cause shown, with the consent of the parties…."

Settlement ("Offers") that the Board accepted. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Making Findings and Imposing Sanctions as set forth below.[2]

II.

On the basis of Respondents' Offers, the Board finds that:[3]

A. Respondents

1. **Marcum LLP** is a limited liability partnership organized under the laws of the State of New York and headquartered in Melville, New York. The Firm is registered with the New York State Education Department (License No. 067839) and also is licensed in multiple other states. Marcum is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the relevant time period, the Firm was the external auditor for the Marcum clients referenced in this Order.[4]

2. **Alfonse Gregory Giugliano**, age 57, of Dix Hills, New York, is a certified public accountant registered with the New York State Education Department (License No. 052488) and the Missouri Division of Professional Registration (CPA Provisional License No. 2016009263). He is a partner of the Firm and, at all relevant times, served as Marcum's Assurance Services Leader and the partner in charge of compliance with auditor independence requirements. Subsequent to the conduct that is the subject of

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Although the Board found good cause for making the proceedings public, Respondents did not consent, as permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203.

[2] The findings in this Order are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[3] The Board finds that Marcum's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] Each Marcum audit client referenced in this Order was an issuer, as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), at all relevant times.

this Order, Giugliano stepped down from his role as the member of Marcum's senior management responsible for compliance with auditor independence requirements. Giugliano is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns Marcum's repeated violations of PCAOB Rule 3520, *Auditor Independence*, and AU § 220, *Independence*, which require a registered public accounting firm to be independent of the firm's audit clients throughout the audit and professional engagement period.[5] Specifically, Marcum failed to comply with applicable independence requirements in connection with audits and interim reviews of 62 issuer clients that presented at the MicroCap Conference. The independence impairments resulted from Marcum's and Giugliano's conduct in connection with the Firm's annual MicroCap Conference from 2012 through 2015.

4. The MicroCap Conference was an investor conference at which smaller or emerging public companies ("presenting companies") made business presentations to audiences that included potential investors. Marcum created, organized, and hosted the conference to increase its visibility and brand in the microcap space. The success of the conference depended on companies perceiving it as a good forum to connect with potential investors, and on potential investors perceiving it as a good opportunity to find high-quality investment opportunities.

5. From 2012 through 2015, Marcum endeavored to establish the MicroCap Conference as an event at which the presenting companies, including dozens of Marcum's issuer audit clients, were perceived as being high-quality investment opportunities. For example, Marcum expressly touted the quality of the conference's presenting companies and told potential conference attendees, including potential investors, that the presenting companies had been selected through a vetting process.

6. Giugliano approved the MicroCap Conference from an independence perspective and was aware of Marcum's touting of the presenting companies. Yet he failed to recognize the independence implications of touting a group of companies that included audit clients, in part because he failed to conduct any substantial independence deliberations concerning the conference.

7. From 2012 through 2015, Marcum issued audit reports on the financial statements of its issuer audit clients that were among the presenting companies at the MicroCap Conference. The Firm's independence was impaired with respect to these

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[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct.

issuer audit clients because Marcum's hosting and promotion of the conference: (1) involved publicly advocating for these issuer audit clients as high-quality investment opportunities; and (2) created a mutual interest between Marcum and these issuer audit clients with respect to whether those clients' subsequent performance lived up to Marcum's billing. As a result, the Firm failed to satisfy the independence criteria set out in Rule 2-01(b) of Commission Regulation S-X,[6] in violation of PCAOB Rule 3520 and AU § 220.

8. Because he took or omitted to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's independence violations, Giugliano violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

9. From 2012 through 2017, Marcum also failed to comply with PCAOB quality control standards because it failed to establish policies and procedures sufficient to provide the Firm with reasonable assurance that: (1) it would maintain independence in all required circumstances;[7] and (2) the policies and procedures the Firm had established with respect to independence were suitably designed and were being effectively applied and monitored.[8] Indeed, even after the Firm received notice from PCAOB staff in 2015 that its conduct appeared to be inconsistent with independence requirements, the Firm responded by taking certain actions, but failed to implement, apply, and monitor policies and procedures sufficient to provide reasonable assurance that it would identify and appropriately address potential independence issues in 2016 and 2017.

C. Background

10. Marcum hosted the inaugural MicroCap Conference in New York in June 2012 ("2012 Conference"). Thereafter, Marcum hosted the conference in May 2013 ("2013 Conference"), May 2014 ("2014 Conference"), May 2015 ("2015 Conference"), June 2016 ("2016 Conference"), and June 2017 ("2017 Conference"). The conference focused on "microcap" companies, which Marcum described as public companies with a market capitalization of less than $500 million.

11. Marcum and its personnel promoted the MicroCap Conference by distributing brochures, sending out marketing emails, issuing press releases, giving

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[6] 17 C.F.R. § 210.2-01(b).

[7] QC § 20.09-.10, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*; see also QC § 30.02-.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[8] QC §§ 20.09-.10, 30.02-.03.

interviews, and posting news articles and announcements on a Marcum website dedicated to promoting the conference. In addition, Marcum sent out thousands of conference invitations to potential attendees, including fund managers and private equity investors, banks, law firms, and other service providers for microcap companies. The MicroCap Conference was well attended and grew in size between 2012 and 2017. For example, the conference had approximately 800 attendees in 2012 and more than 2,000 attendees by 2016.

12. The format and agenda for each of the MicroCap Conferences were substantially similar. For each conference, Marcum prepared promotional books that were distributed to conference attendees. The conference books included written introductory statements from Marcum's Managing Partner ("Managing Partner") and the Partner-in-Charge of Marcum's SEC Services Practice and its New York office ("SEC Services Leader"). The conferences began with live opening remarks by the SEC Services Leader. Conference attendees could then attend pre-scheduled business presentations by representatives of various microcap companies, "expert panel" discussions, and one-on-one meetings with the management of the presenting companies.[9]

13. The MicroCap Conference was an important marketing event for Marcum. The Firm used the event to increase its visibility in the microcap marketplace and to develop relationships with potential clients. The conference also provided a marketing opportunity for the microcap companies that presented at the conference and the firms that sponsored the conference.

14. The success of the MicroCap Conference depended on providing value for the participants in the conference—*i.e.*, Marcum, presenting companies, sponsors, and potential investors. Marcum understood that it could attract more conference participants, including investors, and thereby make its MicroCap Conference more attractive to presenting companies and sponsors, by building a public perception that the conference had high-quality presenting companies.

Giugliano Approved the MicroCap Conference

15. The SEC Services Leader conceived of the MicroCap Conference, which he modeled on similar investor conferences that had been held by investment banking firms, shortly before the initial MicroCap Conference in June 2012. The Managing Partner granted the SEC Services Leader approval to hold the conference following a discussion of the potential costs and benefits of the conference. During that discussion, the Managing Partner indicated that the SEC Services Leader should consult with Giugliano regarding the potential independence implications of the conference.

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[9] Marcum personnel did not attend any one-on-one meetings.

16. After his discussion with the Managing Partner and prior to the 2012 Conference, the SEC Services Leader had a telephone call with Giugliano to discuss whether the conference would have any independence implications. The SEC Services Leader described the structure of the conference and informed Giugliano that he expected some of Marcum's issuer audit clients to attend. Giugliano recognized that the conference would be different than other networking events the Firm had held because companies would be presenting to and meeting one-on-one with potential investors.

17. During the telephone call, Giugliano gave the SEC Services Leader some limited advice. Giugliano said that Marcum should not be involved in specific company presentations or one-on-one meetings with investors. He also advised that Marcum should not make positive statements about individual presenting companies.

18. The SEC Services Leader informed Giugliano that Marcum would be partnering with an investor relations firm to market the conference. Giugliano, however, failed to consider how the Firm would market the conference or whether the Firm would tout the investment potential of the presenting companies as a group.

19. At the conclusion of their telephone call, Giugliano advised the SEC Services Leader that he did not believe the MicroCap Conference would impair Marcum's independence. Giugliano subsequently reviewed certain independence rules, which did not change his view with respect to the conference. Giugliano did not document his call with the SEC Services Leader, or his conclusion that the conference would not impair Marcum's independence, because he did not believe that the matter required any substantial deliberation.

20. Giugliano subsequently attended each of Marcum's annual MicroCap Conferences and became aware of the manner in which the conferences were promoted to the public. However, until PCAOB staff raised the issue in 2015, neither Giugliano nor anyone else at Marcum undertook any further review or consultation to assess whether the MicroCap Conference had any implications for the Firm's independence with respect to audit clients of the Firm who might present at, sponsor, or otherwise participate in the conference.

The 2012 Through 2015 MicroCap Conferences

21. In connection with the 2012 Conference, Marcum offered complimentary Presenting Company Packages that provided microcap companies with a presentation slot at the 2012 Conference, as well as certain marketing services such as inclusion of the company's logo or profile in Marcum's newsletters, on the conference website, and in the conference guidebook.

22. For the 2013 Conference, Marcum no longer offered presentation slots and related marketing services on a complimentary basis. Instead, Marcum offered a $1,000 Standard Presenting Company Package that added optional webcasting and

inclusion in all conference media coverage to the marketing services that had been included in the Presenting Company Packages for the 2012 Conference. Marcum also created a second category of presenting companies by offering a $5,000 Sponsoring Presenting Company Package. For the 2014 and 2015 Conferences, Marcum offered substantially the same Standard and Sponsoring Presenting Company Packages, but increased the price of the former to $1,950 in 2014 and $2,450 in 2015.

23. Marcum issuer audit clients constituted a significant percentage of the presenting companies at each MicroCap Conference between 2012 and 2015. They represented 18 of 64 presenting companies (28%) at the 2012 Conference, 21 of 122 (17%) at the 2013 Conference, 30 of 128 (23%) at the 2014 Conference, and 36 of 152 (24%) at the 2015 Conference. Across the four conferences, 62 separate Marcum issuer audit clients were presenting companies.

24. From 2012 through 2015, Marcum promoted the MicroCap Conference as an exclusive, annual showcase for microcap presenting companies that Marcum publicly described as being "highly vetted," "high quality" investment opportunities. Many such statements were directly attributed to the Managing Partner and SEC Services Leader. For example:

- In 2012, Marcum described the conference as an "invitation-only" event with "the very best," "promising high growth companies, the top picks by some of the most astute analysts." The Firm stated that the conference would be "a unique opportunity for investors to uncover 'hidden gem' investment opportunities." The Managing Partner characterized the presenting companies as having "high quality management teams." The SEC Services Leader called the presenting companies "exceptionally well managed," with "sound business practices," and predicted that the presenting companies "will be recognized by the investment community both for their business management success and for their investment potential."

- In 2013, Marcum continued to describe the conference as an "invitation-only" event with "the very best" companies that were "top picks." A posting on the conference website described an application process by which "a panel of experts . . . choose the top companies from the pool of applicants." The Managing Partner stated that the conference brought "investors seeking the highest quality opportunities together with best-of-the-best microcap companies." The SEC Services Leader stated that the conference was "earmarked exclusively for the highest quality opportunities."

- In 2014, Marcum again described the conference as an "invitation-only" event with "the very best" companies that were "top picks." The Firm called the conference "a showcase for best-of-the-best, up-and-coming microcap companies." The Managing Partner stated

that the presenting companies were "the very best, underfollowed companies." The SEC Services Leader stated that the conference "brings together both sides of the market under very stringent criteria" and reiterated that the presenting companies were "highly vetted."

- In 2015, Marcum described the conference as an "invitation-only" event with "superior" companies that were "top picks." The Firm wrote that the conference had become "a cornerstone event for the microcap market, featuring presentations by CEOs and CFOs from breakthrough high-growth companies." The SEC Services Leader stated that the conference would "showcase some of the most promising emerging growth companies out there today."

25. Giugliano knew that Marcum, the Managing Partner, and the SEC Services Leader made these types of public statements about the presenting companies, but he failed to consider the potential independence implications of their touting.

26. Each year, Marcum arranged for an investor relations firm to create profiles of the presenting companies. These profiles were included in the 2012 through 2015 conference books that were distributed to potential investors. The profiles included often laudatory descriptions of the presenting companies; for example, multiple Marcum audit clients were described as "leading" and "innovative" companies in the Firm's 2015 conference book.

27. Marcum's touting and marketing of the presenting companies extended beyond its own public statements. In 2013, for example, the SEC Services Leader directed Marcum personnel to remind presenting companies of the importance of issuing press releases concerning their participation in the conference. In 2014, Marcum provided the presenting companies with a template press release that promoted the companies, promoted the conference as "a signature showcase for superior quality, under-followed public companies," and promoted Marcum as "Ranked #15 nationally."

The Board's 2015 Inspection and Marcum's Subsequent Conduct

28. In early 2015, Board staff notified Marcum that the Board's Division of Registration and Inspections ("Inspections") would inspect the firm that year. In April 2015, the Board's Inspections staff issued a comment advising Marcum that it appeared the Firm had failed to maintain its independence with respect to its issuer audit clients that participated in the MicroCap Conference.

29. After receiving the inspection comment in 2015, Marcum took certain steps to address the comment, including removing certain language touting the presenting companies from future promotional materials for the conference, adding a

disclaimer to portions of the MicroCap Conference website, and, in 2017, adding the following provisions to its quality control policies:

> vi. Any public statement about a client, or any group of companies which includes a client, is prohibited without the approval and consent of the [Assurance Services Leader, Giugliano] and the Firm's General Counsel's office. Public statements would include those statements included in marketing materials, email blasts or statements on websites about any Issuer audit clients or prospects, with respect to any Firm-hosted or Firm-sponsored conference, including the Marcum MicroCap Conference. No public statement should be made without careful consideration of the general standard of independence set out in Rule 2-01(b) of Regulation S-X, including consideration of the four principles in the preliminary note to Rule 2-01. In all cases, public statements about issuer audit clients must avoid creating any appearance that we are advocating for the clients and must avoid putting us in a position of appearing to have a mutual interest with the client, as could occur with, for example, statements intended to create an impression that the securities of an issuer audit client are a good investment.
>
> vii. The Firm must not engage with issuer audit clients in business relationships as described in Rule 2-01(b)(3) of Regulation S-X. This means, among other things, that an issuer audit client may not be a sponsor of any Firm-hosted conference, including the Marcum Microcap Conference.
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> viii. For purposes of (vi) and (vii), "Issuer audit client" includes (1) issuer audit clients of the Firm, (2) issuer audit clients of any associated entity of the Firm, and (3) all of those issuers' affiliates, as defined in Rule 2-01(f) of Regulation S-X.

30. After taking these steps with respect to its public touting of the presenting companies, including those that were Marcum issuer audit clients, the Firm held its 2016 and 2017 Conferences without adequately considering other potential independence issues in relation to Marcum issuer audit clients that presented at the conference.[10] Indeed, Marcum failed even to verify the effectiveness of the steps it took

[10] Marcum issuer audit clients represented 31 of 109 presenting companies (28%) at the 2016 Conference and 24 of 138 presenting companies (17%) at the 2017 Conference. After holding the 2017 Conference, Marcum decided to stop holding the MicroCap Conference. Accordingly, there was no 2018 MicroCap Conference.

to limit its touting of presenting companies. As a result, Marcum failed to identify, evaluate, or appropriately address a number of issues concerning the 2016 and 2017 Conferences that, at the very least, raised questions about the Firm's independence.

31. First, although Giugliano had conversations with other Marcum personnel about removing from the conference website past press releases that included language touting the presenting companies, neither he nor anyone else at Marcum did anything to verify whether the press releases were actually removed from the website. In fact, the press releases were not removed. As of 2017, Marcum's MicroCap Conference website continued to showcase at least ten Marcum press releases from 2014 and 2015 that referred to presenting companies for those conferences as "some of the country's most promising," "superior quality," and "highly qualified" companies that were selected "under very stringent criteria."

32. Second, Marcum adopted a restrictive reading of its new policy requiring Giugliano to review public statements about audit clients. Marcum read this policy as applicable only to documents drafted by Marcum; the Firm did not apply the policy to public statements that might be attributable to Marcum but that were contained in documents drafted by third parties. For example, the policy was not applied to interviews with Marcum personnel or to third party publications that Marcum posted on its website—and Giugliano therefore did not review such documents—even though, in connection with the 2012 through 2015 Conferences, Marcum had posted on its website interviews and third party publications touting the presenting companies.

33. Third, Marcum sold one of its issuer audit clients a "Sponsoring" presenting company designation in 2016 and a "Premium" presenting company designation in 2017, without performing any independence review to determine whether giving an issuer audit client such designations in connection with the Firm's investor conference was consistent with independence requirements and, for 2017, its new quality control policies.

34. Fourth, in advance of the 2016 and 2017 Conferences, Marcum again provided the presenting companies with template press releases. In 2016, for example, Marcum provided the presenting companies with a template press release that described the conference as "a signature showcase for superior quality, under-followed public companies." In 2017, Marcum provided the presenting companies with a template press release announcing their participation in the 2017 Conference, touting the conference as "a nationally recognized forum," and touting Marcum as "a top national accounting and advisory firm." A number of Marcum's issuer audit clients issued press releases that included Marcum's suggested language, thereby using the conference's reputation and association with their auditor to promote themselves to investors. Marcum did not perform any independence review to determine whether its conduct in providing such press releases to its issuer audit clients was consistent with independence requirements.

35. Fifth, in 2016 and 2017, Marcum continued to advertise the presenting companies in its conference marketing materials. In doing so, Marcum displayed the presenting companies' logos on the Firm's conference website, in the conference app, and in emails it sent to promote the conference. Marcum did not perform any independence review to determine whether this advertising was consistent with independence requirements.

36. Finally, as discussed above, from 2012 through 2015, Marcum had repeatedly vouched that the MicroCap Conference's presenting companies were, in Marcum's view, "highly vetted," "high quality" investment opportunities. Yet, in 2016 and 2017, Marcum failed to consider whether its past touting had branded the Firm's annual conference as an event with respect to which Marcum held—and could be expected to continue to hold—a positive view of the presenting companies.

D. Marcum and Giugliano Violated PCAOB Rules and Standards

37. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[11]

Marcum Violated Auditor Independence Requirements

38. PCAOB rules require that a registered public accounting firm and its associated persons be independent of the firm's audit clients throughout the audit and professional engagement period.[12]

39. A registered public accounting firm's independence obligation with respect to an issuer audit client encompasses not only an obligation to satisfy the independence criteria set out in PCAOB rules and standards, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in Commission rules and regulations.[13]

40. Rule 2-01(b) of Regulation S-X provides that an accountant is not independent of an audit client if, at any point during the audit and professional engagement period, "the accountant is not, or a reasonable investor with knowledge of all relevant facts and circumstances would conclude that the accountant is not, capable of exercising objective and impartial judgment on all issues encompassed within the

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[11] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[12] PCAOB Rule 3520; see also AU § 220.

[13] PCAOB Rule 3520, Note 1.

accountant's engagement."[14] In applying this standard, it is appropriate to "look[] in the first instance to whether a relationship or the provision of a service: creates a mutual or conflicting interest between the accountant and the audit client . . . or places the accountant in a position of being an advocate for the audit client."[15]

41. With respect to the 62 issuer audit clients that were presenting companies at the MicroCap Conference from 2012 through 2015, Marcum's conduct described above: (1) involved publicly advocating for these issuer audit clients as high-quality investment opportunities; and (2) created a mutual interest between Marcum and these issuer audit clients with respect to whether those clients' subsequent performance lived up to Marcum's touting. This conduct was inconsistent with the independence criteria set out in Rule 2-01(b) of Regulation S-X and impaired the Firm's independence with respect to these issuer audit clients. As a result, Marcum violated PCAOB Rule 3520 and AU § 220.

Giugliano Substantially Contributed to Marcum's Independence Violations

42. PCAOB rules prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to the firm's violation of PCAOB rules or professional standards.[16]

43. Giugliano was the member of senior management responsible for Marcum's compliance with auditor independence requirements and approved the MicroCap Conference from an independence perspective. Accordingly, Giugliano had primary responsibility for ensuring that the MicroCap Conference did not impair Marcum's independence.

44. Nonetheless, during his initial 2012 telephone call with the SEC Service Leader concerning the MicroCap Conference, Giugliano did not address the implications of touting the investment potential of the conference's presenting companies. Subsequently, and in every year from 2012 through 2015, Giugliano became aware of the Firm's public statements touting the quality of the presenting companies, a significant percentage of which were Marcum issuer audit clients. Yet

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[14] 17 C.F.R. § 210.2-01(b). Rule 2-01(b) further provides that "[i]n determining whether an accountant is independent, the Commission will consider all relevant circumstances, including all relationships between the accountant and the audit client, and not just those relating to reports filed with the Commission."

[15] 17 C.F.R. § 210.2-01, Preliminary Note 2.

[16] PCAOB Rule 3502.

Giugliano failed to consider whether such statements were consistent with independence requirements.

45. Giugliano knew, or was reckless in not knowing, that this conduct would directly and substantially contribute to Marcum's violations of the independence rules and standards. Therefore, he violated PCAOB Rule 3502.

Marcum Violated PCAOB Quality Control Standards

46. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[17] which provide that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[18] PCAOB quality control standards further state that policies and procedures should be established to provide the firm with reasonable assurance that "personnel maintain independence (in fact and in appearance) in all required circumstances" and "that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[19] Additionally, PCAOB quality control standards provide that policies and procedures for monitoring "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied," and that "its system of quality control is effective."[20]

47. In light of Marcum's conduct in connection with the 2012 through 2017 MicroCap Conferences—which involved advocating for and creating a mutual interest with numerous issuer audit clients from 2012 through 2015, conduct of which senior partners in the Firm were aware, and certain conduct that continued in 2016 and 2017 without being subjected to a sufficient independence review even though the Firm had received notice that the MicroCap Conference could impair the Firm's independence—Marcum failed to suitably design, effectively apply, and appropriately monitor quality control policies and procedures to provide reasonable assurance concerning the Firm's independence. Those failures resulted in, or contributed to, Marcum repeatedly violating PCAOB rules and standards related to independence from 2012 through 2015, including by failing to satisfy applicable Commission independence criteria as described above.

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[17] PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[18] QC § 20.01.

[19] QC § 20.09-.10, .17.

[20] QC §§ 20.20, 30.03.

48. As a result, Marcum violated QC § 20 and QC § 30 from 2012 through 2017.

III.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Marcum and Giugliano are hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $450,000 is imposed upon Marcum and a civil money penalty in the amount of $25,000 is imposed upon Giugliano. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Marcum and Giugliano shall each pay their respective civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Marcum or Giugliano, as applicable, as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Sections 105(c)(4)(C), (F), and (G) of the Act and PCAOB Rules 5300(a)(3), (6), (8), and (9), the Board orders that:

1. <u>Independent Consultant.</u>

a. Marcum shall retain and pay for an independent consultant not unacceptable to the PCAOB staff who has experience with, and is knowledgeable concerning, auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards ("Independent Consultant"). Within sixty days after the entry of this Order, Marcum shall submit to the PCAOB staff a proposal setting

forth the identity, qualifications, and proposed terms of retention of the Independent Consultant. Marcum may not retain as the Independent Consultant any individual or entity that has provided legal, auditing, or other services to, or has had any affiliation with, Marcum or any member of the Marcum Group during the prior two years.

b. To ensure the independence of the Independent Consultant, Marcum: (i) shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the PCAOB staff; and (ii) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

c. Marcum will enter into an agreement with the Independent Consultant that provides that, for the period of the engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing, or other professional relationship with Marcum or any member of the Marcum Group, or any of their present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. The agreement also will provide that the Independent Consultant will require that any firm with which the Independent Consultant is affiliated or of which the Independent Consultant is a member, and any person engaged to assist the Independent Consultant in performance of the Independent Consultant's duties under this Order, shall not, without prior written consent of the PCAOB staff, enter into any employment, consultant, attorney-client, auditing, or other professional relationship with Marcum or any member of the Marcum Group, or any of their present or former affiliates, directors, officers, employees, or agents acting in their capacity as such, for the period of the engagement and for a period of two years after the engagement.

d. Marcum shall cooperate fully with the Independent Consultant and shall provide reasonable access to its personnel, information, and records as the Independent Consultant may reasonably request for the Independent

Consultant's review, evaluation, and reports described in Paragraphs III.C.2 and III.C.3 below.

e. If Marcum, despite its best, good faith efforts, is unable to identify an Independent Consultant candidate that meets all of the above-listed criteria, Marcum may seek approval from the PCAOB staff of alternative candidates or alternative terms that Marcum believes to be otherwise suitable.

2. Areas Independent Consultant Is To Review. Within the periods specified in Paragraph III.C.3 below, the Independent Consultant will review and evaluate the following:

a. Marcum's quality control policies and procedures as they relate to auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards;

b. The resources Marcum is devoting to provide reasonable assurance of compliance with auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards, including (i) the expertise, experience, and staffing of Marcum's quality control personnel relating to auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards, and (ii) whether Marcum should hire a partner-level professional with experience and expertise in auditor independence to assume primary responsibility for overseeing the adequate functioning of its independence policies and independence consultation process; and

c. Marcum's professional education and training policies and materials relating to auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards.

3. Independent Consultant Reports and Certifications.

a. Within five months of the Independent Consultant being retained, Marcum shall require the Independent Consultant to issue a detailed written report ("Report") to Marcum: (i) summarizing the Independent Consultant's review and evaluation of the areas identified in Paragraph III.C.2 above, and (ii) making recommendations, where appropriate, reasonably designed to ensure that Marcum complies with all auditor independence requirements applicable to audits

and reviews conducted pursuant to PCAOB standards and that its system of quality control provides reasonable assurance of such compliance. Marcum shall require the Independent Consultant to provide a copy of the Report to the PCAOB staff when the Report is issued.

b. Marcum will adopt, as soon as practicable, all recommendations of the Independent Consultant in the Report; provided, however, that within thirty days of the issuance of the Report, Marcum may advise the Independent Consultant and the PCAOB staff in writing of any recommendation that it considers to be unnecessary, unduly burdensome, or impractical. Marcum need not adopt any such recommendation at that time, but instead may propose in writing to the Independent Consultant and the PCAOB staff an alternative proposal designed to achieve the same objective or purpose. Marcum and the Independent Consultant will engage in good faith negotiations in an effort to reach agreement on any recommendations objected to by Marcum.

c. In the event that the Independent Consultant and Marcum are unable to agree on an alternative proposal within forty-five days, Marcum either will abide by the determinations of the Independent Consultant or will seek approval from the PCAOB staff to engage, at Marcum's expense, a qualified third party not unacceptable to the PCAOB staff to promptly resolve the issue(s).

d. Within seventy-five days of the issuance of the Report and the resolution of any issues that are the subject of disagreement between Marcum and the Independent Consultant, Marcum will certify to the PCAOB staff in writing that it has adopted and has implemented or will implement all recommendations of the Independent Consultant ("Certification of Compliance"). Marcum will provide a copy of the Certification of Compliance to the PCAOB staff.

e. Within six months of the issuance of the Report, Marcum shall require the Independent Consultant to test whether Marcum has implemented and enforced the Independent Consultant's recommendations and to assess the effectiveness of those implemented recommendations. Marcum shall require the Independent Consultant to issue a written final report summarizing the results of the Independent Consultant's test and assessment ("Final

Report") and to provide a copy of the Final Report to the PCAOB staff. At this time, if the Independent Consultant determines that the undertakings discussed herein have been completed to the satisfaction of the Independent Consultant, Marcum shall require the Independent Consultant to certify in writing that the undertakings have been so completed ("Independent Consultant Certification") and to provide a copy of this certification to the PCAOB staff.

f. The Report, Final Report, Certification of Compliance, and Independent Consultant Certification shall be submitted to the Director of the Division of Enforcement and Investigations.

g. For good cause shown, the PCAOB staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

h. Marcum agrees that the Division of Enforcement and Investigations may petition the Board to reopen this matter to determine whether additional sanctions or findings are appropriate if it believes that Marcum has not satisfied these undertakings.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

September 10, 2019

PCAOB
Public Company Accounting Oversight Board

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Marcum Bernstein & Pinchuk LLP,* *Respondent.*	PCAOB Release No. 105-2019-023 September 10, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Marcum Bernstein & Pinchuk LLP ("MarcumBP" or "Firm"); (2) imposing a civil money penalty of $50,000 on MarcumBP; and (3) requiring MarcumBP to undertake a review of its policies, procedures, staffing, and training with respect to auditor independence.

The Board is imposing these sanctions on the basis of its findings that MarcumBP failed to satisfy applicable independence criteria, including as set out in U.S. Securities and Exchange Commission ("Commission") rules. MarcumBP's independence violations resulted from the Firm's conduct in connection with its China Best Ideas Investment Conference ("China Conference") in 2013 and 2014. Specifically, MarcumBP was not independent with respect to audits and reviews of seven issuers that participated in the China Conference. In addition, MarcumBP failed to take sufficient steps to ensure that its system of quality control would provide reasonable assurance that the Firm would identify and appropriately address potential independence issues.

I.

The Board instituted non-public disciplinary proceedings against MarcumBP on April 10, 2019.[1] Pursuant to PCAOB Rule 5205, MarcumBP later submitted an Offer of Settlement ("Offer") that the Board accepted. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board

[1] Section 105(c)(2) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), provides that litigated disciplinary proceedings shall not be public, "unless otherwise ordered by the Board for good cause shown, with the consent of the parties…." Although the Board found good cause for making the proceedings public, MarcumBP did not consent, as permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203.

is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over MarcumBP and the subject matter of these proceedings, which is admitted, MarcumBP consents to entry of this Order Making Findings and Imposing Sanctions as set forth below.[2]

II.

On the basis of MarcumBP's Offer, the Board finds that:[3]

A. Respondent

1. **Marcum Bernstein & Pinchuk LLP** is a limited liability partnership organized under the laws of the State of New York and headquartered in New York, New York. The Firm is licensed by the Texas State Board of Public Accountancy (License No. P05632), the Nevada State Board of Accountancy (License No. PART-0888), and the New York State Education Department (License No. 093038). MarcumBP is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, the Firm was the external auditor for the MarcumBP clients referenced in this Order.[4]

B. Other Relevant Entity

2. **Marcum LLP** ("Marcum") is a limited liability partnership organized under the laws of the State of New York and headquartered in Melville, New York. It is registered with the New York State Education Department (License No. 067839) and also is licensed in multiple other states. Marcum is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Marcum has a 50 percent ownership interest in MarcumBP.

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[2] The findings in this Order are made pursuant to MarcumBP's Offer and are not binding on any other persons or entities in this or any other proceeding.

[3] The Board finds that MarcumBP's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] Each MarcumBP audit client referenced in this Order was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), at all relevant times.

C. Summary

3. This matter concerns MarcumBP's failure to comply with PCAOB rules and standards that require a registered public accounting firm to be independent of the firm's audit clients throughout the audit and professional engagement period. Specifically, MarcumBP failed to comply with independence requirements in connection with audits and interim reviews of seven issuer clients that participated in the China Conference. These independence violations resulted from the Firm's conduct in connection with its annual China Conference in 2013 and 2014.

4. The China Conference was an investor conference focused on presenting Chinese public companies to audiences that included potential investors. During the 2013 and 2014 China Conferences, a total of seven MarcumBP issuer audit clients made presentations, were available for one-on-one meetings at the China Conference, or both.

5. The success of the China Conference depended on companies perceiving it as a good forum to connect with potential investors, and on potential investors perceiving it as a good opportunity to find high-quality investment opportunities. Accordingly, MarcumBP endeavored to create a perception that the China Conference was an event featuring companies—some of which were MarcumBP issuer audit clients—that were high-quality investment opportunities.

6. MarcumBP issued audit reports on the financial statements of the issuer audit clients that participated in the China Conference. The Firm's independence was impaired with respect to these issuer audit clients because MarcumBP's hosting and promotion of the conference: (1) involved publicly advocating for these issuer audit clients as high-quality investment opportunities; and (2) created a mutual interest between MarcumBP and these issuer audit clients with respect to whether those clients' subsequent performance lived up to MarcumBP's billing. As a result, MarcumBP failed to satisfy the independence criteria set out in Rule 2-01(b) of Commission Regulation S-X, in violation of PCAOB Rule 3520, *Auditor Independence*, and AU § 220, *Independence*.[5]

7. MarcumBP also failed to comply with PCAOB quality control standards because it failed to establish policies and procedures sufficient to provide the Firm with reasonable assurance that: (1) it would maintain independence in all required circumstances;[6] and (2) the policies and procedures the Firm had established with

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[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct.

[6] QC § 20.09-.10, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*; see also QC § 30.02-.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

respect to independence were suitably designed and were being effectively applied and monitored.[7]

D. Background

8. MarcumBP hosted and promoted its China Conference in Beijing in September 2013 and September 2014. The China Conference was designed to improve MarcumBP's visibility and brand by providing an opportunity to introduce potential investors to Chinese companies. MarcumBP modeled the China Conference on a similar investor conference held by its affiliate Marcum, the Marcum MicroCap Conference.

9. MarcumBP's senior management believed that the China Conference would not have any implications for the Firm's independence. For this belief, the Firm relied solely on Marcum's approval of the separate Marcum MicroCap Conference—even though Marcum had not conducted any substantial independence deliberations in connection with its MicroCap Conference.[8]

10. Thus, MarcumBP failed to undertake any review or consultation to ensure that its conduct in connection with the China Conference complied with all independence requirements. The Firm failed to recognize the independence implications of touting the companies that participated in its China Conference, some of which were MarcumBP issuer audit clients.

11. The format for both the 2013 and 2014 China Conferences included expert panel presentations, as well as business presentations by certain "Featured Companies," which MarcumBP described as small- to large-cap companies listed in both United States and Chinese stock markets. The Featured Companies were also available at the conferences to meet one-on-one with potential investors.[9]

12. The China Conference format also included opportunities for investors to meet one-on-one with a group of conference participants that MarcumBP identified as "Attending Companies." Although the Attending Companies were available for one-on-one meetings with potential investors, they did not make business presentations at the conferences.

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[7] QC §§ 20.09-.10, 30.02-.03.

[8] See *In the Matter of Marcum LLP and Alfonse Gregory Giugliano, CPA*, PCAOB Release No. 105-2019-022 (September 10, 2019).

[9] MarcumBP personnel did not attend any one-on-one meetings.

13. The first MarcumBP China Conference took place in September 2013 in Beijing ("2013 Conference"). The twenty Featured Companies at the 2013 Conference included two MarcumBP issuer audit clients. The seven Attending Companies at the conference included one MarcumBP issuer audit client.

14. MarcumBP's second China Conference took place in September 2014 in Beijing ("2014 Conference"). The eighteen Featured Companies at the 2014 Conference included two MarcumBP issuer audit clients. The fifteen Attending Companies at the conference included two MarcumBP issuer audit clients.

15. In connection with the 2013 and 2014 Conferences, MarcumBP sent numerous conference invitations to potential attendees, including fund managers, venture capitalists, and private equity investors. The Firm also sent invitations to banks, law firms, and other service providers. The conference grew in size between 2013 and 2014, with approximately 330 attendees at the 2013 Conference and more than 500 the following year.

16. MarcumBP promoted the conferences by, among other things, issuing press releases and posting promotional materials on the Firm's website. MarcumBP also prepared promotional books for the China Conferences that were distributed to conference attendees. These promotional books included company profiles of the Featured Companies and written introductory statements from one of MarcumBP's co-managing partners.

17. Through its public statements, MarcumBP sought to communicate to investors and other potential conference attendees that the China Conference was an exclusive showcase for Featured Companies and Attending Companies that MarcumBP viewed as high-quality investment opportunities. For example, MarcumBP vouched for the transparency and corporate governance of the companies participating in its China Conference—thereby speaking directly to investor concerns about Chinese companies.

18. In connection with the 2013 Conference:

- MarcumBP's co-managing partner touted the "outstanding roster of presenting companies" and said that these companies would "discuss their successful track records, prospects for growth and best practices transparency by which they conduct both their business operations and investor communications."

- MarcumBP described the conference as "provid[ing] investors with the opportunity to meet with the senior management of Chinese companies that have weathered the storm of economic uncertainty and shown a strong commitment to shareholder value."

- MarcumBP stated that the conference would "showcase some of the very best managed companies that are listed overseas," and that the participating companies were "A Selection Of The Best Companies China Has To Offer."

19. Likewise, in connection with the 2014 Conference:

- MarcumBP stated that the conference would "feature the 'best-of-the-best'" Chinese companies that "have been selected based on input from institutional investors as being well positioned for growth, having solid and transparent business models, and adhering to corporate governance standards."

- MarcumBP asserted that its China Conference was "designed to be different," in that its Featured Companies "have been selected based on having strong business models that are aligned with China's economic trend and having shown a commitment to meeting international norms of corporate governance."

- MarcumBP described the conference as "dedicated to introducing investors to superior, undiscovered SEC-registrant Chinese companies."

E. MarcumBP Violated PCAOB Rules and Standards

20. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[10]

MarcumBP Violated Auditor Independence Requirements

21. PCAOB rules require that a registered public accounting firm and its associated persons be independent of the firm's audit clients throughout the audit and professional engagement period.[11]

22. A registered public accounting firm's or associated person's independence obligation with respect to an issuer audit client encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the

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[10] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[11] PCAOB Rule 3520; see also AU § 220.

engagement, including the independence criteria set out in Commission rules and regulations.[12]

23. Rule 2-01(b) of Regulation S-X provides that an accountant is not independent of an audit client if, at any point during the audit and professional engagement period, "the accountant is not, or a reasonable investor with knowledge of all relevant facts and circumstances would conclude that the accountant is not, capable of exercising objective and impartial judgment on all issues encompassed within the accountant's engagement."[13] In applying this standard, it is appropriate to "look[] in the first instance to whether a relationship or the provision of a service: creates a mutual or conflicting interest between the accountant and the audit client . . . or places the accountant in a position of being an advocate for the audit client."[14]

24. With respect to the seven issuer audit clients that were Featured Companies or Attending Companies at the 2013 and 2014 Conferences, MarcumBP's conduct described above: (1) involved publicly advocating for its issuer audit clients as high-quality investment opportunities; and (2) created a mutual interest between MarcumBP and its issuer audit clients with respect to whether those clients' subsequent performance lived up to MarcumBP's touting. This conduct was inconsistent with the independence criteria set forth in Rule 2-01(b) of Regulation S-X and impaired the Firm's independence with respect to these issuer audit clients. As a result, MarcumBP violated PCAOB Rule 3520 and AU § 220.

MarcumBP Violated PCAOB Quality Control Standards

25. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[15] which provide that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[16] PCAOB quality control standards further state that policies and procedures should be established to provide the firm with reasonable assurance that "personnel

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[12] PCAOB Rule 3520, Note 1.

[13] 17 C.F.R. § 210.2-01(b). Rule 2-01(b) further provides that "[i]n determining whether an accountant is independent, the Commission will consider all relevant circumstances, including all relationships between the accountant and the audit client, and not just those relating to reports filed with the Commission."

[14] 17 C.F.R. § 210.2-01, Preliminary Note 2.

[15] PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[16] QC § 20.01.

maintain independence (in fact and in appearance) in all required circumstances" and "that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[17] Additionally, PCAOB quality control standards provide that policies and procedures for monitoring "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied," and that "its system of quality control is effective."[18]

26. In light of MarcumBP's conduct in connection with the China Conference—which involved advocating for and creating a mutual interest with seven issuer audit clients, and which constituted conduct of which senior partners in the Firm were aware—MarcumBP failed to implement, effectively apply, and appropriately monitor quality control policies and procedures sufficient to provide reasonable assurance concerning the Firm's independence. Those failures resulted in, or contributed to, MarcumBP violating PCAOB rules and standards related to independence, including by failing to satisfy applicable Commission independence criteria as described above.

27. As a result, MarcumBP violated QC § 20 and QC § 30 in 2013 and 2014.

III.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in MarcumBP's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), MarcumBP is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon MarcumBP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. MarcumBP shall pay the civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board,

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[17] QC § 20.09-.10, .17.

[18] QC §§ 20.20, 30.03.

1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies MarcumBP as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Sections 105(c)(4)(C), (F), and (G) of the Act and PCAOB Rules 5300(a)(3), (6), and (9), the Board orders that:

1. Review by MarcumBP. Within the period specified in Paragraph III.C.2 below, MarcumBP shall review and evaluate the following:

   a. MarcumBP's quality control policies and procedures as they relate to auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards;

   b. The resources MarcumBP is devoting to provide reasonable assurance of compliance with auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards, including (i) the expertise, experience, and staffing of MarcumBP's quality control personnel relating to auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards, and (ii) whether MarcumBP should hire a partner-level professional with experience and expertise in auditor independence to assume primary responsibility for overseeing the adequate functioning of its independence policies and independence consultation process; and

   c. MarcumBP's professional education and training policies and materials relating to auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards.

2. Reporting. Within six months of the date of this Order, MarcumBP shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the areas identified in Paragraph III.C.1 above ("Report"). The Report shall describe any modified or additional independence policies, procedures, staffing, professional education, or training adopted or to be adopted by MarcumBP or, if

no such modifications or additions are adopted or to be adopted, a detailed explanation of all the reasons why MarcumBP believes no such modifications or additions should be adopted. In addition, MarcumBP shall submit any additional information and evidence concerning the Report, the information in the Report, and MarcumBP's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Compliance. Within twelve months of the date of this Order, MarcumBP's co-managing partners shall certify in writing ("Certificate of Compliance") to the Director of the Division of Enforcement and Investigations that MarcumBP has implemented all of the modifications and additions to its independence policies, procedures, staffing, professional education, and training that were described in the Report. The Certificate of Compliance shall provide written evidence of MarcumBP's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications or additions, and be supported by exhibits sufficient to demonstrate compliance.

4. Extension of Deadlines. For good cause shown, the Director of the Division of Enforcement and Investigations may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

5. Compliance with Undertakings. MarcumBP agrees that the Division of Enforcement and Investigations may petition the Board to reopen this matter to determine whether additional sanctions or findings are appropriate if it believes that MarcumBP has not satisfied these undertakings.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

September 10, 2019

PCAOB
Public Company Accounting Oversight Board

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Washington, DC 20006
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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Seul Hyang Wee*, *Respondent.*	PCAOB Release No. 105-2019-026 October 31, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Seul Hyang Wee ("Wee" or "Respondent"); (2) barring Wee from being an associated person of a registered public accounting firm;[1] and (3) imposing a civil money penalty of $10,000 on Wee. The Board is imposing these sanctions on the basis of its findings that Wee failed to cooperate with a Board inspection and violated PCAOB audit documentation requirements in connection with the audit of an issuer.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

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[1] Wee may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. Seul Hyang Wee, age 45, is a certified public accountant licensed in the Republic of Korea ("South Korea") by the Korean Institute of Certified Public Accountants (registration no. 5601). Until September 2018, Wee was a partner at Deloitte Anjin LLC ("Deloitte Korea" or "Firm"),[4] a firm based in South Korea with its single office in Seoul. During the relevant period, Wee was the engagement partner responsible for the audit of the 2013 consolidated financial statements and internal control over financial reporting of Issuer A ("2013 Audit"). Wee is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer A

2. Issuer A is a financial services company based in South Korea with American Depositary Shares listed on the New York Stock Exchange. Issuer A is structured as a holding company ("Holding Company") with numerous subsidiaries, the largest of which holds most of its assets and generates most of its revenue ("Subsidiary"). At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

3. This matter concerns Wee's failure to cooperate with a Board inspection and to comply with PCAOB audit documentation requirements. In connection with the 2013 Audit, Wee and other Firm audit personnel who performed the audit of the Holding Company ("Holding Company Auditors") backdated certain electronic work papers related to audit procedures concerning the Holding Company. Wee was also copied on communications indicating that audit personnel who performed audit procedures concerning the Subsidiary ("Subsidiary Auditors") were improperly altering a number of hard-copy work papers related to the Subsidiary in advance of a scheduled PCAOB inspection. Wee took no action to stop the misconduct or to report it to senior

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[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] See *In the Matter of Deloitte Anjin LLC*, PCAOB Release No. 105-2019-025 (October 31, 2019).

management. Moreover, during the Board's inspection, Wee met several times with PCAOB inspectors to discuss audit procedures concerning the Holding Company and the Subsidiary. Wee never disclosed to the inspectors that electronic work papers had been backdated nor informed them of the communications she had received about efforts to alter hard-copy work papers.

D. Respondent Violated PCAOB Rules and Standards

4. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[5] Auditing Standard No. 3, *Audit Documentation* ("AS 3"), requires that audit documentation "contain sufficient information to enable an experienced auditor, having no previous connection with the engagement:

a. To understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and

b. To determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review."[6]

Any documentation added after the documentation completion date[7] "must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[8]

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (March 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017).

[6] AS 3 ¶ 6.

[7] Paragraph 15 of AS 3 requires that a complete and final set of audit documentation be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use the audit report.

[8] AS 3 ¶ 16.

5. PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. "Implicit in this cooperation requirement is that auditors provide accurate and truthful information."[9]

6. On March 25, 2014, PCAOB inspection staff informed Deloitte Korea that it would be inspecting the Firm and planned to start inspection fieldwork at the Firm's office in Seoul on July 14, 2014. At the time, Deloitte Korea served as the principal auditor of two issuer clients and performed referred audit work in connection with other issuers. The 2013 Audit had the most personnel assigned and the most hours recorded of all these engagements, and Issuer A was the larger of Deloitte Korea's two issuer clients by market capitalization. Based on those considerations, the Firm, Wee, and others assigned to the 2013 Audit believed that the 2013 Audit would be selected for review by PCAOB inspection staff.

7. As engagement partner, Wee was responsible for the performance of the 2013 Audit. The engagement was structured such that Wee directly supervised the audit of the Holding Company, while other Firm partners supervised the audits of several components of the Holding Company, including the Subsidiary, and reported the results to Wee.

8. The financial statements of the Subsidiary were significant to the consolidated financial statements of Issuer A. The Subsidiary's revenue constituted most of Issuer A's revenue, and the Subsidiary's assets totaled approximately 69 percent of Issuer A's consolidated assets. The audit procedures performed by the Subsidiary Auditors were an integral part of the 2013 Audit. The Subsidiary Auditors regularly communicated with Wee about the timing, conduct, and results of their audit work, and apprised her of issues and developments concerning that work.

9. On April 30, 2014, Wee authorized the issuance of Deloitte Korea's audit report on Issuer A's consolidated financial statements as of and for the year ended, and internal control over financial reporting as of, December 31, 2013. The audit report was included in a Form 20-F filed with the U.S. Securities and Exchange Commission.

10. Wee and other auditors working on the 2013 Audit applied preparation and review dates to the electronic work papers that were earlier than the actual dates when the work was performed or when the work papers were prepared or reviewed. In some

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[9] *Kabani & Company, Inc*., Exchange Act Release No. 80201, at 13-14 (March 10, 2017) (sustaining Board finding that respondents failed to cooperate with inspection where improper work paper alterations "interfered with the PCAOB's ability to fulfill its regulatory function of ensuring that auditors comply with their professional responsibilities"), petition for review denied, 733 Fed. Appx. 918 (9th Cir. 2018); see also *DRT Bagimsiz Denetim ve Serbest Muhasebeci Mali Musavirlik A.Ş.,* PCAOB Release No. 105-2017-050 (December 19, 2017).

instances, those preparation and review dates were backdated to conceal the post-issuance performance of procedures. In other instances, those dates were backdated to conceal the post-issuance preparation or review of work papers reflecting procedures performed prior to issuance. Wee was aware that Holding Company Auditors engaged in backdating to conceal post-issuance procedures, and was aware of and participated in the backdating to conceal post-issuance preparation and review of audit documentation with respect to the Holding Company. Wee thus violated AS 3.[10]

11. On June 9, 2014, PCAOB inspection staff notified Deloitte Korea that it had selected the 2013 Audit for review. Shortly thereafter, Firm personnel—including Wee, the Holding Company Auditors, and the Subsidiary Auditors—learned that the 2013 Audit had been selected by the PCAOB for inspection.

12. Deloitte Korea was required to assemble a final and complete set of audit documentation for the 2013 Audit no later than June 14, 2014. The Firm archived a final set of work papers for the 2013 Audit by that date—the hard-copy work papers on June 13, and the electronic work papers on June 14, 2014. Beginning on June 20, 2014, and over the next several days, a number of Subsidiary Auditors improperly altered several hard-copy work papers by adding handwritten descriptions of procedures relating to the Subsidiary's internal controls over (i) valuation of unlisted securities and (ii) loan receivables.

13. Wee received emails sent among the Subsidiary Auditors concerning efforts to improperly alter Subsidiary-related hard-copy work papers in advance of the PCAOB inspection and after the documentation completion date. In one such email dated June 20, 2014, one of the Subsidiary Auditors listed 13 internal controls related to the Subsidiary's loan allowance and, for each of those controls, specified certain items that should be added to the control descriptions contained in the hard-copy work papers.

14. Wee took no action to stop the efforts to improperly alter hard-copy work papers or report them to the Firm's senior management. Subsidiary Auditors subsequently included in the Firm's assembled set of audit documentation for the 2013 Audit several work papers that were supplemented with handwritten descriptions after the documentation completion date but did not disclose when, why, or by whom the descriptions were added. As a result of her knowledge of the efforts to improperly alter hard-copy work papers and her overall responsibility for the 2013 Audit, Wee again violated AS 3.

15. Wee was aware that on or about July 14, 2014, the first day of the PCAOB inspection, the Firm provided Subsidiary-related hard-copy work papers and backdated electronic work papers to the inspectors. The hard-copy work papers provided to the inspectors included ones to which handwritten descriptions had been added without disclosing—as required by AS 3—when, why, and by whom the additions were made.

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[10] AS 3 ¶ 6.

Moreover, from July 14 through July 24, 2014, Wee met on several occasions with PCAOB inspectors to discuss the 2013 Audit. At some of those meetings, the PCAOB inspectors and Wee reviewed work papers and discussed audit procedures concerning the Holding Company and the Subsidiary. Wee failed to inform the inspectors during any of those meetings that electronic work papers had been backdated or to disclose to them the efforts to improperly alter hard-copy work papers. As a result, Wee violated PCAOB Rule 4006.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Seul Hyang Wee is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Seul Hyang Wee is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[11]

C. After two (2) years from the date of this Order, Seul Hyang Wee may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Seul Hyang Wee shall pay this civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, certified check, bank cashier's check or bank money order (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W.,

[11] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Wee. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Washington, D.C. 20006; and (c) submitted under a cover letter which identifies Seul Hyang Wee as a respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

October 31, 2019

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Hyun Seung Lee*, *Respondent.*	PCAOB Release No. 105-2019-027 October 31, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Hyun Seung Lee ("Lee" or "Respondent"); (2) barring Lee from being an associated person of a registered public accounting firm;[1] and (3) imposing a civil money penalty of $10,000 on Lee. The Board is imposing these sanctions on the basis of its findings that Lee failed to cooperate with a Board inspection and violated PCAOB audit documentation requirements in connection with the audit of an issuer.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

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[1] Lee may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

III.

On the basis of Respondent's Offer, the Board finds that: [3]

A. Respondent

1. Hyun Seung Lee, age 48, is a certified public accountant licensed in the Republic of Korea ("South Korea") by the Korean Institute of Certified Public Accountants (registration no. 4799). Until October 2017, Lee was a partner at Deloitte Anjin LLC ("Deloitte Korea" or "Firm"),[4] a firm based in South Korea with its single office in Seoul. During the relevant period, Lee was the partner responsible for the audit procedures performed on the 2013 financial statements and internal control over financial reporting of Issuer A's largest subsidiary. Lee is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer A

2. Issuer A is a financial services company based in South Korea with American Depositary Shares listed on the New York Stock Exchange. Issuer A is structured as a holding company ("Holding Company") with numerous subsidiaries, the largest of which holds most of its assets and generates most of its revenue ("Subsidiary"). At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

3. This matter concerns Lee's failure to cooperate with a Board inspection and to comply with PCAOB audit documentation requirements. In connection with the 2013 audit of Issuer A ("2013 Audit"), Lee and other Firm audit personnel who performed audit procedures concerning the Subsidiary ("Subsidiary Auditors") backdated electronic audit work papers. They did so to conceal that certain Subsidiary-related procedures were performed after the audit report on the Holding Company's consolidated financial statements had been issued. Lee was also aware that Subsidiary Auditors improperly altered a number of hard-copy work papers related to the Subsidiary in advance of a

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[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] See *In the Matter of Deloitte Anjin LLC*, PCAOB Release No. 105-2019-025 (October 31, 2019).

scheduled PCAOB inspection. Lee took no action to stop the misconduct or to report it to senior management. Moreover, during the Board's inspection, Lee met several times with PCAOB inspectors to discuss audit procedures concerning the Subsidiary. Lee never disclosed to the inspectors that electronic work papers had been backdated or that hard-copy work papers had been improperly altered.

D. Respondent Violated PCAOB Rules and Standards

4. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[5] Auditing Standard No. 3, *Audit Documentation* ("AS 3"), requires that audit documentation "contain sufficient information to enable an experienced auditor, having no previous connection with the engagement:

a. To understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and

b. To determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review."[6]

Any documentation added after the documentation completion date[7] "must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[8]

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (March 31, 2015); see also, *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017).

[6] AS 3 ¶ 6.

[7] Paragraph 15 of AS 3 requires that a complete and final set of audit documentation be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use the audit report.

[8] AS 3 ¶16.

5. PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, requires registered firms and their associated persons to cooperate with inspections conducted by the Board. "Implicit in this cooperation requirement is that auditors provide accurate and truthful information."[9]

6. On March 25, 2014, PCAOB inspection staff informed Deloitte Korea that it would be inspecting the Firm and planned to start inspection fieldwork at the Firm's office in Seoul on July 14, 2014. At the time, Deloitte Korea served as the principal auditor of two issuer clients and performed referred audit work in connection with other issuers. The 2013 Audit had the most personnel assigned and the most hours recorded of all these engagements, and Issuer A was the larger of Deloitte Korea's two issuer clients by market capitalization. Based on those considerations, the Firm, Lee, and others assigned to Subsidiary-related work for the 2013 Audit believed that the 2013 Audit would be selected for review by PCAOB inspection staff.

7. As the partner assigned to supervise the Subsidiary work performed as part of the 2013 Audit, Lee was responsible to oversee the planning and performance of Subsidiary-related audit procedures. The engagement was structured such that the engagement partner directly supervised the audit of the Holding Company, while other Firm partners supervised the audits of several components of the Holding Company—including that of the Subsidiary, which was supervised by Lee.

8. The financial statements of the Subsidiary were significant to the consolidated financial statements of Issuer A. The Subsidiary's revenue constituted most of Issuer A's revenue, and the Subsidiary's assets totaled approximately 69 percent of Issuer A's consolidated assets. The audit procedures performed by Lee and other Subsidiary Auditors were an integral part of the 2013 Audit.

9. On April 30, 2014, Deloitte Korea issued an audit report on Issuer A's consolidated financial statements as of and for the year ended, and internal control over financial reporting as of, December 31, 2013. The audit report was included in a Form 20-F filed with the U.S. Securities and Exchange Commission.

10. After the audit report was issued, Lee and the Subsidiary Auditors continued to perform audit procedures that had been planned but not completed by the time the Firm issued the audit report. Lee and the Subsidiary Auditors applied preparation and

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[9] *Kabani & Company, Inc*., Exchange Act Release No. 80201, at 13-14 (March 10, 2017) (sustaining Board finding that respondents failed to cooperate with inspection where improper work paper alterations "interfered with the PCAOB's ability to fulfill its regulatory function of ensuring that auditors comply with their professional responsibilities"), petition for review denied, 733 Fed. Appx. 918 (9th Cir. 2018); see also *DRT Bagimsiz Denetim ve Serbest Muhasebeci Mali Musavirlik A.Ş.,* PCAOB Rel. No. 105-2017-050 (December 19, 2017).

review dates to the electronic work papers that were earlier than the actual dates when the work was performed to conceal the post-issuance performance of procedures and, in those cases where procedures had been performed prior to issuance, to conceal the post-issuance preparation or review of those electronic work papers. The procedures performed after issuance and reflected in backdated work papers included procedures related to the valuation of the Subsidiary's derivatives and unlisted securities. Because the backdated electronic work papers misrepresented the timing of audit procedures, they failed to comply with AS 3,[10] and by participating in the backdating, Lee violated AS 3.

11. On June 9, 2014, PCAOB inspection staff notified Deloitte Korea that it had selected the 2013 Audit for review. Shortly thereafter, Firm personnel—including Lee and the Subsidiary Auditors—learned that the 2013 Audit had been selected by the PCAOB for inspection.

12. Deloitte Korea was required to assemble a final and complete set of audit documentation for the 2013 Audit no later than June 14, 2014. The Firm archived a final set of work papers for the 2013 Audit by that date—the hard-copy work papers on June 13, and the electronic work papers on June 14, 2014. Beginning on June 20, 2014, and over the next several days, a number of Subsidiary Auditors improperly altered several hard-copy work papers by adding handwritten descriptions of procedures relating to the Subsidiary's internal controls over (i) valuation of unlisted securities and (ii) loan receivables.

13. Lee received emails sent among the Subsidiary Auditors concerning efforts to improperly alter Subsidiary-related hard-copy work papers in advance of the PCAOB inspection and after the documentation completion date. In one such email dated June 20, 2014, one of the Subsidiary Auditors listed 13 internal controls related to the Subsidiary's loan allowance and, for each of those controls, specified certain items that should be added to the control descriptions contained in the hard-copy work papers. Lee was aware that Subsidiary Auditors added the handwritten descriptions to the hard-copy work papers without documenting when, why, and by whom they were added. But Lee took no action to stop the misconduct or to report it to the Firm's senior management. As a result, Lee again violated AS 3.

14. Lee was aware that on or about July 14, 2014, the first day of the PCAOB inspection, the Firm provided backdated electronic work papers and improperly altered hard-copy work papers to the inspectors. Moreover, from July 14 through July 24, 2014, Lee met on several occasions with PCAOB inspectors to discuss the 2013 Audit. At some of those meetings, the PCAOB inspectors and Lee reviewed work papers and discussed audit procedures concerning the Subsidiary. Lee failed to disclose to the inspectors during any of those meetings that electronic work papers had been backdated or that hard-copy work papers had been improperly altered. As a result, Lee violated PCAOB Rule 4006.

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[10] AS 3 ¶ 6.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Hyun Seung Lee is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Hyun Seung Lee is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[11]

C. After two (2) years from the date of this Order, Hyun Seung Lee may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Hyun Seung Lee shall pay this civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, certified check, bank cashier's check or bank money order (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (c) submitted under a cover letter which identifies Hyun Seung Lee as a respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention:

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[11] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Lee. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

ORDER

Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

October 31, 2019

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Deloitte Anjin LLC*, *Respondent.*	PCAOB Release No. 105-2019-025 October 31, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Deloitte Anjin LLC ("Deloitte Korea," "Firm," or "Respondent"), a registered public accounting firm; (2) imposing a civil money penalty of $350,000 on the Firm; and (3) requiring the Firm to undertake certain remedial measures. In ordering these sanctions, the Board took into account the Firm's extraordinary cooperation in this matter, including self-reporting, substantial assistance, and personnel and policy actions, and as described in more detail below.

The Board is imposing these sanctions on the basis of its findings that, in connection with a 2014 Board inspection of the 2013 audit of an issuer client, Deloitte Korea's system of quality control failed to provide reasonable assurance that Firm personnel performed all professional responsibilities with integrity and that the work they performed met applicable professional standards and regulatory requirements.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent

consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Deloitte Anjin LLC is a limited liability corporation based in the Republic of Korea ("South Korea") with its single office in Seoul. The Firm is licensed to practice public accountancy by the Korean Ministry of Finance and Economy (Registration No. 66). The Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules since July 13, 2004. The Firm is a member of the Deloitte Touche Tohmatsu Limited global network. At all relevant times, the Firm was the external auditor for Issuer A.

B. Issuer A and Relevant Persons

2. Issuer A is a financial services company based in South Korea with American Depositary Shares listed on the New York Stock Exchange. Issuer A is structured as a holding company ("Holding Company") with numerous subsidiaries. Issuer A holds most of its assets in, and derives most of its revenue from, its largest subsidiary ("Subsidiary"). At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

3. Seul Hyang Wee ("Wee")[2] is a former partner of Deloitte Korea. At all relevant times, Wee was responsible for the audit of the 2013 consolidated financial statements and internal control over financial reporting ("ICFR") of the Holding Company ("2013 Audit"). Wee authorized the issuance of Deloitte Korea's report on the 2013 Audit containing an unqualified opinion. The audit report was included in a Form 20-F filed with the U.S. Securities and Exchange Commission.

4. Hyun Seung Lee ("Lee")[3] is a former partner of Deloitte Korea. At all relevant times, Lee was responsible for the audit procedures performed on the 2013 financial statements and ICFR of the Subsidiary ("Subsidiary Work") as part of the consolidated 2013 Audit. The Subsidiary Work was an integral part of the 2013 Audit

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[2] See *In the Matter of Seul Hyang Wee*, PCAOB Release No. 105-2019-026 (October 31, 2019).

[3] See *In the Matter of Hyun Seung Lee*, PCAOB Release No. 105-2019-027 (October 31, 2019).

given the significance of the Subsidiary's assets and revenue to the Holding Company and its financial statements.

C. Summary

5. This matter concerns Deloitte Korea's failure to design and implement appropriate quality control policies and procedures to provide it with reasonable assurance that its engagement personnel performed professional services with integrity. The Firm also failed to design and implement adequate policies and procedures to provide it with reasonable assurance that the work performed by engagement personnel met applicable professional standards and regulatory requirements. These failures resulted in violations of PCAOB standards by Firm personnel, who backdated and improperly altered audit documentation for the 2013 Audit.

6. During the 2013 Audit, Firm personnel backdated their sign-offs on numerous electronic work papers to conceal the fact that they were continuing to perform audit procedures after the Firm had issued its audit report. Additionally, after the Firm received notification from PCAOB staff that the 2013 Audit had been selected for inspection, and following the date on which the Firm had to finalize its documentation for the audit, Firm personnel improperly altered a number of hard-copy work papers by adding descriptions of audit procedures. The Firm then provided the backdated electronic work papers and the improperly altered hard-copy work papers to PCAOB inspectors during their inspection of the Firm in 2014.

D. The Firm Violated PCAOB Quality Control Standards

7. PCAOB rules[4] require a registered public accounting firm to comply with all applicable auditing and related professional practice standards, including the Board's quality control standards.[5] PCAOB quality control standards require a registered public accounting firm to have a system of quality control for its accounting and auditing practice. The system should include policies and procedures to provide the firm with

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[4] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant conduct. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (March 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017).

[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, PCAOB Rule 3200T, *Interim Auditing Standards*, and PCAOB Rule 3400T, *Interim Quality Control Standards*.

reasonable assurance that personnel perform all professional responsibilities with integrity.[6]

8. PCAOB rules further require a registered public accounting firm to establish and implement policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[7]

9. On March 25, 2014, PCAOB inspection staff informed Deloitte Korea that it would be inspecting the Firm and planned to start inspection fieldwork at the Firm's office in Seoul on July 14, 2014. At the time, Deloitte Korea served as the principal auditor of two issuer clients and performed referred audit work in connection with other issuers. The 2013 Audit had the most personnel assigned and the most hours recorded of all these engagements, and Issuer A was the larger of Deloitte Korea's two issuer clients by market capitalization. Based on those considerations, Deloitte Korea and personnel assigned to the 2013 Audit believed that the 2013 Audit would be selected for review by PCAOB inspection staff.

10. On April 30, 2014, Wee authorized the issuance of Deloitte Korea's audit report on Issuer A's consolidated financial statements as of and for the year ended, and internal control over financial reporting as of, December 31, 2013. The audit report was included in a Form 20-F filed with the U.S. Securities and Exchange Commission.

11. After the audit report was issued, Wee, Lee, and other Firm personnel continued to prepare and review audit work papers. In addition, certain Firm personnel continued to perform audit procedures that had been planned but not completed by the time of the issuance of the audit report.

12. Wee, Lee, and other Firm personnel backdated the preparation and review dates on several electronic work papers. They applied preparation and review dates that were earlier than the actual dates to conceal the post-issuance performance of procedures and, in those cases where procedures had been performed prior to issuance, to conceal the post-issuance preparation or review of the work papers themselves.[8] This backdating was widespread among the Firm personnel assigned to the 2013 Audit. The

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[6] QC § 20.01, .09, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[7] QC § 20.17.

[8] Some of the Firm's personnel used Firm audit software that allowed them to select a date to apply to the electronic work papers other than the date of the actual sign-off, while others rolled back the clock on their computers to a date and time of their own choosing.

backdated electronic work papers failed to comply with PCAOB audit documentation requirements.[9]

13. On June 9, 2014, PCAOB inspection staff notified Deloitte Korea that it had selected the 2013 Audit for review.

14. Deloitte Korea was required to assemble a final and complete set of audit documentation for the 2013 Audit no later than June 14, 2014.[10] The Firm archived a final set of work papers for the 2013 Audit by that date—the hard-copy work papers on June 13, and the electronic work papers on June 14, 2014. Beginning on June 20, 2014, and over the next several days, personnel assigned to the Subsidiary Work improperly altered a number of hard-copy work papers. These personnel added handwritten descriptions of procedures relating to Subsidiary internal controls. Because this documentation was added after the documentation completion date and did not indicate the date it was added, the name of the person who prepared it, or the reason for adding it, the altered hard-copy work papers failed to comply with PCAOB audit documentation requirements.[11]

15. Wee and Lee were aware of the efforts by personnel assigned to the Subsidiary Work to improperly alter the hard-copy work papers after the documentation completion date. Yet, despite that knowledge, Wee and Lee took no action to stop those efforts or report them to PCAOB inspection staff or the Firm's senior management.

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[9] Paragraph 6 of Auditing Standard No. 3, *Audit Documentation* ("AS 3"), requires audit documentation, among other things, to "contain sufficient information to enable an experienced auditor, having no previous connection with the engagement," to understand the "timing" and "extent" of the procedures performed, evidence obtained, and conclusions reached, as well as to "determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review."

[10] Paragraph 15 of AS 3 requires that a complete and final set of audit documentation be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use the audit report.

[11] Paragraph 16 of AS 3 requires that any documentation added after the documentation completion date "must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."

16. On or about July 14, 2014, the first day of the PCAOB inspection, the Firm provided the backdated electronic work papers and the improperly altered hard-copy work papers to the inspectors.

17. From July 14 through July 24, 2014, Wee, Lee, and other Firm personnel met on multiple occasions with the PCAOB inspectors to discuss the 2013 Audit. None of the Firm personnel, including the two partners, informed the inspectors of the backdating of electronic work papers or the efforts to alter the hard-copy work papers after the documentation completion date. The conduct of these personnel was inconsistent with the obligation to cooperate with the Board's inspection.[12]

18. As a result of the conduct described above, Deloitte Korea violated PCAOB quality control standards. Specifically, the Firm's quality control policies and procedures failed to provide reasonable assurance that (i) firm personnel performed all professional responsibilities with integrity; and (ii) that the work performed by engagement personnel met applicable professional standards and regulatory requirements.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation in this matter. Specifically, the Firm: (a) voluntarily and timely self-reported the misconduct described in this Order;[13] (b) provided substantial assistance to the PCAOB's investigation, including by conducting its own extensive internal investigation and sharing the results of that internal investigation with Board staff; (c) separated from the Firm certain personnel identified by the Firm as responsible for the misconduct; and (d) implemented enhancements to its quality control policies and procedures in relevant areas. Absent that extraordinary cooperation, the civil money penalty imposed would

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[12] See PCAOB Rule 4006, *Duty to Cooperate with Inspectors*. That duty to cooperate includes an obligation to provide accurate and truthful information. *Kabani & Company, Inc*., Exchange Act Release No. 80201, at 13-14 (March 10, 2017) (sustaining Board finding that respondents failed to cooperate with inspection where improper work paper alterations "interfered with the PCAOB's ability to fulfill its regulatory function of ensuring that auditors comply with their professional responsibilities"), petition for review denied, 733 Fed. Appx. 918 (9th Cir. 2018); see also *DRT Bagimsiz Denetim ve Serbest Muhasebeci Mali Musavirlik A.Ş.,* PCAOB Release No. 105-2017-050 (December 19, 2017).

[13] The Firm received anonymous allegations relating to the misconduct described herein and promptly reported those allegations to PCAOB staff.

have been significantly larger, and the Board may have charged the Firm with additional violations of PCAOB rules and standards. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Deloitte Anjin LLC is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $350,000 is imposed upon Deloitte Anjin LLC. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Deloitte Anjin LLC shall pay this civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, certified check, bank cashier's check or bank money order (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (c) submitted under a cover letter which identifies Deloitte Anjin LLC as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

C. Pursuant to Section 105(c)(4)(F) and (G) of the Act and PCAOB Rule 5300(a)(6) and (9), Deloitte Anjin LLC is required:

1. no later than 30 days after the date of this Order, provide an electronic or paper copy of this Order (along with a Korean language translation) to all of its associated persons;

2. within 90 days from the date of this Order, to establish policies and procedures, or review and/or supplement existing policies and procedures, including monitoring procedures, for the purpose of providing the Firm with reasonable assurance of compliance with documentation requirements applicable to issuer audits, including with respect to the dating, assembly, addition, modification, and deletion of audit documentation;

3. within 90 days from the date of this Order, to ensure that all professionals involved in any audit, as that term is defined in Section 110(1) of the Act, have received four (4) hours of additional training concerning compliance with PCAOB auditing standard AS 1215 (formerly AS 3), *Audit Documentation*, PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, and the obligation to perform all professional responsibilities with integrity;

4. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) through C(3) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request; and

5. for two (2) years from the date of this Order:

(a) to promptly report to the Board any allegation of improper document alterations in connection with (i) the Firm's system of quality control, (ii) any audit subject to the PCAOB's jurisdiction or (iii) any PCAOB inspection or investigation; and

(b) within one week after being notified that the Firm will be inspected, (i) to notify all professionals involved in any audit, as that term is defined in Section 110(1) of the Act, of the inspection, and (ii) to specifically instruct such professionals and all other personnel involved in any way in the inspection or inspection-related activity of their obligation to cooperate with Board inspections, including by not preparing or making available to the Board's inspectors documents containing misleading information.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

October 31, 2019

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Castillo Miranda y Compañía, S.C.; Ignacio García Pareras; Juan Martín Gudiño Casillas; Luis Raúl Michel Domínguez; Juan Francisco Olvera Díaz; Carlos Rivas Ramos; and Bernardo Soto Peñafiel ,* *Respondents.*	PCAOB Release No. 105-2019-028 October 31, 2019

By this Order, the Public Company Accounting Oversight Board is (1) censuring Castillo Miranda y Compañía, S.C. ("BDO-Mexico" or the "Firm"), and six associated persons of the Firm, Ignacio García Pareras ("García"), Juan Martín Gudiño Casillas ("Gudiño"), Luis Raúl Michel Domínguez ("Michel"), Juan Francisco Olvera Díaz ("Olvera"), Carlos Rivas Ramos ("Rivas"), and Bernardo Soto Peñafiel ("Soto") (collectively, "Respondents"); (2) barring Gudiño, Michel, Olvera, and Soto each from being an associated person of a registered public accounting firm;[1] (3) suspending García and Rivas each from being an associated person of a registered public accounting firm for a period of one year from the date of this Order; (4) imposing civil money penalties in the amount of $500,000 on BDO-Mexico, $10,000 on Michel, $10,000 on Soto, $5,000 on Gudiño, and $5,000 on Olvera; (5) requiring García, Gudiño, Michel, Olvera, Rivas, and Soto (collectively, the "Individual Respondents") to complete forty hours of additional continuing professional education; and (6) requiring BDO-Mexico to undertake certain remedial actions as described in Section IV of this Order. In ordering these sanctions, the Board took into account the Firm's extraordinary cooperation in this matter, as described in more detail below.

The Board is imposing these sanctions on the Firm on the basis of its findings that the Firm violated PCAOB rules and standards by (1) failing to timely assemble audit documentation for retention ("archive") in connection with issuer audits; (2) repeatedly making improper alterations to audit documentation after the expiration of archiving

[1] These individuals may file petitions for Board consent to associate with a registered public accounting firm after the expiration of the following time periods from the date of this Order: Michel (three years); Olvera and Soto (two years); Gudiño (one year).

deadlines; (3) failing to cooperate with the Board's 2017 inspection of the Firm, by, among other things, making improperly altered work papers from two issuer audits available to PCAOB inspectors; (4) failing to effectively implement policies and procedures to provide it with reasonable assurance that its engagement personnel act with integrity and in compliance with professional standards, including PCAOB audit documentation standards and the obligation to cooperate with PCAOB inspections; and (5) failing to take timely and necessary corrective action, including making improvements to its quality control system, upon becoming aware of violations by engagement personnel. The Firm's violations occurred over a multi-year period, beginning in 2015.

The Board is imposing these sanctions on the Individual Respondents on the basis of its findings that they violated PCAOB rules and standards by (1) failing to timely archive issuer audit documentation and/or making improper alterations to audit documentation after the expiration of archiving deadlines (Gudiño, Michel, Olvera, Rivas, and Soto); (2) failing to cooperate with the Board's 2017 inspection of the Firm (Gudiño, Michel, Olvera, and Soto); (3) directly and substantially contributing to the Firm's violations of PCAOB audit documentation standards and its failure to cooperate with the 2017 inspection (García); and (4) directly and substantially contributing to the Firm's violations of PCAOB quality control standards (Michel).

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act") and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), as set forth below.[2]

[2] The findings herein are made pursuant to the Offers and are not binding on any other person or entity in this or any other proceeding.

III.

On the basis of Respondents' Offers, the Board finds that:[3]

A. Respondents

1. **Castillo Miranda y Compañía, S.C.** is a partnership organized under the laws of Mexico and headquartered in Mexico City, Mexico. The Firm is licensed under the laws of Mexico. The Firm is a foreign registered public accounting firm as that term is defined in PCAOB Rule 1001(f)(ii). The Firm registered with the Board on July 30, 2004, pursuant to Section 102 of the Act and PCAOB rules. The Firm is a member of BDO International Limited and forms part of the international BDO network of member firms. During the period relevant to this matter, the Firm performed audits for "Issuer A" and "Issuer B," two issuers within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). According to the most recent Form 2, *Annual Report*, the Firm filed with the Board, the Firm does not currently serve as the auditor for any issuer audit clients and does not currently play a substantial role in any issuer audits.[4] The Firm has approximately 22 partners and 800 employees.

2. **Ignacio García Pareras**, age 48, of Mexico City, Mexico, is a registered public accountant licensed under the laws of Mexico (license no. 6921020). García performed a review of the work papers for the Firm's 2015 audits of Issuer A and Issuer B in advance of the PCAOB's 2017 inspection of the Firm and also served as the Firm's

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[3] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] See PCAOB Rule 1001(p)(ii) (defining "play a substantial role in the preparation or furnishing of an audit report"). All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards.

primary contact with the PCAOB during that inspection. García is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **Juan Martín Gudiño Casillas**, age 57, of Guadalajara, Mexico, is a registered public accountant licensed under the laws of Mexico (license no. 1479863). Gudiño was the engagement partner on the Firm's audit of Issuer B's 2015 financial statements and signed the audit opinion. He also serves as the partner in charge of the Firm's Guadalajara office. Gudiño is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

4. **Luis Raúl Michel Domínguez**, age 63, of Mexico City, Mexico, is a registered public accountant licensed under the laws of Mexico (license no. 1510727). At all relevant times, Michel served as a member of the Firm's Executive Committee. He also served during the relevant time as the Firm's Audit and Assurance Managing Partner. In that role, he was responsible for ensuring that the Firm's U.S. public company audits complied with PCAOB standards. Michel also served as the lead partner on the Firm's 2014 and 2015 audit work for one component of Issuer A.[5] Michel is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

5. **Juan Francisco Olvera Díaz**, age 52, of Mexico City, Mexico, is a registered public accountant licensed under the laws of Mexico (license no. 2368080). Olvera served as the lead partner on the Firm's 2014 and 2015 audit work for two components of Issuer A. During the relevant time period, Olvera also served as a member of the Firm's Quality Control Committee. Olvera is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

6. **Carlos Rivas Ramos**, age 60, of Guadalajara, Mexico, is a registered public accountant licensed under the laws of Mexico (license no. 1049864). Rivas was the engagement partner on the Firm's audit of Issuer B's 2014 financial statements and signed the audit opinion. Rivas was also the lead partner on the Firm's 2015 audit work for four Issuer A components. Rivas is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[5] Issuer A is composed of several components, and the Firm assigned different engagement teams, led by a lead partner, to perform the audit work for those various components. The audit documentation for each component was to be maintained and archived separately.

7. **Bernardo Soto Peñafiel**, age 58, of Mexico City, Mexico, is a registered public accountant licensed under the laws of Mexico (license no. 1293444). Soto was the engagement partner with overall responsibility for the Firm's audits of Issuer A's 2014 and 2015 financial statements and signed the audit opinions. Soto is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

8. Beginning in 2015, BDO-Mexico and its personnel routinely violated PCAOB standards, including by failing to timely archive issuer audit documentation; improperly altering numerous work papers in multiple audits after those work papers should have been locked down and archived; changing the dates on their computer clocks, which concealed when they actually performed and documented work; failing to cooperate with a PCAOB inspection; and failing to maintain a system of quality control that would provide reasonable assurance that personnel would act with integrity and in compliance with PCAOB rules and standards. These violations were committed and/or directed by partners at the highest level of the Firm's issuer audit practice and reflect a systematic failure, during those years, to adhere to professional standards.

9. Many of the failures described in this Order can be traced to the Firm's and its personnel's failures to take seriously the requirements set forth in PCAOB audit documentation standards. PCAOB Auditing Standard No. 3, *Audit Documentation* ("Auditing Standard No. 3") at ¶ 15, provides that "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)." In connection with the Firm's audits of the 2014 and 2015 financial statements of Issuer A and Issuer B, the Firm, Gudiño, Rivas, and Soto failed to archive a complete and final set of audit documentation by the relevant documentation completion date, thereby violating Auditing Standard No. 3.

10. Auditing Standard No. 3 also prohibits deleting or making alterations to existing audit documentation after the documentation completion date for an audit.[6] All of the Respondents, except for García, also violated that provision of Auditing Standard No. 3 by improperly altering audit documentation after the documentation completion dates for the 2015 Issuer A and Issuer B audits, or directing or permitting their subordinates to do so on the portion of those audits for which they bore responsibility.

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[6] See Auditing Standard No. 3 ¶ 16. Documentation may be added after the documentation completion date, but only if the auditor identifies the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it. Id.

11. The improper alterations to the 2015 Issuer A and Issuer B audit work papers occurred, in part, as a result of Respondents learning, in September 2016, that the PCAOB would be inspecting the Firm in 2017. After being notified of the inspection, Michel, who was the Firm's Audit and Assurance Managing Partner, asked García to assist him in preparing the Firm for the inspection, including by performing a review of the Issuer A audit work papers. García also reviewed the Issuer B audit work papers to prepare for the inspection. During his review, García noted a number of issues in the audit documentation, which he communicated to the Issuer A and Issuer B audit engagement teams. In response to García's review, and/or internal quality control reviews that were occurring simultaneously, the other Individual Respondents participated in improperly revising the 2015 Issuer A and Issuer B work papers. Further, at or around the same time, members of the engagement teams led by Soto, Olvera, and Michel performed and documented certain additional procedures on the 2015 Issuer A audit and changed their computer clocks, which concealed their misconduct.

12. In connection with the 2017 PCAOB inspection, the Firm made the improperly altered 2015 Issuer A and Issuer B work papers available to the PCAOB's inspectors. In doing so, the Firm disclosed that certain additions had been made to Issuer A and Issuer B work papers after the documentation completion dates for the audits. The Firm's disclosures, however, were neither complete nor accurate. In particular, the Firm failed to describe the reasons for, and nature of, the alterations to the Issuer A work papers, and failed to describe the reasons for alterations to the Issuer B work papers. Even more significantly, it failed to inform the inspectors that additional substantive work had been performed on the Issuer A audit after the Firm had been notified of the inspection. Those failures thwarted the PCAOB inspectors' ability to assess the sufficiency of the work that the Firm and its personnel had performed before releasing the audit opinions on the 2015 Issuer A and Issuer B financial statements. Respondents Gudiño, Michel, Olvera, and Soto participated in providing misleading information to the PCAOB's inspectors in connection with the 2017 inspection. As a result, they and the Firm violated PCAOB Rule 4006, *Duty to Cooperate With Inspectors*. García, in violation of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, substantially contributed to the Firm's violation of Rule 4006.

13. As a registered firm, BDO-Mexico has a responsibility to have a system of quality control for its accounting and auditing practice.[7] That system of quality control should include policies and procedures to provide the Firm with reasonable assurance that its personnel act with integrity and in compliance with applicable professional standards, including by appropriately documenting the results of each engagement.[8]

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[7] See QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[8] Id. at .09, .17 and .18.

During 2015 and 2016, the Firm violated PCAOB quality control standards by failing to effectively implement policies and procedures to provide it with reasonable assurance that its engagement teams act ethically, comply with PCAOB audit documentation standards, and cooperate with PCAOB inspections.

14. A Firm's system of quality control also should include a monitoring element to provide the Firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the Firm's policies and procedures.[9] As a result of its monitoring procedures, the Firm became aware, no later than in 2015, that Firm personnel had regularly failed to comply with PCAOB standards, and the Firm's policies and procedures, regarding timely archiving of audit documentation. Nevertheless, the Firm failed to timely determine corrective actions to be taken and improvements to be made in its quality control system. That failure constituted a further violation of PCAOB quality control standards.[10]

15. Michel, as the Firm's Audit and Assurance Managing Partner during the relevant time, was responsible for overseeing the Firm's audit practice and taking steps to provide reasonable assurance that personnel complied with all professional standards. Nevertheless, beginning in 2015, not only did he fail to carry out those responsibilities, he knowingly permitted others to violate PCAOB audit documentation standards and actively participated in the Firm's provision of misleading information to the PCAOB's inspectors. As a result, he personally violated multiple PCAOB rules and standards and directly and substantially contributed to the Firm's violations of PCAOB quality control standards.

C. The Firm and Certain of the Individual Respondents Violated PCAOB Auditing Standard No. 3

16. PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[11] PCAOB Auditing Standard No. 3 provides, among other things, that the auditor must prepare audit documentation in connection with each engagement conducted pursuant to the standards of the PCAOB.[12] A complete and final set of audit

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[9] QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[10] See id. at .03 and .06.

[11] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[12] Auditing Standard No. 3 ¶ 4.

documentation should be archived by the documentation completion date for the audit.[13] Information may not be deleted or discarded after the documentation completion date; however, information may be added.[14] Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.[15] The Firm regularly violated these requirements from 2015 to 2016.

17. Specifically, the Firm failed to archive a complete and final set of audit documentation by the documentation completion date for the audits of the financial statements of Issuer A and Issuer B for the years ending December 31, 2014 and December 31, 2015. By late 2015, Firm management was aware that the Issuer A and Issuer B 2014 work papers had not been timely archived, as a result of the findings of an internal inspection of the audits. Nevertheless, the Firm failed to take steps to ensure that the work papers for the 2015 audits of those issuers were timely archived. The Firm's failure to timely archive the Issuer A and Issuer B work papers for two consecutive years violated Auditing Standard No. 3.[16]

18. After the documentation completion date for the 2015 Issuer A and Issuer B audits, the Firm committed additional violations of Auditing Standard No. 3. First, engagement team personnel added documents to the unarchived work papers, without noting what documents were added, who added them, or when and why they were added. Second, they improperly made modifications to existing documents in the unarchived work papers.

19. The following Individual Respondents violated Auditing Standard No. 3 during one or more of the 2014 and 2015 Issuer A and Issuer B audits:

a. Soto, the engagement partner for the 2014 and 2015 Issuer A audits, violated Auditing Standard No. 3 by failing to ensure that the work papers for those audits were timely archived and by directing his engagement team to improperly alter audit documentation for the 2015 Issuer A audit after the documentation completion date;

b. Gudiño, the engagement partner for the 2015 Issuer B audit, violated Auditing Standard No. 3 by failing to ensure that the work papers for

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[13] Id. ¶ 15.

[14] Id. ¶ 16.

[15] Id.

[16] Id. ¶ 15.

that audit were timely archived and by knowingly permitting his engagement team to improperly alter audit documentation for that audit after the documentation completion date;

c. Rivas, the engagement partner for the 2014 Issuer B audit, violated Auditing Standard No. 3 by failing to ensure that the work papers for that audit were timely archived and by knowingly permitting component engagement teams for which he was responsible to improperly alter audit documentation after the documentation completion date for the 2015 Issuer A audit;

d. Olvera violated Auditing Standard No. 3 by improperly altering audit documentation for the 2015 Issuer A audit after the documentation completion date for that audit and directing others to do so; and

e. Michel violated Auditing Standard No. 3 by knowingly permitting a component engagement team for which he was responsible to improperly alter audit documentation after the documentation completion date for the 2015 Issuer A audit.

D. The Firm and Certain of the Individual Respondents Failed to Cooperate With a Board Inspection of the Firm

20. PCAOB Rule 4006 requires registered firms and their associated persons to cooperate with inspections conducted by the Board. "Implicit in" the cooperation requirement of Rule 4006 "is that auditors provide accurate and truthful information."[17]

21. The Firm, Gudiño, Michel, Olvera, and Soto violated Rule 4006 by failing to cooperate with the PCAOB's inspection of the Firm in 2017. García directly and substantially contributed to the Firm's violation of Rule 4006, as well as its violations of PCAOB Auditing Standard No. 3.

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[17] *Kabani & Company, Inc.*, SEC Release No. 34-80201, at 13-14 (Mar. 10, 2017) (sustaining Board finding that respondents failed to cooperate with inspection where improper work paper alterations "interfered with the PCAOB's ability to fulfill its regulatory function of ensuring that auditors comply with their professional responsibilities"), petition for review denied, 733 Fed. Appx. 918 (9th Cir. 2018); see also *Deloitte Touche Tohmatsu Auditores Independentes*, PCAOB Rel. No. 105-2016-031, ¶ 62 (December 5, 2016); *José Domingos do Prado*, PCAOB Rel. No. 105- 2016-032, ¶ 55 (December 5, 2016).

Notification of the PCAOB Inspection

22. The PCAOB's Division of Registration and Inspections ("Inspections") notified the Firm on September 22, 2016 that it would be inspecting the Firm in January 2017. On that same day, the Firm notified all audit and assurance professionals of the upcoming inspection. During the time period covered by the 2017 inspection, the Firm had a limited number of audit engagements involving issuer clients. Thus, in September 2016, Respondents had reason to believe that there was a strong likelihood that one or both of the 2015 Issuer A and Issuer B audits would be selected for inspection.

23. At the time the PCAOB notified the Firm of the upcoming inspection, none of the work papers for the 2015 Issuer A audit, including the work papers for the audit work on its various components, had been archived, despite the fact that the documentation completion date for the audit had long since passed. For Issuer B, the Firm had issued its audit opinion on the 2015 financial statements, but the documentation completion date had not yet passed. Between the time the PCAOB notified the Firm of the inspection and the beginning of the inspectors' fieldwork, the documentation completion date for the Issuer B audit passed. As noted above, the 2015 Issuer B work papers were not archived by the documentation completion date, and engagement team members continued to make alterations to the 2015 Issuer B work papers after the documentation completion date in anticipation of the inspection.

Improper Alterations – Issuer A

24. In mid-October 2016, the Firm's Quality Control Committee officially commenced the Firm's 2015-2016 internal inspection cycle, which included a review of the 2015 Issuer A audit. As part of that review, Firm quality control professionals accessed and reviewed the unarchived work papers for the various Issuer A components. The quality control professionals discussed observations from their reviews with the engagement teams assigned to the various components. Those observations were later documented by the quality control professionals.

25. At or around the same time, Michel asked García to conduct an additional review of the 2015 Issuer A work papers to assess the state of the audit documentation in anticipation of the 2017 PCAOB inspection. García thereafter conducted a review of the work papers for the significant components of Issuer A, as Michel instructed. At the time he conducted his review, García was aware that the 2015 Issuer A work papers had not been archived.

26. García discussed the results of his reviews with the lead partners for the audit work on the Issuer A components. He also sent the lead partners lists of comments, observations, and/or findings based on his review (the "Review Lists"). The Review Lists contained multiple comments advising the engagement teams to include, modify, or change audit documentation.

27. In response to the comments from the internal quality control review and García's review, the engagement teams for the various Issuer A components uploaded to the Firm's electronic work paper system certain work papers that had been completed prior to issuance of the audit opinion but not previously uploaded. No one on the engagement teams, however, documented the dates on which those work papers were uploaded, who added them, and why they were added late. To the contrary, as described in more detail below, individuals changed the date on their computers, concealing the fact that the documents had been added to the work papers after the documentation completion date for the Issuer A audit.

28. Individuals on the Issuer A audit also made improper alterations to existing documentation in response to comments from the internal quality control review and García's review.[18] They did so at the direction of Soto, the engagement partner on the 2015 Issuer A audit, and Olvera, the lead partner for the audit work on two significant Issuer A components. Michel, who not only was the Firm's Audit and Assurance Managing Partner, but also was the lead partner for the audit work on another significant component of Issuer A, was aware that his engagement team was making changes to the audit documentation in response to the review comments. García also received an email communication showing that engagement team personnel were making changes to the audit documentation in response to his comments.

29. In some instances, the changes made to the unarchived audit documentation were non-substantive—e.g., adding cross-references, updating tie-outs, or correcting typographical or formatting errors. In other instances, however, the changes made were substantive in nature, including the documentation of new audit procedures performed after the audit opinion dates. Indeed, additional procedures were performed and documented by the Issuer A engagement teams in the areas of inventory valuation, fixed assets, unrecorded liabilities, and legal reserves, among others. New procedures were performed and documented after the audit opinion date in the component audit work led by Soto, Michel, and Olvera.

30. Soto, Michel, and Olvera were also aware that members of the 2015 Issuer A engagement teams "backdated" certain work papers by changing the system dates on their computers, which altered the "created" and "modified" dates for work papers in the audit software.[19] The backdating occurred in two different circumstances. First,

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[18] A review of metadata for the work papers for the 2015 Issuer A audit indicates that Firm personnel made modifications to over 300 documents after the documentation completion date and prior to archiving the work papers.

[19] The Firm's audit software automatically recorded the dates and times for certain events for each audit work paper, e.g., when the document was "created" or

engagement team members altered the system dates when work papers completed prior to issuance of the audit report were not uploaded to the audit software until a later time. Second, engagement team members altered the system dates when they performed substantive procedures after the issuance of the audit report in response to the comments from the internal quality control review and García's review. In the latter instances, the backdating concealed that certain work had not been performed prior to the release of the Firm's audit opinion on Issuer A's 2015 financial statements. This improper backdating occurred on the engagement teams led by Soto, Olvera, and Michel.

Improper Alterations – Issuer B

31. Firm quality control professionals also reviewed the 2015 Issuer B audit as part of the Firm's 2015-2016 internal inspection cycle. As part of that internal review, quality control professionals made a number of observations after review of the Issuer B audit work papers, which they documented and conveyed to the engagement team.

32. At or around the same time, García, in preparation for the PCAOB inspection, also conducted a review of the Issuer B audit documentation. His review resulted in a number of comments, which, as with the Issuer A audit, were documented on "Review Lists" and conveyed to the Issuer B engagement team. The Review Lists for the Issuer B audit also contained multiple comments advising the engagement team to include, modify or change audit documentation.

33. In response to the internal quality control review and García's review, the engagement team on the Issuer B audit uploaded to the electronic work paper system certain work papers that had been completed prior to issuance of the audit opinion but not previously uploaded. Again, however, no one on the Issuer B engagement team documented the dates on which those work papers were uploaded, who added them, and why they were added late. Members of the Issuer B engagement team also made improper alterations to existing documentation in response to comments from the internal quality control review and García's review.[20]

34. When his team uploaded documents and made changes to the audit documentation, Gudiño, the engagement partner for the 2015 Issuer B audit, was aware that the documentation completion date for the audit had passed but the audit work

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"modified." The dates reflected in the audit software were based on the dates on the employee's computer clock. Thus, if the dates on an employee's computer clock were not accurate, it would affect the reliability of the dates reflected in the audit software.

[20] A review of metadata for the work papers for the 2015 Issuer B audit indicates that Firm personnel made modifications to over 400 documents after the documentation completion date and prior to archiving the work papers.

papers had not yet been archived. He was also aware of the upcoming PCAOB inspection.

35. Gudiño was also aware that members of his engagement team modified the dates on their computer clocks to alter the "created" and "modified" dates in the audit software. As a result, it is impossible to determine when any particular Issuer B work paper was prepared, reviewed, or modified, or whether additional work was performed and documented after the Firm issued its audit report on Issuer B's 2015 financial statements.

Misleading Engagement Profile

36. Before the Board's inspection fieldwork began, the Firm produced to the Board completed work sheets concerning the 2015 Issuer A and Issuer B audits in documents entitled Public Company Accounting Oversight Board 2016 Inspection Period Engagement Profile ("Engagement Profile"). Firm representatives, including the engagement partners for the 2015 Issuer A and Issuer B audits (Soto and Gudiño, respectively) signed the work sheets in the Engagement Profile.

37. One of the questions in the Engagement Profile work sheets asked: "Have there been any changes made to audit documentation subsequent to the documentation completion date?" A second question asked: "If yes, please explain . . . the nature of the changes and provide a summary log of when changes were made, or attach a summary memo of any such alterations."

38. In the Engagement Profile work sheets for both issuers, the Firm answered "Yes" to the first question. In response to the second, the Firm stated: "Derived from internal inspection some changes were performed in some working papers. None of the changes performed affected the essence of the audit evidence nor audit conclusions. All changes were related to better explanations of bases of selection, procedures performed and wording of the conclusions." The response related to the Issuer B audit also stated: "we have a list of the change documents." The engagement team for the Issuer B audit subsequently provided Inspections a spreadsheet that purported to identify, by work paper number, document description, and last modified date, the documents that were altered after the document completion date for the Issuer B audit. That spreadsheet, however, does not indicate the nature of the modifications.[21]

[21] The Issuer B engagement team created that list by searching work paper metadata for all documents with a "last modified date" after the documentation completion date. However, because Issuer B engagement team members had modified the dates on their computer clocks in advance of the inspection, there was no way to determine

39. The Firm's responses to the questions in the Engagement Profile work sheets for both issuers were misleading in several respects. First, the Firm failed to disclose that certain of the changes to the audit documentation were not made only in response to an "internal inspection," but also were in response to a review of the audit documentation performed specifically to prepare for the PCAOB's 2017 inspection. Second, the Firm's response in the Engagement Profile work sheet for Issuer A was misleading because the engagement team members made substantive changes to certain work papers, including, in some instances, documenting new procedures that were not performed until after the Firm had issued its audit opinion on Issuer A's 2015 financial statements.

PCAOB Inspection Fieldwork

40. During the PCAOB inspection, Firm personnel, including Gudiño, Michel, Olvera, and Soto, had discussions with the PCAOB inspectors, but none of them ever informed the inspectors that changes were made to the audit documentation in response to García's review, or that, with regard to Issuer A, certain of the changes made were substantive in nature.

41. Further, during the PCAOB inspection, the Firm provided the PCAOB inspectors with laptops with the audit software and work papers from the Issuer A and Issuer B audits loaded onto them. However, Firm personnel, including Michel, Olvera, and Soto, failed to disclose to the inspectors that the dates reflected in the audit software did not necessarily reflect when procedures were performed because engagement team members altered those dates for certain work papers by changing the dates on their computer clocks before modifying the work papers and executing their sign-offs.

Violations of PCAOB Rule 4006

42. The Firm violated Rule 4006 by (1) making available to PCAOB inspectors improperly altered work papers from the 2015 Issuer A and Issuer B audits, without disclosing the specific alterations; and (2) making false or misleading statements to Inspections about the reasons for, and nature of, changes made to audit documentation after the documentation completion date for those audits.

43. Certain of the Individual Respondents violated Rule 4006, as follows:

a. Soto violated Rule 4006 by (1) making improperly altered Issuer A audit documentation available to the PCAOB inspectors without disclosing the specific alterations; and (2) making false or misleading statements to

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whether the spreadsheet provided to the PCAOB's inspectors was complete and accurate.

PCAOB inspectors about the reasons for, and nature of, changes made to Issuer A audit documentation after the documentation completion date;

b. Gudiño violated Rule 4006 by (1) making improperly altered Issuer B audit documentation available to the PCAOB inspectors without disclosing the specific alterations; and (2) making false or misleading statements to PCAOB inspectors about the reasons for changes made to Issuer B audit documentation after the documentation completion date; and

c. Michel and Olvera provided misleading information to Inspections, in violation of Rule 4006, by participating in discussions with PCAOB inspectors based on documents that they knew had been improperly altered.

García Directly and Substantially Contributed to the Firm's Violations of Auditing Standard No. 3 and PCAOB Rule 4006

44. PCAOB Rule 3502 prohibits associated persons of registered public accounting firms from taking or omitting to take any action "knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered accounting firm of," among other things, PCAOB rules or standards.

45. García, in violation of Rule 3502, directly and substantially contributed to the Firm's violations of Auditing Standard No. 3 and Rule 4006 because he (1) performed a review of the Issuer A and Issuer B audit files to prepare for the PCAOB inspection and provided Review Lists to engagement team members that contained comments advising the teams to include, modify, or change audit documentation; (2) with respect to Issuer A, failed to take actions when he knew or should have known that Firm personnel were, in fact, making changes to unarchived audit documentation in response to his comments; and (3) took or omitted to take the foregoing actions knowing, or recklessly not knowing, that Firm personnel would improperly alter work papers and make those work papers available to the PCAOB's inspectors in violation of PCAOB Rule 4006.

E. The Firm Violated PCAOB Quality Control Standards and Michel Substantially Contributed to the Firm's Violations of Those Standards

The Firm Failed to Establish and Implement Policies and Procedures to Provide Reasonable Assurance that Personnel Would Act With Integrity and in Compliance with PCAOB Standards

46. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[22] Pursuant to PCAOB quality control standards, firms should establish policies and procedures to provide reasonable assurance that, among other things: (a) "personnel . . . perform all professional responsibilities with integrity;"[23] and (b) "the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality,"[24] including with respect to "planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement."[25]

47. For at least two years, the Firm failed to timely archive audit work papers for audits performed under PCAOB standards. Firm personnel also blatantly disregarded PCAOB audit documentation requirements on multiple audits by making widespread, improper alterations to audit work papers after the expiration of archiving deadlines. In part, those improper alterations were made in anticipation of an upcoming PCAOB inspection of the Firm. Finally, Firm personnel backdated audit documentation and misled PCAOB inspectors by misrepresenting the nature and extent of changes made to audit documentation in advance of the PCAOB's 2017 inspection.

48. Certain members of Firm leadership, including the head of the Firm's audit practice, were aware that Firm personnel were engaging in this improper conduct, yet did not take appropriate action. In fact, the Individual Respondents – some of whom were among the most senior members of the Firm's issuer audit practice – not only condoned this improper conduct, but in many cases participated in it themselves. As a result, the Firm violated PCAOB quality control standards by failing to effectively implement policies and procedures to provide it with reasonable assurance that its engagement teams act

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[22] PCAOB Rule 3400T, *Interim Quality Control Standards*.

[23] QC § 20.09.

[24] Id. at .17.

[25] Id. at .18.

with integrity, comply with PCAOB audit documentation standards, and comply with regulatory requirements, including the obligation to cooperate with PCAOB inspections.[26]

The Firm Failed to Take Timely and Necessary Corrective Action upon Becoming Aware of Late Archiving

49. PCAOB quality control standards provide that another required element of a quality control system is monitoring.[27] Monitoring involves an ongoing consideration and evaluation of the: (a) relevance and adequacy of the firm's policies and procedures; (b) appropriateness of the firm's guidance materials and any practice aids; (c) effectiveness of professional development activities; and (d) compliance with the firm's policies and procedures.[28] Monitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective.[29]

50. A firm's monitoring procedures may include internal inspection procedures.[30] Internal inspection procedures contribute to the monitoring function because findings are evaluated and changes in or clarifications of quality control policies and procedures are considered.[31] When conducting internal inspections, the adequacy of and compliance with a firm's quality control system are evaluated by performing such procedures as: (a) summarization of the findings from the inspection procedures, at least annually, and consideration of the systemic causes of findings that indicate improvements are needed, and (b) consideration of inspection findings by appropriate firm management personnel who should also determine that any actions necessary, including necessary modifications to the quality control system, are taken on a timely basis.[32]

51. In 2015 and 2016, the Firm's quality control personnel performed annual internal quality control reviews of all audits performed by the Firm under PCAOB standards, including the 2014 and 2015 Issuer A and Issuer B audits. These reviews were

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26 See id. at .09, .17 and .18.

27 See id. at .07.

28 QC § 30.02; see also QC § 20.20.

29 QC § 30.03.

30 Id.

31 Id. at .04.

32 Id. at .06.

intended to provide reasonable assurance that the Firm's policies and procedures were relevant, adequate, operating effectively and being complied with in practice.

52. During its internal quality control reviews in 2015, the Firm identified that the engagement teams for the audits of the 2014 financial statements of Issuer A and Issuer B did not archive the work papers for those audits by the documentation completion dates. That finding was included in a report that the quality control professionals provided to Firm leadership, including Michel. Yet Firm leadership failed to respond appropriately, and the Firm's archiving problems continued into 2016.

53. Despite identifying late archiving of audit work papers as a significant problem at least beginning in 2015, the Firm failed to timely implement necessary corrective actions to address this problem. As a result, the Firm failed to adequately monitor compliance with its quality control policies and procedures regarding archiving of audit work papers and timely determine corrective actions to be taken and improvements to be made to its quality control system.[33]

Michel Directly and Substantially Contributed to the Firm's Violations of Quality Control Standards

54. Michel, who was responsible for overseeing the Firm's audit practice during the relevant time period, was aware from at least the findings of the 2015 internal quality control reviews that audit personnel were not timely archiving audit files on audits performed under PCAOB standards. He was also aware at least by 2016 that Firm personnel were making improper alterations to audit work papers and backdating audit work papers by changing dates on their computer clocks. Despite being aware of these problems, Michel failed to take the necessary corrective actions to address them.

55. Michel also undermined the Firm's system of quality control by engaging in violations of PCAOB standards himself. For example, he directed García to perform a review of the Issuer A work papers to prepare for the PCAOB inspection, and then knowingly allowed personnel working on the Issuer A component for which he was responsible to improperly alter work papers in response to García's comments. He also provided misleading information to Inspections by participating in discussions with PCAOB inspectors based on documents that he knew had been improperly altered.

56. Through the conduct described above, Michel took or omitted to take actions knowing, or recklessly not knowing, that his acts and/or omissions would directly and substantially contribute to the Firm's violations of PCAOB quality control standards.

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[33] See QC § 20.20; QC § 30.02, .03 and .06.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. In ordering sanctions, including the amount of the civil money penalty imposed upon the Firm, the Board took into account that the Firm provided extraordinary cooperation during the Board's investigation in this matter. Specifically, the Firm provided substantial assistance to the PCAOB's investigation, including by conducting its own internal investigation and sharing the factual results of that internal investigation with Board staff. Absent that extraordinary cooperation, the monetary penalty imposed on the Firm would have been significantly larger and the Board may have imposed additional sanctions. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Castillo Miranda y Compañía, S.C., Ignacio García Pareras, Juan Martín Gudiño Casillas, Luis Raúl Michel Domínguez, Juan Francisco Olvera Díaz, Carlos Rivas Ramos, and Bernardo Soto Peñafiel are censured.

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Juan Martín Gudiño Casillas, Luis Raúl Michel Domínguez, Juan Francisco Olvera Díaz, and Bernardo Soto Peñafiel are each barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[34]

C. Pursuant to PCAOB Rule 5302(b), Juan Martín Gudiño Casillas, Luis Raúl Michel Domínguez, Juan Francisco Olvera Díaz, and Bernardo Soto Peñafiel may file petitions for Board consent to associate with a registered public accounting firm after the expiration of the following time periods from the date of this Order: Juan Martín Gudiño Casillas (one year), Luis Raúl

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[34] As a consequence of the bars, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Gudiño, Michel, Olvera, and Soto. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Michel Domínguez (three years), Juan Francisco Olvera Díaz (two years), and Bernardo Soto Peñafiel (two years).

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Ignacio García Pareras and Carlos Rivas Ramos are suspended, for one year from the date of this Order, from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act;[35]

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), civil money penalties are imposed on the Firm and the following individuals in the following amounts: Castillo Miranda y Compañía, S.C. ($500,000); Luis Raúl Michel Domínguez ($10,000); Bernardo Soto Peñafiel ($10,000); Juan Martín Gudiño Casillas ($5,000); and Juan Francisco Olvera Díaz ($5,000). All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay these civil money penalties within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

F. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Juan Martín Gudiño Casillas, Luis Raúl Michel Domínguez, Juan Francisco Olvera Díaz and Bernardo Soto Peñafiel are required to complete, before filing any petition for Board consent to associate with a registered public accounting firm, forty hours of continuing professional education in subjects that are directly related to the audits of issuer financial statements under

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[35] As a consequence of the suspensions, the provisions of Section 105(c)(7)(B) of the Act, discussed *supra,* at n.34, will apply with respect to García and Rivas.

PCAOB standards, including audit documentation (such hours shall be in addition to, and shall not be counted in, the continuing professional education they are required to obtain in connection with any professional license). Ignacio García Pareras and Carlos Rivas Ramos are also required, before the expiration of their suspensions, to complete forty hours of continuing professional education in subjects that are directly related to the audits of issuer financial statements under PCAOB standards, including audit documentation (such hours shall be in addition to, and shall not be counted in, the continuing professional education they are required to obtain in connection with any professional license).

G. Pursuant to Sections 105(c)(4)(F) and (G) of the Act and PCAOB Rules 5300(a)(6) and (9), Castillo Miranda y Compañía, S.C. shall carry out the following Undertakings:

Initial Undertakings and Certification

(1) Within ninety days of the entry of this Order, the Firm shall establish, revise or supplement, as necessary, policies and procedures, and controls, including monitoring procedures, to provide the Firm with reasonable assurance that, for any audit, review, or specific procedures conducted pursuant to PCAOB rules and standards ("PCAOB Audits"): (a) a complete and final set of audit documentation is archived by the documentation completion date for that audit or review; (b) it will detect any improper alterations of previously archived work papers; (c) any additions to documentation after the documentation completion date are made only in accordance with PCAOB rules and standards; and (d) Firm personnel perform all professional responsibilities with integrity;

(2) Within ninety days of the entry of this Order, the Firm shall provide to all audit professionals involved in the performance of any PCAOB Audits at least four hours of additional training concerning compliance with AS 1215, *Audit Documentation*, and PCAOB Rule 4006;

(3) Within ninety days of the entry of this Order, the Firm shall, to the extent not already in place, adopt enhanced reporting procedures for the reporting and investigation of suspected wrongdoing by Firm personnel. The enhanced reporting procedures shall include processes for Firm personnel to report misconduct anonymously, and to report misconduct via telephone, email, website, or mail. The enhanced reporting procedures shall include a prohibition on retaliation against Firm personnel making good faith reports of suspected wrongdoing, to the same extent as the protections established by Section 806(a), (d), and (e) of the Act;

(4) Within thirty days of the entry of this Order, the Firm shall provide an electronic or paper copy of this Order to all of its associated persons who are audit professionals in the Firm; and

(5) Within 120 days of the entry of this Order, the Firm shall provide a certification, signed by its Managing Partner, to the Director of the PCAOB's Division of Enforcement and Investigations ("Director"), stating that the Firm has complied with paragraphs G(1) through G(4) above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

Additional Certification

No less than quarterly for two years after the date of this Order, the Firm shall provide to the Director a certification, signed by its Managing Partner, stating that: (i) the Firm has examined whether, with respect to all PCAOB Audits conducted by the Firm for which the documentation completion date has occurred within the prior three months, a complete and final set of audit documentation has been timely archived in accordance with PCAOB standards and in accordance with the Firm's audit policies and procedures; and (ii) with respect to those PCAOB Audits, the Firm is not aware of, or has reported to the PCAOB's staff, any noncompliance with PCAOB rules and standards and/or the Firm's audit policies regarding the timely archiving of work papers.

Additional Undertakings

(1) For two years from the date of this Order, the Firm shall promptly report to the Director (a) any allegations of improper document alterations in connection with any PCAOB Audits in which the Firm plays a role; and (b) any ethics or integrity violations the Firm becomes aware of in connection with any PCAOB Audits in which the Firm plays a role; and

(2) For two years from the date of this Order, within one week after being notified that the Firm will be inspected, the Firm will (i) notify all professionals involved in any audit, as that term is defined in Section 110(1) of the Act, of the inspection, and (ii) specifically instruct such professionals and all other personnel involved in any way in the inspection or inspection-related activity of their obligation to cooperate with Board inspections, including by not

preparing or making available to the Board's inspectors documents containing misleading information.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

October 31, 2019

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Brady Jensen, CPA,* *Respondent.*	PCAOB Release No. 105-2019-024 October 31, 2019

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is censuring Brady Jensen, CPA ("Jensen" or "Respondent"), suspending him from being an associated person of a registered public accounting firm for a period of one year from the date of this Order, and requiring that he complete ten hours of continuing professional education ("CPE") (in addition to any CPE required in connection with any professional license) concerning PCAOB standards relating to conducting engagement quality reviews. The Board is imposing these sanctions on the basis of its findings that, in connection with his role as the engagement quality reviewer for the audits of two issuers, Jensen violated PCAOB rules and auditing standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act") and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), as set forth below.[1]

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. Brady Jensen, age 33, of Alameda, California, is a certified public accountant licensed by the state of Colorado (license no. 32870). Jensen was employed by B F Borgers CPA PC ("BF Borgers" or the "Firm") from March 2015 until August 2018. He was a manager at the Firm from March 2015 to fall 2017 and an audit director, the Firm's equivalent to non-equity partner, from the fall of 2017 to August 2018. Jensen served as the engagement quality review ("EQR") reviewer for BF Borgers's audits of the 2014 and 2015 financial statements of DS Healthcare Group, Inc. ("DSH") and the 2016 financial statements of Issuer A. At all relevant times, Jensen was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entity

2. **B F Borgers CPA PC** is a professional corporation organized under the laws of the state of Colorado and headquartered in Lakewood, Colorado. BF Borgers is licensed by the Colorado State Board of Accountancy (license no. FRM-13157). BF Borgers registered with the Board on May 11, 2010, pursuant to Section 102 of the Act and PCAOB rules. BF Borgers served as the independent auditor of DSH's 2014 and 2015 financial statements and Issuer A's 2016 financial statements.

C. Summary

3. This matter concerns Jensen's violations of PCAOB rules and auditing standards in connection with the audits of DSH's 2014 and 2015 financial statements and Issuer A's 2016 financial statements (collectively, the "Audits"). Specifically, Jensen failed to comply with AS 1220, *Engagement Quality Review* ("AS 1220"),[3] and failed to exercise

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[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (a) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (b) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules,* PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017). While

due professional care, including appropriate professional skepticism, in his performance of the EQR of the Audits.

4. As a result of his failure to perform the EQR with due professional care and in conformity with PCAOB standards, Jensen lacked an appropriate basis to provide his concurring approvals of issuance of BF Borgers's audit reports on DSH's 2014 and 2015 financial statements and Issuer A's 2016 financial statements.

5. Jensen also served as the EQR reviewer on the Audits while also making decisions on behalf of the engagement teams and assuming responsibilities of the engagement teams. As a result, he failed to maintain objectivity as the EQR reviewer, in violation of AS 1220.

D. Applicable PCAOB Rules and Auditing Standards

6. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[4] AS 1220 provides that an EQR and concurring approval of issuance are required for all audits and interim reviews conducted pursuant to PCAOB standards.[5]

7. The EQR reviewer must be independent of the company, perform the EQR with integrity, and maintain objectivity in performing the review.[6] To maintain objectivity, the EQR reviewer should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team.[7]

8. The EQR reviewer may provide concurring approval of issuance of an audit report only if, after performing a review with due professional care, he or she is not aware

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Jensen's conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

[4] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards* (applicable to audits for the fiscal years ending on or after December 31, 2016); PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for the fiscal years ending on or before December 31, 2016).

[5] AS 1220.01.

[6] Id. at .06.

[7] Id. at .07.

of a significant engagement deficiency.[8] To perform an EQR with due professional care, the EQR reviewer must exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[9]

9. An EQR reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[10] In performing an EQR for an audit, the EQR reviewer should evaluate, among other things, the engagement team's assessment of, and audit responses to, significant risks identified by the engagement team, including fraud risks, or other significant risks identified by the EQR reviewer.[11] The EQR reviewer should also evaluate whether appropriate matters have been communicated, or identified for communication, to the audit committee, management, and other parties, such as regulatory bodies.[12] The EQR reviewer should also evaluate whether the engagement documentation that he or she reviewed indicates that the engagement team responded appropriately to significant risks and whether the engagement documentation that he or she reviewed supports the conclusions reached by the engagement team with respect to the matters reviewed.[13]

10. As described below, Jensen failed to comply with these PCAOB rules and standards in connection with the Audits.

E. Jensen Violated PCAOB Rules and Auditing Standards in Connection with His EQR of the DSH Audits

11. DSH is a Florida corporation headquartered in Pompano Beach, Florida. The company is engaged in developing products for hair care and personal care needs.

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[8] Id. at .12. A significant engagement deficiency in an audit exists when: "(1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client." Id., Note.

[9] See AS 1015.07, *Due Professional Care in the Performance of Work* ("AS 1015").

[10] AS 1220.09.

[11] Id. at .10b.

[12] Id. at .10i.

[13] Id. at .11.

At all relevant times, DSH was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

12. BF Borgers issued an audit report containing an unqualified audit opinion on DSH's 2014 and 2015 financial statements on October 7, 2016.[14] Jensen served as the EQR reviewer and provided concurring approval for the issuance of the audit report. As described below, Jensen provided his concurring approval of issuance without performing his review with due professional care. As a result, he violated AS 1015 and AS 1220.

Jensen Failed to Evaluate Properly the Engagement Team's Audit Responses Related to Possible Illegal Acts

13. During the 2014 and 2015 DSH audits, Jensen was aware of allegations that DSH's management may have committed fraud or illegal acts. Jensen learned that the company's former chief financial officer ("CFO") had made allegations that the company's president and board chairman (the "President") had colluded to engage in improper revenue recognition, channel stuffing, intentional revenue manipulation, and inappropriate stock issuances, among other things. Jensen also learned that a preliminary investigation of those allegations by a law firm hired by the company's former board of directors[15] had largely confirmed the former CFO's allegations. In addition, Jensen knew the engagement team identified significant risks, including fraud risks, related to those possible illegal acts.

14. Jensen failed to evaluate properly the significant judgments made and the related conclusions reached by the engagement team with respect to the identified possible illegal acts. Jensen also failed to evaluate properly the engagement documentation he reviewed when performing the required EQR. More specifically, Jensen failed to understand whether the engagement team had performed the required procedures to assess the possible illegal acts, as the work papers he reviewed did not

[14] DSH filed its original 2014 financial statements, audited by Marcum LLP ("Marcum"), on April 15, 2015. On March 23, 2016, the company filed a Form 8-K with the Commission ("March 2016 Form 8-K") stating that its financial statements for the second and third quarters of 2015 should not be relied upon because of material errors. On May 2, 2016, DSH terminated Marcum and appointed MaloneBailey LLP ("Malone Bailey") as its independent registered public accounting firm. On August 10, 2016, DSH terminated MaloneBailey and appointed BF Borgers. BF Borgers simultaneously audited DSH's 2014 and 2015 financial statements.

[15] Upon receiving the fraud allegations, the company's former board hired a law firm to investigate the allegations and fired the President. Before that investigation was concluded, the President regained control of the company, terminated the rest of the board, and fired the law firm conducting the investigation.

address the requirements of the relevant PCAOB auditing standard.[16] As a result, Jensen had no basis to evaluate whether the possible illegal acts were appropriately responded to and communicated, or identified for communication, to DSH's audit committee or other parties, as required by PCAOB standards.[17]

Jensen Failed to Evaluate Properly the Engagement Team's Audit Responses Related to Revenue Recognition in the 2014 and 2015 Audits

15. DSH's March 2016 Form 8-K, which Jensen reviewed, stated that the company's financial statements for the second and third quarters of 2015 should not be relied upon because of material errors related to revenue recognition. Further, as stated above, Jensen was aware of allegations that members of DSH's management may have colluded to engage in improper revenue recognition, including channel stuffing and intentional revenue manipulation. Jensen also knew that the engagement team had identified a fraud risk of improper revenue recognition, including channel stuffing.

16. Jensen knew the engagement team planned to respond to the fraud risk by investigating all significant sales within two weeks of the fiscal year-end ("Revenue Cut-off Testing").[18] The work papers Jensen reviewed documented procedures performed on sales recorded during the first three fiscal quarters of 2015. However, those work papers did not document any Revenue Cut-off Testing procedures on transactions recorded at the end of 2015. Further, the relevant 2014 and 2015 audit work papers did not document any Revenue Cut-off Testing procedures performed related to the company's Mexican subsidiary, despite it being significant[19] and the subject of allegations of fraudulent revenue recognition.

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[16] See AS 2405.10, *Illegal Acts by Clients* ("AS 2405") (providing that, when an auditor becomes aware of information concerning a possible illegal act, the auditor should obtain an understanding of the nature of the possible illegal act, the circumstances under which it occurred, and sufficient other information to evaluate the effect on the financial statements); see also Section 10A of the Securities Exchange Act of 1934.

[17] See AS 1220.09-.11; AS 2405.10 and .17.

[18] While other substantive procedures were performed on, and may have provided evidence about, revenue recognition, those procedures were not planned to be, and were not, specifically responsive to the assessed fraud risk.

[19] DSH's Mexican subsidiary represented approximately $1.6 million (twenty-six percent) and $1.7 million (twenty-two percent) of total revenue in 2014 and 2015, respectively.

17. Jensen failed to evaluate properly the engagement team's response to the fraud risk related to revenue recognition. Jensen also failed to evaluate properly the engagement documentation he reviewed when performing the required EQR. Specifically, Jensen failed to determine whether the engagement team had performed the Revenue Cut-off Testing it planned to perform to address the assessed fraud risk. As a result, Jensen failed to evaluate properly whether the assessed fraud risk was appropriately responded to, as required by PCAOB standards.[20]

Jensen Failed to Evaluate Properly the Engagement Team's Audit Responses Related to Equity Transactions in the 2015 Audit

18. DSH's March 2016 Form 8-K stated that the company's financial statements for the second and third quarters of 2015 should not be relied upon because certain 2015 equity transactions were not properly recorded in accordance with accounting principles generally accepted in the United States ("GAAP") or properly disclosed. The March 2016 Form 8-K also stated that DSH's former board had terminated the President for cause. Jensen also knew that the President regained control of the company by obtaining voting agreements from certain shareholders and replacing the former board with a new board.

19. As stated above, Jensen was aware of allegations that during 2015 the President of DSH may have committed fraud through inappropriate stock issuances. More specifically, Jensen knew there were allegations that the President had issued stock to friends and/or business associates, without board approval, in exchange for services that had little or no value. Further, Jensen knew that, during 2015, additional paid-in-capital ("APIC") nearly doubled, increasing to $28.3 million as of December 31, 2015. Because of these circumstances, Jensen knew that the engagement team: (1) identified significant risks of material misstatement for all assertions, including rights and obligations, related to APIC; and (2) planned to perform substantive audit procedures to address those significant risks.

20. Jensen failed to evaluate properly whether the engagement team's audit procedures were sufficient to respond to the significant risk regarding the stock issuances. Jensen also failed to evaluate properly the engagement documentation he reviewed when performing the required EQR. More specifically, Jensen failed to perform procedures sufficient to evaluate properly whether the engagement team had performed the substantive procedures necessary to address the significant risk. For example, the work papers he reviewed did not document a conclusion regarding the validity of the stock issuances. As a result, Jensen failed to evaluate properly whether the assessed significant risk was appropriately responded to, as required by PCAOB standards.[21]

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[20] See AS 1220 at .10(b) and .11.

[21] See id.

21. The relevant work papers Jensen reviewed also documented that the engagement team had identified a fraud risk related to a significant, unusual transaction. Specifically, Jensen knew of allegations that in 2015 the President issued, without board approval, shares contributing approximately $2.3 million to APIC to a purported Hong Kong-based distributor ("HK Stock Transaction"). The work papers Jensen reviewed did not document an evaluation of the business rationale for the HK Stock Transaction or address an allegation that the transaction lacked economic substance.[22]

22. Jensen failed to evaluate properly whether the engagement team's audit procedures were sufficient to respond to the identified significant risks, including fraud risks. Jensen also failed to evaluate properly the engagement documentation he reviewed when performing the required EQR. Specifically, Jensen failed to evaluate properly whether the engagement team performed the procedures necessary to understand the business rationale of the HK Stock Transaction. As a result, Jensen failed to evaluate properly whether the assessed significant risks and fraud risks were appropriately responded to, as required by PCAOB standards.[23]

Jensen Failed to Maintain Objectivity in Performing His EQR

23. While serving as the engagement quality reviewer, Jensen assumed responsibilities of the engagement team on the 2014 and 2015 DSH audits. Among other things, he prepared work papers documenting the Firm's planning and risk assessment procedures. He also performed a first-level review of substantive testing work papers for many significant accounts that were prepared by junior staff. As a result, he failed to maintain objectivity as the engagement quality reviewer, in violation of AS 1220.07.

F. Jensen Violated PCAOB Rules and Auditing Standards in Connection with His EQR of the Issuer A Audit

24. Issuer A is a Delaware corporation headquartered in Ramona, California. It is an investment company focusing on investments in the medical marijuana and social use cannabis industries. At all relevant times, Issuer A was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

25. The Firm audited Issuer A's 2016 financial statements and issued an audit report containing an unqualified audit opinion on those financial statements on March 23,

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[22] See AS 2401.66-.67, *Consideration of Fraud in a Financial Statement Audit* ("AS 2401").

[23] See AS 1220.10(b) and .11.

2017. Jensen served as the EQR reviewer on that audit and provided concurring approval for the issuance of the audit report.

26. Jensen knew the audit engagement team identified significant risks related to accounts receivable, which comprised three separate assets on Issuer A's balance sheet (collectively "AR"). In total, these three assets represented 44 percent of Issuer A's total assets as of December 31, 2016.

27. As described below, Jensen failed to evaluate properly the engagement team's AR audit procedures and provided his concurring approval of issuance without performing his review with due professional care. As a result, he violated AS 1015 and AS 1220.

Jensen Failed to Evaluate Properly the Engagement Team's Audit Procedures Related to a Large Receivable

28. Issuer A included as an asset on its balance sheet a significant receivable originating in 2014 from a former business partner totaling $1.5 million (the "Receivable"). This asset represented 63 percent of AR (and 29 percent of total assets) and was the company's single largest asset as of December 31, 2016.

29. The relevant work papers Jensen reviewed related to the valuation of the Receivable consisted of a March 16, 2016 attorney letter obtained during the prior year audit. Additionally, the relevant work papers documented that management had identified concerns about whether Issuer A would collect the interest earned on the Receivable. Therefore, management decided to record an allowance for the entire amount of the accrued interest receivable, or approximately $423,000, as of December 31, 2016.

30. Jensen failed to evaluate properly whether the engagement team responded appropriately to the identified significant risks associated with the Receivable. Jensen also failed to evaluate properly the engagement documentation he reviewed when performing the required EQR. Specifically, Jensen failed to perform procedures sufficient to evaluate properly whether the engagement team performed the substantive procedures necessary to address the significant risks. For example, the work papers he reviewed did not document how the attorney letter dated more than nine months prior to year-end was sufficient appropriate evidence to support the valuation of the Receivable. As a result, Jensen failed to evaluate properly whether the assessed significant risks were appropriately responded to, as required by PCAOB standards.[24]

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[24] See id.

Jensen Failed to Evaluate Properly the Engagement Team's Audit Procedures Related to Remaining AR

31. Issuer A's Balance Sheet reported two other assets—"Investment in Account Receivable"[25] and "Accounts Receivable, net"—which the engagement team included in their AR significant account. The Investment in Account Receivable totaled approximately $482,000 and represented approximately twenty percent of AR. Accounts Receivable, net of the allowance for doubtful accounts, totaled approximately $381,000 and represented approximately sixteen percent of AR.

32. Jensen failed to evaluate properly whether the engagement team responded appropriately to the identified significant risks associated with the Investment in Account Receivable and Accounts Receivable, net, accounts. Jensen also failed to evaluate properly the engagement documentation he reviewed when performing the required EQR. Specifically, Jensen failed to perform procedures sufficient to evaluate properly whether the engagement team obtained sufficient appropriate evidence, as the work papers he reviewed did not document substantive procedures performed to respond to each of the significant risks identified. As a result, Jensen failed to evaluate properly whether the assessed significant risk was appropriately responded to, as required by PCAOB standards.[26]

Jensen Failed to Maintain Objectivity in Performing His EQR

33. While serving as the engagement quality reviewer, Jensen assumed responsibilities of the engagement team on the 2016 Issuer A audit. Specifically, Jensen: (1) selected the sample for the Firm's substantive testing of revenue, which addressed a significant risk; and (2) supervised the work of a staff member related to accounts payable confirmations. As a result, he failed to maintain objectivity as the engagement quality reviewer, in violation of AS 1220.07.

* * *

34. During the PCAOB's investigation of this matter, Jensen provided substantial assistance. Among other things, Jensen provided detailed information related to the DSH and Issuer A audits and the Firm's system of quality control.[27] The Board took

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[25] The notes to Issuer A's financial statements describe the Investment in Account Receivable as a promissory note received from an investor in April 2015 in exchange for stock warrants.

[26] See AS 1220.10(b) and .11.

[27] See *Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations,* PCAOB Rel. No. 2013-003 (Apr. 24, 2013).

that substantial assistance into account in ordering the sanctions under Section IV of this Order.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Brady Jensen, CPA, is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Brady Jensen, CPA, is suspended, for one year from the date of this Order, from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act;[28] and

C. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Brady Jensen, CPA, is required to complete, within one (1) year from the date of this Order, ten hours of professional education and training relating to performing engagement quality reviews in accordance with AS 1220 (such hours shall be in addition to, and shall not be counted in, the continuing professional education he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

October 31, 2019

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[28] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Jensen. Section 105(c)(7)(B) of the Act provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of PricewaterhouseCoopers*, *Respondent.*	PCAOB Release No. 105-2019-030 (Corrected Copy) December 17, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring PricewaterhouseCoopers (the "Firm" or "Respondent"), a registered public accounting firm, imposing a civil money penalty in the amount of $10,000 upon the Firm, and requiring the Firm to undertake certain remedial measures, including measures to comply with policies and procedures directed toward ensuring compliance with PCAOB reporting requirements. The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. PricewaterhouseCoopers is, and at all relevant times was, a partnership organized under Hong Kong law, and headquartered in Hong Kong. The Firm is a member of the PricewaterhouseCoopers International Limited global network. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. According to its 2019 Annual Report on PCAOB Form 2, the Firm had 2283 accountants, issued three audit reports for issuers during the reporting period, and played a substantial role in the preparation or furnishing of one audit report that was issued during the reporting period for one broker-dealer. The Firm is licensed in Hong Kong by the Hong Kong Institute of Certified Public Accountants ("HKICPA").

B. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

2. This matter concerns the Firm's failures to timely disclose four reportable events, concerning two disciplinary proceedings, to the Board on Form 3 as required by PCAOB rules.

3. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding" ("Item 2.7 Proceeding").[3] Another such specified event occurs when a firm "has become aware that" an Item 2.7 Proceeding "has been concluded."[4] With respect to four such

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[2] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

[4] PCAOB Form 3, at Item 2.10.

events, involving two Item 2.7 Proceedings, the Firm failed to timely file a Form 3 with the Board.

4. On or about December 17, 2015, the Firm became aware the HKICPA had initiated a disciplinary proceeding against the Firm and one of its partners in connection with the Firm providing professional services for a client that was not an issuer (the "2015 HKICPA Proceeding").[5] On or about February 23, 2017, the Firm became aware the 2015 HKICPA Proceeding had concluded. The 2015 HKICPA Proceeding qualified as an Item 2.7 Proceeding.

5. On or about March 2016, the Firm became aware the HKICPA had initiated and simultaneously concluded a separate disciplinary proceeding against it (the "2016 HKICPA Proceeding") in connection with the Firm providing professional services for a client that was not an issuer. The 2016 HKICPA Proceeding also qualified as an Item 2.7 Proceeding.

6. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the initiation and conclusion of these two proceedings.

7. The Firm's internal compliance and reporting systems failed to identify the initiation of the proceedings described above as being reportable to the PCAOB. As a result, the Firm inappropriately delayed notifying the PCAOB of the disciplinary proceedings.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

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[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities and Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. See PCAOB Rule 1001(i)(iii).

The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Within ninety days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, including monitoring policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. Within 90 days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process;

3. Within 90 days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm; and

4. Within 120 days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington DC, 20006, the Firm's compliance with paragraphs C.1 through C.3 above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm

shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 17, 2019

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of PMB Helin Donovan, LLP, Christie J. Cardwell, CPA, and Donald K. McPhee, CPA,* *Respondents.*	PCAOB Release No. 105-2019-031 December 17, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is (1) censuring PMB Helin Donovan, LLP ("PMB" or "Firm"), imposing a civil money penalty in the amount of $20,000 on the Firm, and, in the event that the Board grants any future registration application by the Firm,[1] requiring the Firm to undertake certain remedial measures, including to establish policies and procedures to give the Firm reasonable assurance that issuer audits and reviews are conducted in accordance with PCAOB standards; (2) censuring Christie J. Cardwell ("Cardwell"), barring her from being an associated person of a registered public accounting firm,[2] imposing a civil money penalty of $10,000 on her, and requiring that she complete forty (40) additional hours of continuing professional education ("CPE") before filing a petition for Board consent to associate with a registered firm; and (3) censuring Donald K. McPhee ("McPhee"), imposing a civil money penalty of $10,000 on him, limiting McPhee's activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for two years from the date of this Order, by prohibiting McPhee from serving in certain capacities in any audit as described in Section IV.D. herein, and, within two (2) years from the date of this Order, requiring that he complete ten (10) additional hours of CPE.

The Board is imposing these sanctions on the basis of its findings that: (a) Cardwell violated PCAOB rules and standards in connection with the audits of the financial statements of two issuers; (b) McPhee violated PCAOB rules and standards in connection with the audit of the financial statements of an issuer; and (c) the Firm violated, and

[1] The Firm has filed a Form 1-WD seeking leave to withdraw from registration with the Board, which the Board has determined to grant as of the date of this Order.

[2] Cardwell may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

McPhee directly and substantially contributed to the violations of, PCAOB rules and quality control standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act, and PCAOB Rule 5200(a)(1) against the Firm, Cardwell, and McPhee ("Respondents").

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents each consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **PMB Helin Donovan, LLP** is a limited liability partnership organized under the laws of the State of Texas, and headquartered in Austin, Texas. The Firm is licensed in the State of Texas (License No. P05374) and the State of Colorado (Lic. No. 12782). The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

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[3] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

2. **Christie J. Cardwell, CPA,** age 64, of Seattle, Washington, was, at all relevant times, a partner of the Firm. Cardwell is, and at all relevant times was, a certified public accountant licensed by the State of Washington (License No. 20533). Cardwell is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Cardwell served as the engagement partner for the audits of two issuer clients for the years ending December 31, 2015 ("Issuer A") and December 25, 2015 ("Issuer B"), respectively. Cardwell left PMB in May 2016 and joined S D Mayer & Associates, a PCAOB registered firm.

3. **Donald K. McPhee, CPA**, age 60, of Austin, Texas, is, and at all relevant times was, the managing partner of the Firm and a certified public accountant licensed by the State of Texas (Lic. No. 053069) and the State of California (Lic. No. CPA 117887). McPhee is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). McPhee served as the engagement quality reviewer ("EQR") for the audit of an issuer client for the year ending December 31, 2016 ("Issuer C").

B. Summary

4. This matter concerns Cardwell's violations of PCAOB rules and auditing standards in connection with the audits of Issuers A and B. The Firm assigned Cardwell to these audits despite knowing she had a history of negative internal inspection results. While serving as the engagement partner on the audits of Issuers A and B, Cardwell failed to exercise due care and professional skepticism, and failed to obtain sufficient appropriate audit evidence.

5. Additionally, this matter concerns McPhee's violations of AS 1220, *Engagement Quality Review,* while serving as the EQR for PMB's audit of Issuer C for the year ending December 31, 2016. During his engagement quality review, McPhee failed to exercise due care and professional skepticism. As a result, McPhee lacked an appropriate basis to provide his concurring approval of issuance of the Firm's audit report.

6. Finally, this matter concerns the Firm's violations, and McPhee's direct and substantial contribution to violations, of PCAOB rules and quality control standards. Specifically, the Firm failed to establish policies and procedures to provide it with reasonable assurance that: (a) issuer audits and reviews were assigned to personnel having the degree of technical training and proficiency required in the circumstances; (b) engagement teams performed issuer audits and reviews in accordance with PCAOB rules and standards; and (c) the system of quality control was suitably designed and being effectively applied.

7. McPhee, who has been the managing partner of the Firm from January 1, 2014 to the present, had overall responsibility for the Firm's system of quality control and took or omitted to take, actions that he knew or was reckless in not knowing, would directly

and substantially contribute to the Firm's violation of PCAOB quality control standards, in contravention of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations.*

C. Cardwell Violated PCAOB Rules and Standards in Connection with the Audits of Two Issuers

8. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[7] PCAOB standards further require that auditors evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[8]

9. As described below, Cardwell failed to comply with PCAOB rules and standards in connection with the audits of Issuers A and B, even after she had received repeated poor internal inspection results.

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards;* PCAOB Rule 3200*, Auditing Standards* (applicable to audits for the fiscal years ending on or after December 31, 2016)*;* and PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for the fiscal years ending before December 31, 2016). As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondents' conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

[6] See AS 3101.07, *Reports on Audited Financial Statements.*

[7] See AS 1015, *Due Professional Care in the Performance of Work*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*, and AS 1105.04, *Audit Evidence*.

[8] See AS 2810.30, *Evaluating Audit Results*.

Cardwell Had a History of Poor Internal Inspection Results

10. At the time it assigned personnel to the Firm's 2015 issuer audit engagements, the Firm and McPhee knew that Cardwell had a history of poor internal inspection results going back to at least 2012. Cardwell's internal inspection results during this period were worse than her peers at the Firm. Among other things, in these internal inspections, she was cited for: (a) inadequate testing and documentation in significant risk areas, including lacking key documentation in revenue testing; (b) not obtaining all requested confirmations and not performing sufficient alternative procedures; (c) inadequate assessment of impairment and other fair value measurements of assets; and (d) inadequate documentation of her review as the engagement partner and finalization of the audit documentation in her audits.

11. Further, in a September 2013 Firm document, a PMB partner involved in quality control noted that "remediation, training and coaching is being provided to Cardwell and her client schedule is being reevaluated." However, no individualized remediation, training or coaching was provided to Cardwell, and her client schedule was not altered as a result of the 2013 internal inspection findings.

12. As a result of these findings, the Firm planned to assign experienced managers to Cardwell's audits. However, it failed to do so.

Audit of Issuer A's 2015 Financial Statements

13. Issuer A was, at all relevant times, a Wyoming corporation headquartered in Folsom, California. Issuer A's public filings disclose that, at the time of the audit, Issuer A was a payments and banking software developer, licensor, and services provider. At all relevant times, Issuer A was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

14. The Firm served as the external auditor for Issuer A's fiscal year ("FY") 2015 Audit. The Firm's audit report for Issuer A's FY 2015 financial statements, dated June 3, 2016, was included in Issuer A's Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") on June 6, 2016, and contained a going concern explanatory paragraph. Cardwell, as engagement partner, authorized the issuance of the Firm's audit report.

15. As part of an acquisition of an Israeli company in FY 2015, Issuer A acquired an intangible asset, a computer application that purportedly enabled customers to complete mobile banking transactions and constituted over 90% of Issuer A's total assets. Cardwell identified a significant risk of material misstatement arising from the identification and recording of impairments to the value of this intangible asset. The work papers indicated that Issuer A was aware of events and circumstances indicating that the intangible asset's carrying value may not have been recoverable, but nevertheless concluded that the value of the intangible asset was not impaired.

16. From its inception through May 2016, the acquired company had not generated any revenue. The Firm's FY 2015 work papers included a journal entry to fully impair the intangible asset. This journal entry was proposed by Issuer A's CFO because no existing revenue projections supported any value for the intangible asset. Nevertheless, the intangible asset remained on the books at its originally recorded value while the CEO drafted revenue projections to support the intangible asset's fair value. At the time the CEO was drafting these projections, Issuer A was in default of certain loan covenants and under threat of being delisted.

17. Although Cardwell planned to obtain an understanding of the intangible asset and test the projections used in the valuation of the intangible asset, she failed to do so. After she discussed the revenue projections with the CEO, Cardwell and the engagement team subsequently concluded that reducing the projections by half was appropriate to determine the fair value of the intangible asset, notwithstanding that there was no adequate basis to support the reasonableness of either the reduction or the ultimate projections. In fact, other than obtaining management representations, Cardwell failed to perform procedures regarding whether the intangible asset was impaired. As a result, Cardwell failed to obtain sufficient appropriate audit evidence to determine whether the intangible asset was properly valued.[9]

18. In FY 2015, Issuer A disclosed in its public filings that it recognized total revenue of $730,800. Of that revenue, 78% was for software license and associated maintenance revenue from three of its customers, two of which were related parties. During the audit, Cardwell failed to evaluate whether Issuer A's recognition of revenue from multiple-element arrangements with the two related parties conformed with U.S. GAAP, as was required under PCAOB standards.[10]

19. In addition, Cardwell failed to perform adequate procedures to determine whether Issuer A's license revenue, which constituted approximately 57% of reported revenue, was recorded in the proper period and properly valued. To test revenue, Cardwell agreed cash deposits to bank statements. This procedure failed, however, to provide reasonable assurance that revenue was properly valued and failed to provide a reasonable basis to determine whether revenue was recognized in the appropriate period.[11]

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[9] AS 1105.04-.06.

[10] AS 2810.30.

[11] AS 1105.11.

20. Maintenance fee revenue of $151,000, which constituted approximately 17% of Issuer A's total revenue, was recognized from three customers. The maintenance fee revenue of $108,000 was recorded from one of the related party multiple-element arrangements described above. Cardwell and the engagement team tested this maintenance fee revenue by agreeing it to the related accounts receivable confirmation received. However, the customer confirmed an amount different than the recorded receivable balance, which also differed from the revenue recognized. Cardwell failed to reconcile the amount confirmed to the amounts recorded for accounts receivable or revenue.

21. Cardwell was also aware that maintenance fee revenue was recorded from the other related party multiple-element arrangement. A confirmation was sent to this customer who responded on the confirmation that it owed nothing, and was still waiting for Issuer A to deliver the software application under their license agreement. Cardwell and the engagement team added a note to the confirmation response that stated the customer "had not received a license agreement," acknowledged that there was no balance due to Issuer A, and proposed an entry to reverse the revenue. Although an entry was proposed in the Firm's work papers to reverse the revenue and the receivable, no such adjustment was recorded by Issuer A. Cardwell knew that the maintenance fee revenue had been inappropriately recognized, but she failed to evaluate whether this uncorrected misstatement was material, individually or in combination with other misstatements.[12]

Audit of Issuer B's FY 2015 Financial Statements

22. Issuer B was, at all relevant times, a Washington corporation headquartered in Lakewood, Colorado. Issuer B's public filings disclose that, at the time of the audit, Issuer B provided on-demand manual labor, light industrial, and skilled trade services. At all relevant times, Issuer B was an issuer as that term is defined by Section 2(a) (7) of the Act and PCAOB Rule 1001(i) (iii).

23. The Firm served as the external auditor for Issuer B's FY 2015 Audit. The Firm's audit report for Issuer B's FY 2015 financial statements, dated March 24, 2016, was included in Issuer B's Form 10-K filed with the Commission on March 24, 2016. The Firm expressed an unqualified opinion that Issuer B's FY 2015 financial statements presented fairly, in all material respects, Issuer B's financial position, results of operations, and cash flows in conformity with GAAP. Cardwell, as engagement partner, authorized the issuance of the Firm's audit report.

24. In FY 2015, Issuer B disclosed that it recognized total revenue of $88.5 million. Issuer B also disclosed that revenue was recognized at the time that services were performed based on the number of hours worked by its contracted laborers.

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[12] AS 2810.17.

25. During FY 2015, Issuer B identified a fraud, in which a branch manager fraudulently invoiced a large customer by falsifying underlying documentation to support the request and provision of services never performed. This customer paid the fraudulent invoices without realizing that no work had actually been performed.

26. Although Cardwell identified a fraud risk related to improper revenue recognition, in part based on this fraud, she failed to perform adequate procedures to test whether revenue was recorded by Issuer B in the correct period and properly valued. Cardwell and the engagement team performed detailed testing using a sample of revenue transactions, but were unable to obtain evidence of the existence of selected items. For at least 20 of the 256 items sampled, Cardwell and the engagement team failed to perform adequate procedures to support the revenue transactions. Further, she failed to obtain sufficient appropriate audit evidence to support a conclusion that revenue was properly recorded, in all material respects, in conformity with the financial reporting framework.[13]

27. Issuer B's public filings reported that accounts receivable was $8.9 million, approximately 34% of its total assets, as of year-end. To test accounts receivable in the 2015 audit, Cardwell and the engagement team sent confirmation requests to selected customers. Only a portion of the confirmations were returned.

28. Cardwell and the engagement team failed to perform alternative procedures for unreturned confirmation requests and returned responses with exceptions, which represented 37% of the customer account balances selected for testing. Cardwell failed to evaluate the nature of the exceptions identified, including the implications, both quantitative and qualitative, of those exceptions.[14] Consequently, Cardwell failed to obtain sufficient appropriate audit evidence to determine whether the accounts receivable existed and were properly valued at year end.

D. McPhee Violated AS 1220 in Connection with his Engagement Quality Review for the 2016 Audit of Issuer C

29. An engagement quality review is required for all audits conducted pursuant to PCAOB standards.[15] The standards provide that a firm may grant permission to an audit client to use the firm's audit report only after an EQR provides concurring approval of issuance of the report.[16] The EQR may provide concurring approval of issuance for an

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[13] AS 1105.11.

[14] See AS 2310.33, *The Confirmation Process*.

[15] See AS 1220.01.

[16] Id. at .13.

audit report only if, after performing with due professional care the review required, he or she is not aware of a significant engagement deficiency.[17]

30. An EQR should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[18] The EQR should, among other things, evaluate the significant judgments that relate to engagement planning, including, but not limited to, the consideration of the company's business, recent significant activities, and related financial reporting issues and risks.[19] In performing an engagement quality review for an audit, the EQR should, among other things, evaluate the engagement team's assessment of, and audit responses to, significant risks identified by the engagement team, including fraud risks, or other significant risks identified by the EQR.[20]

31. Issuer C is a Bermuda corporation headquartered in Addison, Texas. Issuer C's public filings disclose that, at the time of the audit, it was an international oil and natural gas company engaged in acquisition, exploration, development and production. At all relevant times, Issuer C was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

32. The Firm served as the external auditor for Issuer C's FY 2016 Audit. The Firm's audit report for Issuer C's FY 2016 financial statements, dated March 22, 2017, was included in Issuer C's Form 10-K filed with the Commission on March 22, 2017. The Firm expressed an unqualified opinion that Issuer C's FY 2016 financial statements presented fairly, in all material respects, Issuer C's financial position, results of operations, and cash flows in conformity with U.S. GAAP.

33. McPhee served as the EQR for the Firm's audit of Issuer C for year ended December 31, 2016. Another PMB partner served as the engagement partner and authorized the issuance of the Firm's audit report. Issuer C's public filings disclosed that

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[17] See id. at Note to .12 ("A *significant engagement deficiency* in an audit exists when (1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client.").

[18] Id. at .09.

[19] Id. at .10(a).

[20] Id. at .10(b).

oil revenue was 89% of total revenue. During the audit, McPhee was aware that revenue was a significant risk and fraud risk.

34. PCAOB standards require that sample items should be selected in such a way that the sample can be expected to be representative of the population. Therefore, all items in the population should have an opportunity to be selected.[21] The work papers reviewed by McPhee documented that the engagement team performed detailed testing of a selection of revenue transactions to provide evidence about the entire recorded revenue. However, these selections were not representative of the entire population, as all items in the population did not have an opportunity to be selected.[22]

35. Oil and natural gas properties, net of accumulated amortization, constituted approximately 50% of Issuer C's total assets. The work papers McPhee reviewed included a reserve report that was prepared by a specialist engaged by Issuer C. This reserve report was significant in supporting the valuation of Issuer C's oil and natural gas properties at year end and was used to calculate depletion expense for the year. However, the work papers reviewed by McPhee did not document procedures to obtain an understanding of the methods and assumptions used by the specialist, or test the data provided by Issuer C to the specialist.[23]

36. When performing the required engagement quality review, McPhee failed to properly evaluate the significant judgments made and the related conclusions reached by the engagement team in the documentation he reviewed with regard to revenues recognized and the methods and assumptions used in the reserve report to support the valuation of the oil and natural gas properties.[24]

37. As a result, McPhee provided his concurring approval of issuance without performing the engagement quality review with due professional care, and accordingly McPhee violated AS 1220.

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[21] AS 2315.24, *Audit Sampling*.

[22] AS 2315.24.

[23] AS 1210.12, *Using the Work of a Specialist*.

[24] AS 1220.11.

E. The Firm Violated PCAOB Quality Control Standards, and McPhee Directly and Substantially Contributed to Those Violations

38. PCAOB rules require that a registered public accounting firm comply with certain quality control standards.[25] A firm should establish policies and procedures to encompass, among other things, personnel management, engagement performance, and monitoring.[26] These policies and procedures should be communicated to the firm's personnel,[27] and the firm should implement monitoring procedures to obtain reasonable assurance that its system of quality control is effective.[28]

39. PCAOB standards provide that policies and procedures should be established to provide the Firm with reasonable assurance that, among other things, (1) those hired possess the appropriate characteristics to enable them to perform competently, and (2) work is assigned to personnel having the degree of technical training and proficiency required in the circumstances.[29] PCAOB standards further provide that, generally, the more able and experienced the personnel assigned to an engagement are, the less direct supervision is needed.[30]

40. PCAOB standards further provide that a firm should develop policies and procedures to provide it with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality, including with respect to documenting the results of each engagement.[31]

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[25] See PCAOB Rule 3400T, *Interim Quality Control Standards*.

[26] See QC § 20.07, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[27] QC § 20.23.

[28] QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[29] QC § 20.13.

[30] QC § 20.11.

[31] QC §§ 20.17-.18.

41. A Firm's system of quality control should include a monitoring element to provide the Firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the Firm's policies and procedures.[32]

42. As described below, the Firm violated the Board's quality control standards, and McPhee directly and substantially contributed to those violations.

The Firm Improperly Assigned Cardwell to Issuer Audits After She Received Multiple Poor Internal Inspection Results

43. Despite identifying Cardwell's poor internal inspection results each year from 2012 to 2014, the Firm assigned her to audits for which she lacked the requisite degree of technical training and proficiency. In addition, the Firm failed to provide Cardwell any individualized training or coaching despite noting that it should be provided. Further, although the Firm planned to assign experienced managers to Cardwell's audits, none were assigned to work with her.

44. As a result, the Firm violated PCAOB quality control standards by failing to effectively implement policies and procedures to provide it with reasonable assurance that: (a) audits were assigned to personnel having the degree of technical training and proficiency required in the circumstances;[33] (b) the work performed by engagement personnel met applicable professional standards, regulatory requirements, and the firm's standards of quality;[34] and (c) compliance with its quality control policies and procedures regarding personnel assignment was adequately monitored, and corrective actions to be taken and improvements to be made to its quality control system were timely determined.[35]

McPhee Directly and Substantially Contributed to the Firm's Quality Control Violations

45. As managing partner of the Firm from 2014 through 2018, McPhee was principally responsible for designing, implementing and monitoring the Firm's system of quality control. Accordingly, McPhee had overall responsibility for ensuring that the Firm

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[32] QC § 30.03; see also QC § 20.07.

[33] See QC § 20.13.

[34] See QC § 20.17.

[35] See QC § 20.20; QC § 30.03, .06. See also QC § 40, *The Personnel Management Element of a Firm's System of Quality Control – Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

complied with PCAOB rules and standards and was ultimately responsible for ensuring that the Firm's issuer audit engagements were properly staffed and supervised.

46. In connection with these responsibilities, McPhee took or omitted to take actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of PCAOB quality control standards regarding Cardwell's staffing and engagement performance on issuer audits, in violation of PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), PMB Helin Donovan, LLP, Christie J. Cardwell, and Donald K. McPhee are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Christie J. Cardwell is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); [36]

C. After two (2) years from the date of this Order, Cardwell may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two (2) years from the date of this Order, Donald K. McPhee's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Donald K. McPhee shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201,

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[36] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Cardwell. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Supervision of the Audit Engagement; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), civil money penalties in the amount of $20,000 payable by PMB Helin Donovan, LLP, $10,000 payable by Christie J. Cardwell, and $10,000 payable by Donald K. McPhee are imposed. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. PMB Helin Donovan, LLP, Christie J. Cardwell, and Donald K. McPhee shall pay these civil money penalties within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter which identifies PMB Helin Donovan, LLP, Christie J. Cardwell, or Donald K. McPhee as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

F. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm, should the Board grant any future application of the Firm for registration, is required:

1. within ninety (90) days from the date the Board grants any future application of the Firm for registration ("Future Registration Date"), to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the

Firm with reasonable assurance of compliance with applicable PCAOB rules and standards;

2. within ninety (90) days from the Future Registration Date, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable PCAOB rules and standards, of any Firm audit personnel who participate in any way in the planning or performing of any audit or interim review of an issuer or any SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Exchange Act Rule 17a-5, 17 C.F.R. § 240.17a-5, as amended);

3. within ninety (90) days from the Future Registration Date and before the Firm's commencement of any audit or interim review of an issuer or commencement of any SEC Registered Broker-Dealer Engagement, to ensure training pursuant to the policy described in paragraph IV.F.2. above on at least one occasion; and

4. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs IV.F.1 through F.3 above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within one hundred twenty (120) days from the Future Registration Date. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

G. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Christie J. Cardwell is required to complete, before filing any petition for Board consent to associate with a registered public accounting firm, forty (40) hours of CPE in subjects that are directly related to the audits of issuer financial statements under PCAOB standards, including audits of internal control over financial reporting ("ICFR") (such hours shall be in addition to, and shall not be counted in, the CPE that she is required to obtain in connection with any professional license).

H. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Donald K. McPhee is required to complete, within two (2) years from the date of this Order, ten (10) hours of CPE in subjects that are directly related to the audits of issuer financial statements under PCAOB standards,

including audits of ICFR (such hours shall be in addition to, and shall not be counted in, the CPE that he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 17, 2019

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of BDO Limited*, *Respondent.*	PCAOB Release No. 105-2019-029 December 17, 2019

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring BDO Limited (the "Firm" or "Respondent"), a registered public accounting firm, imposing a civil money penalty in the amount of $10,000 upon the Firm, and requiring the Firm to undertake certain remedial measures, including measures to comply with policies and procedures directed toward ensuring compliance with PCAOB reporting requirements. The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. BDO Limited is, and at all relevant times was, a limited company organized under Hong Kong law, and headquartered in Hong Kong. The Firm is a member of BDO International Limited and the international BDO network. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. As of its 2019 Annual Report on PCAOB Form 2, the Firm had 719 accountants, issued no audit reports for issuers or broker-dealers during the reporting period, and played a substantial role in the preparation or furnishing of an audit report that was issued during the reporting period for one issuer. The Firm is licensed in Hong Kong by the Hong Kong Institute of Certified Public Accountants ("HKICPA").

B. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

2. This matter concerns the Firm's failures to timely disclose four reportable events, concerning two disciplinary proceedings, to the Board on Form 3 as required by PCAOB rules.

3. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding" ("Item 2.7 Proceeding").[3] Another such specified event occurs when a firm "has become aware that" an Item 2.7 Proceeding "has been concluded."[4] With respect to four such

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[2] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

[4] PCAOB Form 3, at Item 2.10.

events, involving two Item 2.7 Proceedings, the Firm failed to timely file a Form 3 with the Board.

4. During July 2014 and January 2018, the Firm became aware that the HKICPA had initiated two separate disciplinary proceedings against it. Each of the proceedings related to the provision of professional services by the Firm to Hong Kong companies that were not issuers.[5] The Firm first learned of the initiation of each of the proceedings on or around the following respective dates:

- Proceeding 1: July 18, 2014
- Proceeding 2: January 17, 2018

5. In addition, the Firm learned of the conclusion of each of the proceedings on or around the following respective dates:

- Proceeding 1: September 26, 2014
- Proceeding 2: September 12, 2018

6. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the initiation and conclusion of these two proceedings until April 3, 2019.

7. The Firm's internal compliance and reporting systems failed to identify the initiation of the proceedings described above as being reportable to the PCAOB. As a result, the Firm inappropriately delayed notifying the PCAOB of the initiation of the disciplinary proceedings.

IV.

8. The Firm has represented to the Board that, since the events described in this Order, the Firm has revised and supplemented policies and procedures for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements. The Firm's revised policies and procedures require:

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[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities and Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. See PCAOB Rule 1001(i)(iii).

a. The role of compliance with PCAOB reporting matters to be assigned to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the firm;

b. The role of monitoring the Firm's compliance with its PCAOB reporting policies and procedures to be assigned to the Firm's Head of Risk, who will also be responsible for reporting to the Firm's Management Committee to evaluate events to determine whether disclosure on a Form 3 is required; and

c. Firm personnel who participate in the Firm's PCAOB reporting process to attend regular training, at least annually, on PCAOB reporting requirements.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required to comply with its PCAOB reporting policies and procedures, including those requiring:

ORDER

1. The role of compliance with PCAOB reporting matters to be assigned to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the firm;

2. The role of monitoring the Firm's compliance with its PCAOB reporting policies and procedures to be assigned to the Firm's Head of Risk, or an equivalent position, who will also be responsible for reporting to the Firm's Management Committee to evaluate events to determine whether disclosure on a Form 3 is required; and

3. Firm personnel who participate in the Firm's PCAOB reporting process to attend regular training, at least annually, on PCAOB reporting requirements.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

December 17, 2019

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Whitley Penn LLP, Susan Lunn Powell, CPA, Jeffry Shannon Lawlis, CPA, and John Griffin Babb, CPA,* *Respondents.*	PCAOB Release No. 105-2020-002 March 24, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon Whitley Penn LLP ("WP" or the "Firm"), Susan Lunn Powell, CPA ("Powell"), Jeffry Shannon Lawlis, CPA ("Lawlis") and John Griffin Babb, CPA ("Babb") (collectively, "Respondents"). The Board is:

(1) requiring WP to undertake certain remedial actions, as described in Section IV of this Order, and imposing a $200,000 civil money penalty on WP;

(2) barring Powell from being associated with a registered public accounting firm,[1] limiting Powell's activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for an additional period of one year following the termination of the bar, requiring that Powell complete forty additional hours of continuing professional education ("CPE"), and imposing a $25,000 civil money penalty on Powell;

(3) suspending Lawlis from being associated with a registered public accounting firm for a period of one year, limiting Lawlis's activities in connection with any "audit," as that term is defined in Section 110(1) of the Act for an additional period of one year following his suspension, requiring that Lawlis complete twenty additional hours of CPE, and imposing a $15,000 civil money penalty on Lawlis; and

[1] Powell may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

(4) limiting Babb's activities in connection with any "audit," as that term is defined in Section 110(1) of the Act for a period of two years, requiring that Babb complete ten additional hours of CPE, and imposing a $10,000 civil money penalty on Babb.

The Board is imposing these sanctions based on its findings that: (1) Powell and Babb violated PCAOB rules and standards[2] in connection with the audits of the 2012-2014 financial statements of United Development Funding III, L.P., and the review of that issuer's Q3 2015 interim financial statements; (2) Lawlis violated PCAOB rules and standards in connection with the audits of the 2013-2014 financial statements of United Development Funding IV and the review of that issuer's Q3 2015 interim financial statements; and (3) WP violated PCAOB rules and standards by failing to design, implement, and maintain appropriate quality control policies and procedures.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act") and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted,

[2] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of audits discussed herein. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules, PCAOB Release No. 2015-002 (Mar. 31, 2015).

Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **Whitley Penn LLP** is a limited liability partnership organized under the laws of the State of Texas and headquartered in Fort Worth, Texas. The Firm is licensed by the State Boards of Accountancy in Texas (License No. P05377), California (License No. OFR659), New Jersey (License No. 20CZ00034600), Oklahoma (License No. 13919), and Minnesota (License No. F2269). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Susan Lunn Powell, CPA**, is a certified public accountant licensed by the Texas State Board of Accountancy (License No. 078380). At all relevant times, Powell was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **Jeffry Shannon Lawlis, CPA**, is a certified public accountant licensed by the Texas State Board of Accountancy (License No. 058485). At all relevant times, Lawlis was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

4. **John Griffin Babb, CPA**, is a certified public accountant licensed by the Texas State Board of Accountancy (License No. 081948). Babb is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[3] The findings herein are made pursuant to the Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Issuers

5. **United Development Funding III, L.P. ("UDF III"),** was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). UDF III's public filings disclosed that it originated, acquired, serviced, and managed mortgage loans secured by real property or equity interests that held real property already subject to other mortgages.

6. **United Development Funding IV ("UDF IV")** was, at all relevant times, a Maryland real estate investment trust, and an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). UDF IV's public filings disclosed that it originated, purchased, participated in, and held for investment secured loans to persons and entities relating to real estate development.

7. UDF III and UDF IV were affiliates of one another and were under common management, along with several other affiliates (collectively, the "UDF Entities").

C. Summary

8. WP was the UDF Entities' external auditor, including for the year ended December 31, 2012 and continuing through the third quarter of 2015. Powell was the engagement partner for the audits and reviews of UDF III's 2012 through Q3 2015 financial statements. Babb was the engagement quality review ("EQR") partner for those same UDF III audits and reviews. Lawlis was the engagement partner for the audits and reviews of UDF IV's 2013 through Q3 2015 financial statements.

9. This matter concerns, among other things, (a) Powell's, Lawlis's, and Babb's failures to exercise due professional care, including professional skepticism, in connection with procedures they performed concerning loans made by UDF III and UDF IV to a key borrower, which accounted for a significant portion of each issuer's assets; (b) Powell's and Lawlis's failures to appropriately respond to evidence of possible undisclosed related party transactions between UDF III and UDF IV during the 2013 and 2014 audits; and (c) Whitley Penn's failure to maintain an adequate system of quality control ("QC system") both during and after those audit failures.

10. Specifically, Powell repeatedly failed to gather sufficient appropriate evidence to determine whether a significant loan was properly valued, and failed to adequately consider evidence indicating UDF III needed to record a substantial reserve for that loan. By Q3 2015, that loan accounted for $104 million (26%) of UDF III's assets. Evidence gathered by Powell indicated that it could be impaired by as much as $73 million at Q3 2015, which was approximately three times UDF III's total allowance for loan losses. Powell also failed to adequately respond to (a) evidence from confirmation procedures of a possible dispute between UDF III and the borrower for that loan and (b) the fact that UDF IV was repeatedly transferring cash to UDF III without either fund disclosing the transfers as related party transactions.

11. Lawlis failed to adequately respond to evidence from confirmation procedures of a possible dispute between UDF IV and that same key borrower, whose loans accounted for approximately 10% of UDF IV's assets. Lawlis also failed to adequately respond to the transfers from UDF IV to UDF III that were not disclosed as related party transactions.

12. Babb, in connection with his EQRs for the UDF III audits, repeatedly failed to properly evaluate, with due professional care, the significant judgments that Powell made concerning the UDF III loan to the key borrower described above.

13. The above violations resulted, at least in part, from WP's insufficient QC system. During the period of the violations, WP's QC system failed to provide reasonable assurance that WP and its personnel performed audit work in accordance with professional standards or appropriately consulted with persons outside of the engagement team when necessary.

D. Background

Notes Receivable and Key Customer

14. The vast majority of UDF III's and UDF IV's assets were comprised of the notes receivable and accrued interest receivable balances from the loans they made. WP understood that the loans funded long-term development projects, with typical interest of 15% and above for UDF III, and 13% and above for UDF IV. WP also understood that UDF III and UDF IV typically set maturity dates on the loans for dates that were prior to the expected completion dates for the development projects. WP expected that UDF III and UDF IV would renew loans for ongoing projects if UDF III and UDF IV believed that the loan was adequately performing and collectable.

15. UDF III and UDF IV each reported their notes receivable both on a gross basis and net of an allowance for loan losses ("ALL"). The ALL was comprised of two components: (1) provisions for expected losses on loans individually evaluated for impairment ("specific reserves"), and (2) an accrual for losses on non-impaired loans.

16. UDF III and UDF IV recognized interest income from their loans on an accrual basis. Both funds disclosed that they suspend recognition of interest income on a loan when full recovery of principal and income was no longer probable. Accordingly, a loan that was impaired and not fully recoverable would also generally require suspension of interest revenue recognition.

17. One of the key borrowers for both UDF III and UDF IV was a group of related land development entities based in Austin, Texas (the "Austin Developer"). At all relevant times, UDF IV had several outstanding loans to the Austin Developer, which accounted for approximately 10% of UDF IV's assets and revenues. UDF III had just one outstanding loan to the Austin Developer, a line of credit (the "LOC"), which accounted for more than

20% of UDF III's assets and revenues. The LOC bore interest at 15%, and was subordinate to both the UDF IV loans and other senior debt.

18. In December 2016, the UDF Entities entered into a settlement with the Austin Developer, which resulted in UDF III forgiving more than $122 million of the Austin Developer's indebtedness to UDF III associated with the LOC.[5] Although UDF III disclosed that the settlement may have a material adverse impact on its financial statements, UDF III has not publicly filed any financial statements after the Q3 2015 financial statements that WP reviewed. WP completed its Q3 2015 review for UDF III in November 2015, and then declined to stand for reappointment as the UDF Entities' auditors three days later.

Settlement with the Commission

19. On July 3, 2018, UDF III and UDF IV, along with several members of their management, entered into a settlement with the U.S. Securities and Exchange Commission ("Commission").[6] The settlement stemmed from a Commission investigation that WP first learned about during the 2014 audits. The settlement concerned allegations by the Commission that UDF III had failed to recognize a specific impairment on the LOC and put the LOC on non-accrual status. It also concerned allegations that the UDF Entities did not disclose the true nature of the transactions involving cash transfers from UDF IV to UDF III for distribution to UDF III investors.

E. Powell Failed to Obtain Sufficient Appropriate Evidence Concerning the ALL During the 2012-2014 UDF III Audits

20. PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[7] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit

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[5] See Form 8-K filed by UDF III (Jan. 6, 2017). The impact of the settlement on UDF IV's financial statements has not been publicly reported.

[6] See *SEC Charges Real Estate Investment Funds and Executives for Misleading Investors*, SEC Lit. Rel. No. 24185 (Jul. 3, 2018); *Securities and Exchange Commission v. United Development Funding III, LP, et al.*, No. 3:18-cv-01735-L (N.D. Tex. filed July 3, 2018; final judgments entered Jul. 31, 2018).

[7] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

performed in accordance with PCAOB standards.[8] PCAOB standards require, among other things, that an auditor plan and perform the audit with due professional care[9] and to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[10]

21. The auditor must design and implement audit responses that address the risks of material misstatement that are identified and assessed during the audit.[11] In designing the audit procedures to be performed, the auditor should obtain more persuasive audit evidence the higher the auditor's assessment of risk.[12] To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based.[13]

22. Powell identified notes receivable as a significant account for each of the UDF III audits, and assessed that there were significant risks, including fraud risks, associated with that account. Powell designated the ALL as a "critical issue" and identified it as a significant estimate giving rise to high inherent risk for valuation of the net notes receivable balance. Powell also identified that management could perpetrate and conceal fraudulent financial reporting in connection with its notes receivable, including through understatement of the ALL.

23. Despite identifying those significant risks relating to UDF III's notes receivable, including the ALL, Powell failed to exercise due professional care, including professional skepticism when performing audit procedures over that account. In violation of PCAOB rules and standards, Powell failed to gather sufficient appropriate audit evidence about the value of the LOC, which was a significant loan. She also improperly relied on management estimates, data, and assumptions about that loan, without sufficiently evaluating their reasonableness.[14]

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[8] See AU § 508.07, *Reports on Audited Financial Statements*.

[9] See AU § 230.01, *Due Professional Care in the Performance of Work*.

[10] See AS 15, *Audit Evidence*, ¶ 4.

[11] See AS 13, *The Auditor's Responses to the Risks of Material Misstatement*, ¶ 3.

[12] See AS 13 ¶ 9.

[13] See AS 15 ¶ 6.

[14] See AU §§ 342.09-.10, *Auditing Accounting Estimates*.

2012 Evaluation of the LOC

24. At year-end 2012, the LOC accounted for approximately 22% ($80 million) of UDF III's assets. UDF III's records indicated that the LOC collateral was also securing $49 million in additional debt at year-end 2012, including $26 million in senior debt. Powell knew that the LOC was past due as of year-end 2012 and UDF III management designated the LOC as impaired, but did not record any specific reserve for it in UDF III's ALL. During the audit, management asserted to Powell that it believed the loan was collectable. Management also provided Powell with documentation showing UDF III renewed the LOC in late March 2013.

25. In her initial analysis of the LOC for the 2012 audit, Powell noted that, if all of the land currently listed as collateral for the LOC was fully developed and sold, the lot sales would not generate sufficient proceeds to repay the LOC and other senior debt secured by the same collateral.

26. Nevertheless, Powell ultimately agreed with management that UDF III likely could collect the full amount of principal and interest, and that no specific reserve or suspension of revenue recognition was necessary. Powell based her conclusion on a revised projection that the Austin Developer's total future cash receipts from the development and sale of all lots would be approximately $152 million, exceeding the outstanding total debt and accrued interest by approximately $23 million. That calculation was based on management-provided data about the number of lots available for sale to repay the loan, the projected sale prices of those lots, and the amounts the Austin Developer would receive in development incentives.

27. Powell, however, failed to perform her analysis with due professional care and, as a result, failed to obtain sufficient appropriate audit evidence to support her conclusions about the LOC.[15] For example, in performing that analysis, Powell did not adequately:

- Test the accuracy and completeness of management-provided data that was critical to her calculation,[16] including the number of lots that remained for sale, despite receiving a schedule from management indicating that some of the lots identified as collateral might have been sold already;

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[15] See AS 15 ¶ 4.

[16] See AS 15 ¶ 10.

- Evaluate the reasonableness of key factors and assumptions that were significant to the analysis, including the projected costs that would affect the collectability of the loan (e.g., future development costs being funded through senior debt);[17] and

- Discount the future cash receipts to present value in her analysis, despite knowing that the interest rate on the LOC was 15% and the developments would take several more years to complete.[18]

28. Powell also considered that management had informed her that the Austin Developer had "pledged" additional collateral to support the repayment of the LOC, which it claimed would increase the number of lots available for sale. However, Powell did not take adequate steps during the 2012 audit to analyze that pledge and determine whether it, in fact, added valuable collateral to the LOC. Powell also did not consider whether that pledged collateral was, itself, subject to senior liens that affected the collateral's value.

29. As a result of these deficiencies, Powell failed to obtain sufficient appropriate audit evidence to determine whether UDF III's reported 2012 notes receivable was properly valued and whether revenue recognition should have been suspended for the LOC.

2013 Evaluation of the LOC

30. For the 2013 audit, Powell again failed to appropriately evaluate management's conclusions concerning the impairment and specific reserves of the LOC.

31. During the 2013 audit, Powell identified that available appraisals or other initial WP testing did not support the valuation of the LOC, which then accounted for approximately 23% ($84 million) of UDF III's assets. The engagement team asked management for additional support for the value of the LOC and, in response, received a cash flow analysis reflecting management's conclusions concerning the collectability and value of the LOC. Management's analysis for the LOC calculated that there would be $173 million of cash flows that could be used to satisfy that loan.

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[17] See AU § 342.09.

[18] Cf. ASC 310-10-35-25 ("If a creditor bases its measure of loan impairment on a present value amount, the creditor shall calculate that present value amount based on an estimate of the expected future cash flows of the impaired loan, discounted at the loan's effective interest rate.").

32. Powell, however, failed to adequately evaluate whether the information contained within the cash flow projection was sufficient and appropriate for purposes of the audit, as required by PCAOB standards.[19] She failed to adequately test the accuracy and completeness of the information in the cash flow projections, or to test the controls over the accuracy and completeness of that information.[20] She also failed to adequately evaluate whether the information was sufficiently precise and detailed for purposes of the audit.[21]

33. Specifically, while Powell performed testing procedures over certain data in the management cash-flow analysis, such as lot pricing data, she failed to plan or perform procedures to evaluate or test certain other critical data and assumptions. For example, she failed to test the accuracy, completeness and reasonableness of:

- Data in the cash flow model about the number of lots that would be developed and were available for sale in the future, including whether the underlying projects existed;

- Data and assumptions in the cash flow model relating to the amount of future development costs that would be incurred as senior debt; and

- Data and assumptions in the cash flow model about the timing of the estimated cash advances and repayments, which were important to the analysis because of the LOC's 15% interest rate.

34. As a result of these deficiencies with the LOC testing, Powell failed to obtain sufficient appropriate audit evidence to determine whether UDF III's reported 2013 notes receivable was properly valued and whether revenue recognition should have been suspended for the LOC.

2014 Evaluation of the LOC

35. For the 2014 audit, Powell again failed to appropriately evaluate management's conclusions concerning the impairment and specific reserves of the LOC. By that time, the LOC accounted for approximately 24% ($94 million) of UDF III's assets.

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[19] See AS 15 ¶ 10.

[20] See id.

[21] See id.

Management's 2014 analysis for the LOC calculated that there would be $176 million of cash flows that could be used to satisfy the LOC.

36. By the time of the 2014 audit, Powell was aware that the Commission had commenced an investigation of the UDF Entities that included questions about UDF III's monitoring of the LOC, the valuation of the LOC's collateral, and management's decision to renew the LOC in 2013. This information should have caused her to exercise heightened professional skepticism when testing the value and impairment of the LOC, but she failed to do so.[22]

37. Powell also failed to adequately consider additional information which should have caused her to review the analyses with heightened professional skepticism. For example, during the 2014 audit, UDF III told Powell that the principal of the Austin Developer had informed the UDF Entities of his desire to retire, and was negotiating a settlement with the UDF Entities. Management indicated that the settlement negotiations were ongoing, and that management anticipated a settlement involving another developer taking over the projects reflected in the LOC cash flow analysis, which consisted of both existing projects and "future projects."

38. Powell also failed to adequately consider that:

- There had not been any cash payments of principal on the LOC during 2014, despite management's 2013 cash flow analysis projecting a substantial pay-down of the LOC in 2014;

- The cash flow analysis for the LOC included proceeds from "future projects," for which the WP engagement team had no evidence to support that they existed; and

- The ongoing settlement negotiations with the Austin Developer could indicate a dispute with the Austin Developer, and the Austin Developer did not respond to confirmation requests about its 2014 loan balance, despite responding to similar requests in prior audits.[23]

39. Powell again relied on management's cash flow analysis in testing the LOC for potential impairment, but she again failed to adequately test the accuracy and completeness of the information in the cash flow projections, despite all of the foregoing information. Powell reviewed a summary cash flow for the LOC, as well as a selection of five cash flow analyses for individual development projects that she understood were

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[22] See AU § 230.07.

[23] See Section III.F, infra.

generating repayments reflected in the summary cash flow. Powell also discussed the cash flow analysis with management, and reviewed management's support for the lot pricing management used in the cash flow model. Based on those steps, and inquiry to management about the LOC's status, Powell concluded that the LOC was fully collectable.

40. However, Powell again failed to adequately evaluate whether the information contained within the cash flow projection was sufficient and appropriate for purposes of the audit.[24] While she performed testing procedures over certain data in the cash flow projection, she again failed to test the completeness and accuracy of other critical data and assumptions, including the number of lots that would repay the loans, the timing of estimated cash advances and repayments, or the projected amounts of future development costs.[25] Powell also failed to take adequate steps during the 2014 audit to understand the nature of the "future projects" management included in its cash flow projection, and their qualitative and quantitative impact on the cash flow analysis. As a result, Powell failed to obtain sufficient appropriate audit evidence to determine whether UDF III's reported 2014 notes receivable was properly valued and whether revenue recognition should have been suspended for the LOC. [26]

F. Powell and Lawlis Failed to Properly Evaluate the Results of the Confirmation Procedures Concerning the Austin Developer during the 2014 UDF III and UDF IV Audits

41. Both Powell and Lawlis violated PCAOB rules and standards in their respective UDF III and UDF IV 2014 audits by failing to follow-up on (a) loan confirmation requests to the Austin Developer and (b) information that management provided to explain the Austin Developer's failure to respond to a confirmation request.[27]

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[24] See AS 15 ¶ 10.

[25] See AS 15 ¶ 10; AU § 342.09.

[26] See AS 15 ¶¶ 4-6.

[27] See AU § 330.30, *The Confirmation Process* ("When using confirmation requests other than the negative form, the auditor should generally follow up with a second and sometimes a third request to those parties from whom replies have not been received."); AU § 330.33 ("If the combined evidence provided by the confirmations, alternative procedures, and other procedures is not sufficient, the auditor should request

42. At year-end 2014, the Austin Developer's debt to UDF III was comprised entirely of the LOC. The Austin Developer's debt to UDF IV was comprised of multiple loans, accounting for approximately 10% of UDF IV's assets. Roughly half of the Austin Developer's debt to UDF IV was overdue at the time of the audit and designated as impaired by management.

43. Both engagement teams considered it appropriate to send confirmation requests to the Austin Developer. After receiving confirmation requests from the engagement teams, the Austin Developer did not respond, despite having responded to such requests in the past, including for the 2013 audits. Management for the UDF Entities then informed both Powell and Lawlis that the Austin Developer would not respond to confirmation requests due to its principal's intent to retire and ongoing negotiations between the UDF Entities and the Austin Developer. The UDF Entities also informed Powell and Lawlis that it would not further extend the due dates on any of the Austin Developer's loans.[28] Both Powell and Lawlis should have understood from those statements that there was a potential dispute between the Austin Developer and the UDF Entities, including UDF III and UDF IV. Nevertheless, they both failed to follow up with a second confirmation request.[29]

44. Having not received a response to their loan confirmation request, both engagement teams performed alternative procedures. The alternative procedures consisted of tying a selection of loan draws and paydowns to management provided documentation, including third party bank statements and draw requests signed by the borrowers, to roll forward the prior year's audited balance. However, the alternative procedures failed to provide sufficient evidence about the potential dispute concerning the Austin Developer and whether that dispute affected the loans' valuation. As a result, Powell and Lawlis failed to obtain sufficient audit evidence to determine whether the notes receivable were, among other things, properly valued for 2014.[30]

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additional confirmations or extend other tests, such as tests of details or analytical procedures.").

[28] Because management classified all overdue loans as impaired, Powell and Lawlis knew or should have known that such loans were likely to be classified as impaired by management as they came due, and therefore that they would need to be assessed for a potential specific reserve.

[29] See AU § 330.30.

[30] See AU § 330.33; AS 15 ¶¶ 4-6.

G. Powell and Lawlis Failed To Perform Sufficient Related Parties Procedures During the 2013 and 2014 UDF III and UDF IV Audits

45. PCAOB standards recognize that, "[d]uring the course of the audit, the auditor may become aware of significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment."[31] The standards further provide that "[t]he auditor should gain an understanding of the business rationale for such transactions and whether that rationale (or the lack thereof) suggests that the transactions may have been entered into to engage in fraudulent financial reporting or conceal misappropriation of assets."[32]

46. PCAOB standards also provide that, when examining related party transactions, "the auditor should be aware that the substance of a particular transaction could be significantly different from its form and that financial statements should recognize the substance of particular transactions rather than merely their legal form."[33] After identifying related party transactions, "the auditor should apply the procedures he considers necessary to obtain satisfaction concerning the purpose, nature, and extent of these transactions and their effect on the financial statements."[34] For each material related party transaction (or aggregation of similar transactions), "the auditor should evaluate all the information available to him and satisfy himself that it is adequately disclosed in the financial statements."[35]

47. During their respective 2013 and 2014 UDF III and UDF IV audits, Powell and Lawlis designated related party transactions as a significant audit issue, but failed to

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[31] AU § 316.66, *Consideration of Fraud in a Financial Statement Audit*.

[32] Id.

[33] AU § 334.02, *Related Parties*; see also AU § 411.06, *The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles* ("Generally accepted accounting principles recognize the importance of reporting transactions and events in accordance with their substance. The auditor should consider whether the substance of transactions or events differs materially from their form.").

[34] AU § 334.09.

[35] See AU § 334.11; see also Rule 4-08(k) of Regulation S-X, *Related party transactions which affect the financial statements,* codified as 17 C.F.R. 210.4-08(k).

properly respond to evidence of unusual transfers from UDF IV to UDF III that were not disclosed as related party transactions.

Evaluation of Transfers During the 2013 Audits

48. During the 2013 audits, the WP engagement teams brought to the attention of both Powell and Lawlis certain unusual transfers from UDF IV to UDF III that management did not present or disclose as related party transactions. During the 2013 audits, the engagement teams learned that UDF IV transferred $1.2 million to UDF III in January 2014 so that UDF III, which otherwise lacked sufficient cash, could make distributions to its investors that same day. The engagement teams also understood that the transfer had been recorded as loans by UDF IV to third-party borrowers and pay-downs of loans by those same borrowers to UDF III, even though: (a) UDF IV and UDF III's joint management had initiated the transfer, without the prior request or approval of any third-party borrower; (b) the transfer flowed directly from UDF IV to UDF III without notice to any third-party borrower; and (c) UDF IV and UDF III's joint management had unilaterally selected which third-party borrower and loans it would use to record the transfer, and did not finalize that selection until after the transfer had already been completed. The engagement teams communicated that understanding to Powell and Lawlis, sent them supporting documentation, and also advised them that there might be additional similar transactions.

49. Both Powell and Lawlis initially agreed that the transaction flagged by the engagement team was "strange" and questioned why the initial transfer was not recorded as a payable/receivable between UDF III and UDF IV, which they knew were related parties. Powell and Lawlis also agreed that they should determine how many similar transactions took place in 2013. Nevertheless, Powell and Lawlis failed to perform sufficient procedures to obtain satisfaction concerning the extent of those transactions and their effect on the financial statements in 2013, including whether the transactions had been properly presented and disclosed.[36]

50. Instead, Powell and Lawlis improperly concluded that no further analysis of the accounting for the transfers was required after management pointed to language in its loan agreements that it claimed allowed UDF IV to make discretionary advances on a borrower's behalf, in certain limited circumstances, without advance consent from the borrower. Powell and Lawlis accepted management's assertion that the loan agreement provision allowed the UDF Entities to characterize the transfers as third-party loan activity, even though management had initiated the transfers on its own, without any borrower request, and for the express purpose of enabling cash distributions to UDF III's investors.

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[36] See AU §§ 334.02, .09, .11; see also Rule 4-08(k) of Regulation S-X.

Although Powell and Lawlis read the loan provision that management identified, they did not determine whether the transfers fit into the limited circumstances described in the loan provision or obtain any other evidence to support management's interpretation. They also failed to consider whether the substance of the transaction, regardless of its form, required disclosure as a related party transaction.[37]

Evaluation of Transfers During the 2014 Audits

51. During the 2014 UDF IV audit and reviews, Lawlis became aware that UDF IV made additional transfers to UDF III similar to the January 2014 transfer, but he failed to adequately address them. Lawlis again knew that UDF IV recorded those transfers as third-party loan advances even though there was no evidence of the borrower's request or approval for the transfer. UDF IV also confirmed to Lawlis that it had initiated some transfers to its affiliates without the third-party borrowers' prior consent and obtained approval afterward. Nevertheless, Lawlis again failed to perform sufficient procedures to obtain satisfaction concerning the extent of the transactions and their effect on the financial statements, including whether the transactions had been properly presented and disclosed.[38] For the additional transfers that came to the engagement team's attention, the team either verified that the relevant borrower eventually approved the transaction, or that the loan agreements included the provision for discretionary advances. However, Lawlis again failed to consider whether the substance of the transactions, regardless of their form, required disclosure as a related party transactions.[39]

52. For the 2014 UDF III audit, Powell failed to perform any procedures over the transfers to UDF III from UDF IV.

H. Powell and Lawlis Failed to Act with Due Professional Care During the Q3 2015 UDF III and UDF IV Reviews

53. In an interim review, an accountant may become aware of information that leads him or her to believe that the interim financial information under review may not be in conformity with GAAP in all material respects. In such circumstances, PCAOB standards provide that the accountant should make additional inquiries or perform other

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[37] See AU § 334.02.

[38] See AU §§ 334.02, .09, .11; see also Rule 4-08(k) of Regulation S-X.

[39] See AU § 334.02.

procedures to provide a basis for communicating whether he or she is aware of any material modifications that should be made to the interim financial information.[40]

54. If the accountant becomes aware of information which relates to a prior audit report and is of such a nature and from such a source that he would have investigated it had it come to his attention during the course of his audit, PCAOB standards also require that he take certain steps concerning his prior report.[41] First, he should determine whether the information is reliable and whether the facts existed at the date of his report.[42] If those conditions are satisfied, the auditor should then consider if the nature and effect of the matter are such that (a) his report would have been affected if the information had been known to him at the date of his report and had not been reflected in the financial statements and (b) he believes there are persons currently relying or likely to rely on the financial statements who would attach importance to the information.[43] The auditor is then required to consider whether to take action to prevent future reliance on his report.[44]

55. As discussed below, during their respective Q3 2015 reviews, Powell and Lawlis became aware of facts indicating material modifications may have been necessary in UDF III's and UDF IV's Q3 2015 financial statements, specifically to the notes receivable balances. That information also cast doubt on UDF III's previously audited annual financial statements. Although Powell and Lawlis performed procedures to respond to those facts for purposes of the Q3 2015 financial statements, they failed to perform those procedures with due professional care.[45] Powell also failed to appropriately consider the possible implications for WP's previously issued audit reports on UDF III's financial statements.[46]

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[40] See AU § 722.22, *Interim Financial Information*.

[41] See AU §§ 561.04-.06, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*.

[42] See AU § 561.04.

[43] See AU § 561.05.

[44] See AU § 561.06.

[45] See AU § 722.22.

[46] See AU §§ 561.04-.05.

Powell Failed to Adequately Consider Indications of Potential Impairment for the LOC at 2013, 2014, and Q3 2015

56. Before the start of the Q3 2015 reviews, Powell was interviewed by the Commission staff, in connection with its investigation. During the interview, Powell was shown documents and asked questions by the Commission staff that called into question the veracity and accuracy of information that UDF III provided to the WP engagement team in connection with the FY 2013 and 2014 audits concerning the expected cash flows for the LOC. Specifically, Powell was shown documents that, at minimum, raised questions about whether the UDF Entities misstated their cash flow projections for the LOC to conceal its impairment by unilaterally including potential "future projects" in addition to current projects.

57. During the Q3 2015 review, Powell performed procedures to follow-up on the information she learned from the Commission staff, which included inquiries of management and reviewing additional documentation relating to the Commission's investigation and the LOC. Through these procedures, Powell verified that, in March 2014, the Austin Developer had provided its own cash flow projection to the UDF Entities, indicating that it would be unable to repay a substantial portion of its LOC balance. Powell also corroborated that UDF III had modified the version of the projection that it provided to WP for both 2013 and 2014, adding cash flows from "future projects" that the Austin Developer did not own and did not plan to develop.

58. During the review, Powell and the engagement team also quantified the amounts in management's LOC cash flow projections for 2013, 2014, and Q3 2015 that were attributable to existing projects, excluding the amounts attributable to future projects. That analysis showed that, in each of those periods, the cash flows from the existing projects were expected to leave a substantial portion of the LOC unpaid. By Q3 2015, the analysis projected a shortfall of approximately $73 million,[47] suggesting that material modifications to the interim financial information might be necessary.

59. Despite this information, Powell did not adequately consider whether to withdraw WP's earlier audit reports.[48] Powell also failed to propose that UDF III record any specific reserve for the LOC at Q3 2015 or suspend revenue recognition on the LOC. Instead, Powell concluded that UDF III could file Q3 2015 interim financial statements

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[47] At year-end 2013 and year-end 2014, the projected shortfall indicated by WP's calculation was $27 million and $60 million, respectively. The 2013 and 2014 financial statements did not include any specific reserve for the LOC.

[48] See AU §§ 561.04-.05.

that continued interest revenue recognition from the LOC, contained no specific reserve for the LOC, and included a total ALL for all loans of just $24.5 million.[49] However, as discussed below, she failed to perform sufficient other procedures to provide a basis for that conclusion.[50]

Powell Inappropriately Relied on Non-Binding Letters of Intent at Q3 2015

60. Powell's conclusion that no specific reserve was required at Q3 2015 was based on three management-provided non-binding letters of intent. One of those letters, dated October 21, 2015, was between the Austin Developer and the UDF Entities and described that the Austin Developer would surrender its collateral in full satisfaction of its debts. The other letters, dated November 12, 2015, were between the UDF Entities and two new developers and described a proposal for new developers to take possession of the LOC collateral, pledge additional collateral, and assume the LOC debt as part of two larger transactions with UDF III.

61. Powell reviewed the letters and discussed them with management. From those discussions, Powell understood that management expected that the transactions described in the letters of intent would occur in late November or early December 2015.

62. After discussing the letters of intent with management, Powell concluded that she would rely upon them for the purpose of evaluating the LOC's impairment for the quarterly review. However, Powell failed to consider with due professional care whether they provided a basis to determine whether a material modification should be made to the interim financial statements to record an impairment for the LOC.[51] For example, Powell did not adequately consider that:

- The letters did not reliably indicate whether the transactions described in the letters would occur, because the letters each stated they were "intended as a non-binding expression of intent" and "subject to the preparation, negotiation and full execution of the agreement"; and

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[49] UDF III management had initially calculated that its Q3 2015 ALL should be $23.9 million. During the review, Powell performed a calculation of the general reserve portion of UDF III's ALL with different reserve ratios for certain loans, which she based on her discussions with management. Powell's calculation resulted in a total ALL that was approximately $600,000 higher, and UDF III adjusted its total ALL accordingly.

[50] See AU § 722.22.

[51] See AU § 722.22.

- The letters did not support that the LOC was properly valued, because they indicated that the UDF Entities would provide as yet unquantified fees and concessions to the new developers for them to take over the LOC and its related development projects.

Powell and Lawlis Failed to Appropriately Respond to New Evidence of a Dispute between the Austin Developer and the UDF Entities at Q3 2015

63. Based on documents they reviewed concerning the Commission's investigation, Powell and Lawlis both understood, among other things, that the Commission staff was examining whether UDF Entities, or persons associated with them, may have made false statements or material omissions about the credit quality of loan portfolios and the use of cash proceeds relating to certain loans.

64. As a result, Powell and Lawlis concluded that it was appropriate to send confirmation requests for all of the Austin Developer's loans as part of their respective Q3 2015 reviews for UDF III and UDF IV. In response to each request, the Austin Developer wrote that it could not confirm its loan balances or loan collateral because "the lender has failed to properly apply or adjust certain payments made on the loan or related loans. In addition, lender and its affiliates have, from time to time, transferred or collaterally assigned their rights with respect to the collateral under various loans to affiliates or third parties."

65. To follow up on the confirmation response, Lawlis emailed the Austin Developer, asking whether it could provide additional information. The response of the Austin Developer, however, provided no additional detail. Powell and Lawlis, in turn, relied on management inquiry to understand the nature of the potential dispute and once again rolled forward the prior year's audited balance by tying a selection of draws and payments to management-provided documents including third-party bank statements and draw requests signed by the borrowers. However, the alternative procedures failed to provide sufficient appropriate evidence about the potential dispute concerning the Austin Developer and whether that dispute affected the loans' valuation. As a result, Powell and Lawlis failed to adequately extend the review procedures to resolve the questions raised by the Austin Developer's confirmation response.[52]

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[52] See AU § 722.22.

I. Babb Failed to Perform His Engagement Quality Reviews for the 2012-2014 UDF III Audits and Q3 2015 UDF III Review with Due Professional Care

66. The EQR partner is responsible for evaluating the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report, if a report is to be issued.[53] In an audit, the EQR partner is responsible for evaluating the engagement team's responses to significant risks identified by the team and the EQR partner.[54] In both audits and reviews, the EQR partner should evaluate whether the documentation that he or she reviewed supports the conclusions reached by the engagement team with respect to the matters reviewed.[55] The EQR partner is also responsible for evaluating whether appropriate consultations took place on difficult or contentious matters during the audits and reviews.[56] The EQR partner must perform his or her responsibilities with due professional care and skepticism.[57]

67. In each of the engagements discussed above, Babb reviewed the critical work papers relating to the UDF III engagement teams' response to the significant risks, including fraud risks, identified concerning notes receivable and ALL. However, Babb violated PCAOB rules and standards in those engagements by failing to properly evaluate, with due professional care, whether that documentation indicated that the engagement team responded appropriately to the significant risks and/or supported the conclusions reached by the engagement team.[58]

68. During the 2012 audit, Babb knew that the LOC was significant to the notes receivable balance and that UDF III management had classified the LOC as impaired without recording any specific reserve. Although Babb reviewed the documentation of the engagement team's testing of the LOC for impairment, there is no evidence he discussed it with the engagement team. Furthermore, he failed to evaluate with due professional care whether that testing adequately supported the conclusion that no specific reserves

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53 See AS 7, *Engagement Quality Review*, ¶¶ 9, 14.

54 See AS 7 ¶ 10(b).

55 See AS 7 ¶¶ 11,16.

56 See AS 7 ¶¶ 10(h), 15(f).

57 See AS 7 ¶¶ 12, 17; AU §§ 230.07-.09.

58 See Rule 3100; AS 7 ¶¶ 10(b), 11, 16.

were required for the LOC.[59] For example, Babb did not consider whether the engagement team had tested the completeness and accuracy of the management-provided data used in that test. He also did not consider, among other things, that the engagement team had not discounted the future cash flows to present value for its impairment analysis.

69. During the 2013 and 2014 audits, Babb was aware that the engagement team changed its audit approach from 2012. Specifically, he knew that the engagement teams for those audits used management-provided cash flow projections to test the valuation of certain notes receivable and the adequacy of the ALL, including for the LOC. Babb reviewed the audit documentation describing the review of the cash flow analyses, but he failed to properly evaluate whether the engagement team's approach provided an appropriate response to the significant risks concerning the ALL.[60] For example, Babb did not properly consider whether the engagement team had adequately tested whether the information contained within the cash flow projections was sufficient and appropriate for purposes of the audit. He also did not consider whether the engagement team had appropriately responded to the inclusion of "future projects" in the cash flow projections, in light of the fraud risk for ALL.

70. During the Q3 2015 review, Babb reviewed the engagement team's Summary Review Memorandum ("SRM") and he discussed with Powell the issues that had arisen concerning the LOC.[61] Babb also reviewed each of the documents that were referenced in the SRM as pertaining to the analysis of the LOC's impairment. Those documents included the engagement team's analysis showing that the existing project cash flows would leave approximately $73 million of the LOC balance unpaid. They also included the non-binding letters of intent, which Babb understood Powell had relied on for her conclusions that the LOC did not need to be specifically reserved at Q3 2015 and that the prior audit reports did not need to be withdrawn. However, Babb failed to properly evaluate whether those letters of intent actually supported Powell's conclusion.[62]

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[59] See AS 7 ¶ 11.

[60] See AS 7 ¶¶ 10(b),11.

[61] The SRM served as the engagement team's engagement completion document for the Q3 2015 review, which Babb was required to review. See AS 3, *Audit Documentation*, ¶ 13; AS 7 ¶ 15(c).

[62] See AS 7 ¶ 16.

71. Babb also failed to properly evaluate whether appropriate consultations had taken place on the difficult and contentious issues that arose during the UDF III Q3 2015 review.[63] Babb understood that WP's Partner-in-Charge of Technical Resolution ("Technical Partner") had been consulted during the review. However, Babb failed to determine whether the consultation, which was limited to reviewing the clarity of the documentation in two work papers, was appropriate in the circumstances.

72. As a result, Babb violated AS 7 by providing his concurring approval of issuance in each of those engagements without performing his EQR with due professional care.[64]

J. Whitley Penn Failed to Comply with PCAOB Quality Control Standards

73. PCAOB rules and standards require that registered firms establish and maintain an adequate system of quality control.[65] "A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and procedures established to provide the firm with reasonable assurance of complying with professional standards."[66] "The nature, extent, and formality of a firm's quality control policies and procedures should be appropriately comprehensive and suitably designed in relation to the firm's size, the number of its offices, the degree of authority allowed its personnel and its offices, the knowledge and experience of its personnel, the nature and complexity of the firm's practice, and appropriate cost-benefit considerations."[67]

74. A firm's system of quality control should, among other things, include policies and procedures for engagement performance.[68] A firm should establish policies and procedures to provide it with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory

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[63] See AS 7 ¶ 15(f).

[64] See AS 7 ¶¶ 12, 17; AU § 230.01.

[65] See Rule 3400T, *Interim Quality Control Standards*; Quality Control Standard 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20").

[66] QC § 20.04.

[67] QC § 20.04.

[68] See QC § 20.07.

requirements, and the firm's standards of quality.[69] It should also establish policies and procedures to provide it with reasonable assurance that personnel consult, on a timely basis, with individuals within or outside the firm, when appropriate (for example, when dealing with complex, unusual, or unfamiliar issues).[70] A firm should also establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures are suitably designed and are being effectively applied.[71]

75. During the period of the violations described above, WP failed to design, implement and maintain appropriately comprehensive and suitably designed quality control policies and procedures in relation to the firm's size [72] and the complexity of its practice. In particular, WP did not have appropriately comprehensive policies and procedures concerning consultations with persons outside of the engagement team.[73] Although WP designated one of its partners as the Technical Partner, it failed to implement specific policies or procedures concerning the Technical Partner's role. Among other things, there were no established procedures to provide reasonable assurance that the Technical Partner was qualified for the consultations he was asked to perform regarding the complex, unusual and unfamiliar issues that arose during the Q3 2015 UDF III review. [74]

76. WP also failed to design, implement and maintain appropriately comprehensive policies and procedures to provide reasonable assurance that its personnel complied with professional standards and regulatory requirements.[75] Many of the violations described above were repeated across multiple years and, in some cases, across multiple audit teams with different partners. Additionally, Powell's failure to

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[69] See QC § 20.17.

[70] See QC § 20.19. Individuals consulted should have appropriate levels of knowledge, competence, judgment, and authority. See id.

[71] See QC § 20.20; Quality Control Standard 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[72] As indicated by the Board's inspection reports, WP grew from having 137 partners and professional staff in 2011 to 248 partners and professional staff by 2015.

[73] See QC § 20.19.

[74] See id.

[75] See QC § 20.17.

adequately consider whether to withdraw the 2013 and 2014 audit reports during the Q3 2015 review resulted, in part, from WP's failure to have sufficiently comprehensive policies and procedures relating to consideration of subsequently discovered information relating to previously issued audit reports. Multiple partners besides Powell and Babb, including partners in WP's leadership, were aware that WP had learned information during the Q3 2015 review that related to UDF III's 2013 and 2014 financial statements. However, WP's QC system failed to include policies or procedures to provide reasonable assurance that the information was actually evaluated with due professional care and in accordance with AU § 561.[76]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Powell is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[77]

B. Pursuant to PCAOB Rule 5302(b), Powell may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

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[76] WP has represented to the Board that, since the events described in this Order, WP established and implemented the following changes to its quality control processes and procedures: (1) WP hired a full-time Director of Quality Control, (2) WP hired a full-time Learning and Development Coordinator, (3) WP assigned a Senior Manager to its quality control function on a half-time basis, and (4) WP amended its quality control policies and procedures relating to consultations and pre-issuance reviews.

[77] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Susan Lunn Powell, CPA. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

C. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for one year following the termination of the bar ordered in paragraph B, Powell's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Powell shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Lawlis is suspended, for one year from the date of this Order, from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act;[78]

E. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for one year following the suspension ordered in paragraph E, Lawlis's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Lawlis shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising

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[78] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act, discussed *supra,* at n.77, will apply with respect to Jeffry Shannon Lawlis, CPA.

authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

F. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two years from the date of this Order, Babb's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Babb shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

1. Whitley Penn LLP, $200,000;

2. Susan Lunn Powell, $25,000;

3. Jeffry Shannon Lawlis, $15,000; and,

4. John Griffin Babb, $10,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay these civil money penalties within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board,

(b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

H. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Powell, Lawlis, and Babb, are required to complete continuing professional education ("CPE") in subjects that are related to the audits of issuer financial statements under PCAOB standards (such hours shall be in addition to, and shall not be counted in, the CPE they are required to obtain in connection with any professional license) as follows:

1. Powell shall complete forty additional hours of CPE before filing any petition for Board consent to associate with a registered public accounting firm, including CPE related to allowances for loan losses and the auditing of related party transactions under PCAOB standards;

2. Lawlis shall complete twenty additional hours of CPE within one year of this Order, including CPE related to allowances for loan losses and the auditing of related party transactions under PCAOB standards; and

3. Babb shall complete ten additional hours of CPE within one year from the date of this Order, including CPE related to allowances for loan losses and the performance of engagement quality reviews under PCAOB standards.

I. Pursuant to Sections 105(c)(4)(F) and (G) of the Act and PCAOB Rules 5300(a)(6) and (9), the Firm shall carry out the following Undertakings:

1. Within 30 days of the date of this Order, WP shall retain and pay the fees and reasonable expenses for an independent consultant acceptable to the PCAOB staff who has experience with, and is knowledgeable concerning, PCAOB auditing and quality control standards ("Independent Consultant") and promptly notify the PCAOB staff of the identity, qualifications, and proposed terms of retention of the Independent Consultant.

2. To ensure the independence of the Independent Consultant, WP: (i) shall not have the authority to terminate the Independent Consultant

or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the PCAOB staff; and (ii) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

3. WP shall cooperate fully with the Independent Consultant and shall provide reasonable access to its personnel, information, and records as the Independent Consultant may reasonably request for the Independent Consultant's evaluation and certification.

4. Within 90 days of this Order, WP will review, evaluate, and implement any necessary enhancements to, WP's quality control policies and procedures applicable to audits and reviews conducted pursuant to PCAOB standards as they relate to the following areas:

    a. consideration of the subsequent discovery of facts existing at the date of the auditor's report;

    b. consultations (including but not limited to determining and documenting the scope of consultations, and the evaluation of such consultations by an EQR partner); and

    c. monitoring (including selection of audits for pre-issuance review, root cause analysis, post-issuance review, or other enhanced monitoring based on engagement risk).

5. *Independent Consultant Certifications*.

    a. Within 90 days of the Independent Consultant being retained, WP will brief the Independent Consultant regarding: (i) WP's review, evaluation and implementation of enhancements to its system of quality control in the areas identified in Paragraph IV.I.4 above, and (ii) how those quality control policies and procedures, and any enhancements to them since the time of the conduct described in this Order, are reasonably designed to ensure that WP system of quality control is appropriately comprehensive and suitably designed in relation to the firm's size, the number of its offices, the degree of authority allowed its personnel and its offices, the knowledge and experience of its personnel, the nature and complexity of the firm's practice, and appropriate cost-benefit considerations.

b. Within 120 days of the Independent Consultant being retained, WP shall require the Independent Consultant to evaluate WP's review, evaluation and implementation of enhancements its system of quality control in the areas identified in Paragraph IV.I.4, above. If, as a result of that evaluation, it appears to the Independent Consultant that any further enhancements to the system of quality control are necessary, it shall recommend such enhancements to WP.

c. Within 180 days of the Independent Consultant being retained, WP shall either, (1) implement any recommendations received from the Independent Consultant, pursuant to Paragraph IV.I.5.b, and have the Independent Consultant certify that WP complied with those recommendations, or (2) communicate to the Director of the Division of Enforcement and Investigations the recommendations of the Independent Consultant that it did not implement, and the reasons for doing so.

d. Pursuant to Section 105(c)(4)(C) of the Act, Whitley Penn shall within twelve months of the date of the Order cause the Independent Consultant to certify in writing to the Director of the Division of Enforcement and Investigations, PCAOB, 1666 K Street N.W., Washington DC 20006, the Firm's compliance with the above paragraphs. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The certification shall include a description of the specific enhancements implemented to WP's system of quality control in the areas identified in Paragraph IV.I.4, above, since the time of the conduct described in the Order. WP shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

e. For good cause shown, the PCAOB staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

f. WP agrees that the Division of Enforcement and Investigations may petition the Board to reopen this matter to determine whether additional sanctions or findings are appropriate if it believes that WP has not satisfied these undertakings.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

March 24, 2020

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS	)	PCAOB Release No. 105-2020-003
In the Matter of Green & Company CPAs, LLC, and Travis J. Green, CPA,	)	April 16, 2020
Respondents.	)	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Green & Company CPAs, LLC ("Green & Company" or "Firm"); and barring Travis J. Green, CPA ("Green") from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings that the Firm and Green (collectively, "Respondents") violated PCAOB rules and standards in connection with the audits of multiple issuer clients.

I.

The Board instituted non-public disciplinary proceedings against Respondents on February 7, 2019.[1] Pursuant to PCAOB Rule 5205, Respondents have each submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Making Findings and Imposing Sanctions ("Order").[2]

[1] Section 105(c)(2) of the Sarbanes-Oxley Act of 2002, as amended, 15 U.S.C. § 7215 (c)(5) ("Act"), provides that litigated disciplinary proceedings shall not be public, "unless otherwise ordered by the Board for good cause shown, with the consent of the parties…." Although the Board found good cause for making the proceedings public, Respondents did not consent, as permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203.

[2] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

II.

On the basis of Respondents' Offers, the Board finds that:[3]

A. Respondents

1. **Green & Company CPAs, LLC** is a limited liability company organized under the laws of the State of Florida and headquartered in Tampa, Florida. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. It is licensed by the State of Florida (License No. AD68626).

2. **Travis J. Green, CPA**, 37, of Lutz, Florida, is a certified public accountant licensed by the State of Florida (License No. AC46652). Green was, at all relevant times, an associated person of a registered public accounting firm as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. Green & Company was the external auditor for 11 issuer audits (Issuer A through Issuer K collectively, "Issuer Audits"). Green was the managing partner and majority owner of the Firm and also served as the partner with final responsibility for each of the Issuer Audits. Green and/or the Firm violated PCAOB rules and standards in conducting the Issuer Audits.

4. First, Respondents violated PCAOB rules and standards in connection with four of the Issuer Audits (Issuer A through Issuer D) by failing to exercise due professional care, including professional skepticism, and failing to obtain sufficient appropriate audit evidence in connection with those audits. In fact, with respect to two of those audits, Green performed virtually no audit work or testing. Second, the Firm violated Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to each of the Issuer Audits, because it failed to obtain concurring approvals of issuance of engagement reports for any of those audits. Green substantially contributed to the Firm's violations of AS 7, thereby violating PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations.* Finally, Respondents failed to assemble a complete and final set of audit documentation for retention as of a date not more than 45 days after the report

[3] The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5) of the Act, which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

release date with respect to each of the Issuer Audits, as required by Auditing Standard No. 3, *Audit Documentation* ("AS 3").[4]

C. Respondent Repeatedly Violated PCAOB Rules and Standards in Connection with Issuer Audits A through D

1. Applicable PCAOB Rules and Standards

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6] PCAOB standards require, among other things, that an auditor exercise due professional care, including professional skepticism, and obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[7]

6. PCAOB standards also state that, in planning an audit, an auditor should, among other things, establish an overall audit strategy for the engagement and develop an audit plan.[8] The auditor should identify and assess the risks of material misstatement at the financial statement level and the assertion level, and design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for

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[4] See AS 3 ¶¶ 14-15.

[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; and PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its rules and auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2016), available on the Board's website.

[6] See AU § 508.07, *Reports on Audited Financial Statements.*

[7] See AU § 150.02, *Generally Accepted Auditing Standards*; AU §§ 230.01, .07-.09, *Due Professional Care in the Performance of Work*; Auditing Standard No. 15, *Audit Evidence* ("AS 15"), ¶ 4.

[8] See Auditing Standard No. 9, *Audit Planning* ("AS 9"), ¶¶ 4-5.

each relevant assertion of each significant account and disclosure.[9] The auditor should also "establish a materiality level for the financial statements as a whole that is appropriate in light of the particular circumstances."[10]

7. PCAOB standards further require that an auditor evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[11] The auditor "should take into account all relevant audit evidence, regardless of whether it appears to corroborate or to contradict the assertions in the financial statements."[12] PCAOB standards also require that, if an auditor has not obtained sufficient appropriate audit evidence about a relevant assertion, the auditor should perform procedures to obtain further audit evidence to address the matter.[13] Finally, PCAOB standards require that the auditor document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[14]

8. Management representations "are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[15] Management representations are "'a complement to other auditing procedures.'"[16]

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[9] See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"), ¶ 59; Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"), ¶¶ 3, 8.

[10] Auditing Standard No. 11, *Consideration of Materiality in Planning and Performing an Audit*, ("AS 11"), ¶ 6.

[11] See Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), ¶ 2.

[12] Id. ¶ 3.

[13] See id. ¶ 35.

[14] See AS 3 ¶¶ 4-9A.

[15] AU § 333.02, *Management Representations*.

[16] *In re Gale Moore, CPA,* PCAOB Rel. No. 105-2012-004 (Final Decision) (August 23, 2016) at 31, *citing S.W. Hatfield, C.P.A.*, SEC Rel. No. 34-69930, 2013 SEC LEXIS 1954, *6 (July 3, 2013).

9. As discussed more fully below, Respondents violated these and other PCAOB standards in performing the audits of Issuer A, Issuer B, Issuer C, and Issuer D.

2. 2014 Issuer A Audit

10. Issuer A was, at all relevant times, a Delaware corporation headquartered in Sarasota, Florida. Issuer A's public filings disclose that, at the time of the audit, it was a development stage company which planned on providing a mix of professional service offerings and proprietary patent-pending software solutions related to managing IT assets.

11. Green & Company issued an audit report dated April 10, 2015, which contained an unqualified audit opinion on Issuer A's financial statements for fiscal year ending ("FYE") December 31, 2014 ("2014 Issuer A Audit"). That report was included in a Form 10-K that Issuer A filed with the U.S. Securities and Exchange Commission ("Commission") on April 15, 2015. Green, the engagement partner, authorized the issuance of the report. The report stated, among other things, that the Firm had "audited the accompanying balance sheets of [Issuer A] as of December 31, 2014, and the related statement of operations, stockholders' deficiency, and cash flows for the year ended December 31, 2014." It also stated that the Firm had conducted the audit "in accordance with the standards of the Public Company Accounting Oversight Board (United States)."

12. In connection with the 2014 Issuer A Audit, Respondents failed to exercise due professional care, including professional skepticism, by failing to plan and perform the audit in accordance with PCAOB standards.[17] Respondents failed to: establish an overall audit strategy for the engagement and to develop an audit plan;[18] establish a materiality level for the financial statements as a whole;[19] determine an amount or amounts of tolerable misstatement;[20] or perform any risk assessment procedures to identify and assess the risks of material misstatement, whether due to error or fraud.[21]

13. Respondents also failed to obtain sufficient appropriate audit evidence concerning a significant account in Issuer A's financial statements. Issuer A reported an investment of approximately $4.8 million, which, at year-end, constituted approximately 99% of Issuer A's assets. But other than obtaining representations from management, Respondents failed to perform any procedures relating to the investment.

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[17] See AU §§ 230.01, .07-.09.

[18] See AS 9 ¶¶ 4-5.

[19] See AS 11 ¶ 6.

[20] Id. ¶¶ 8-9.

[21] See AS 12 ¶ 4.

14. Respondents thus failed to exercise due professional care, including professional skepticism, and obtain sufficient appropriate audit evidence to provide a reasonable basis for the Firm's opinion in connection with the 2014 Issuer A Audit.

3. 2014 Issuer B Audit

15. Issuer B, at all relevant times, was a Delaware corporation headquartered in Englewood, Colorado. Issuer B's public filings disclose that, at the time of the audit, it operated in the juice beverage manufacture and sales industry.

16. Green & Company issued an audit report dated April 15, 2015, which contained an unqualified audit opinion with respect to Issuer B's financial statements for FYE December 31, 2014 ("2014 Issuer B Audit"). That report was included in a Form 10-K that Issuer B filed with the Commission on April 15, 2015. Green, the engagement partner, authorized the issuance of the report. The report stated, among other things, that the Firm had "audited the accompanying balance sheets of [Issuer B] as of December 31, 2014, and the related statement of operations, stockholders' deficiency, and cash flows for the year ended December 31, 2014." It also stated that the Firm had conducted the audit "in accordance with the standards of the Public Company Accounting Oversight Board (United States)."

17. In connection with the 2014 Issuer B Audit, Respondents failed to exercise due professional care, including professional skepticism, by failing to plan and perform the audit in accordance with PCAOB standards.[22] Respondents failed to establish an overall audit strategy for the engagement and to develop an audit plan.[23] Respondents also failed to establish a materiality level for the financial statements as a whole;[24] determine an amount or amounts of tolerable misstatement; or perform any risk assessment procedures to identify and assess the risks of material misstatement, whether due to error or fraud.[25]

18. Respondents also failed to obtain sufficient appropriate audit evidence concerning significant accounts and disclosures in Issuer B's financial statements.[26] Indeed, Respondents failed to perform any procedures relating to Issuer B's reported assets apart from obtaining two bank statements. In addition, other than obtaining representations from management, Respondents failed to perform any procedures

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[22] See AU §§ 230.01, .07-.09.

[23] See AS 9 ¶¶ 4-5.

[24] See AS 11 ¶ 6.

[25] See AS 12 ¶ 4.

[26] See AS 15 ¶¶ 4-6; AS 14 ¶¶ 32-36; AS 13 ¶ 8.

relating to Issuer B's reported liabilities, stockholder's equity, revenue, cost of goods sold and expenses.

19. Respondents thus failed to exercise due professional care, including professional skepticism, and obtain sufficient appropriate audit evidence to provide a reasonable basis for the Firm's opinion in connection with the 2014 Issuer B Audit.

4. 2014 Issuer C Audit

20. Issuer C, at all relevant times, was a Colorado corporation headquartered in Clearwater, Florida. Issuer C's public filings disclosed in its 2014 financial statements that it derived most of its revenues from manufacturing and marketing blast mitigation products, and provided other safety and protective gear for military and police use. Green & Company issued an audit report dated March 27, 2015, on Issuer C's FYE December 31, 2014 financial statements, which expressed an unqualified opinion, with an explanatory going concern paragraph, and was included in Issuer C's Form 10-K filed with the Commission on March 30, 2015 ("2014 Issuer C Audit"). The Firm's audit report stated, among other things, that the audit of Issuer C's 2014 financial statements had been conducted in accordance with PCAOB standards. Green not only served as the engagement partner on the 2014 Issuer C Audit and authorized the issuance of the audit report, but also personally performed all of the audit procedures for the audit.

21. In connection with the 2014 Issuer C Audit, Green failed to exercise due professional care, including professional skepticism,[27] and failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for the audit opinion issued by the Firm.[28]

a. Failure to Perform Procedures to Evaluate the Existence of Inventory for the 2014 Issuer C Audit

22. Issuer C's FY 2014 financial statements reported an inventory balance of $1,348,827, which represented 83% of total current assets and 34% of total assets.

23. Under PCAOB standards, the observation of inventories is a generally accepted auditing procedure.[29] PCAOB standards also note that it is "ordinarily necessary for the independent auditor to be present at the time of [inventory] count and, by suitable observation, tests, and inquiries, satisfy himself respecting the effectiveness of the

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[27] See AU 150.02; AU §§ 230.01, .07-.09.

[28] See AS 15 ¶ 4.

[29] See AU § 331.01, *Inventories.*

methods of inventory-taking…."[30] The independent auditor who issues an opinion when he or she has not performed an inventory observation bears the burden of justifying the opinion expressed.[31]

24. Respondents failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence with respect to Issuer C's inventory at the time of the 2014 Issuer C Audit. No inventory observation procedures were performed, nor was evidence obtained or conclusions reached, to determine whether inventory physically existed in salable condition and represented property held for sale during the 2014 Issuer C Audit.[32]

b. Failure to Obtain Sufficient Appropriate Evidence to Evaluate the Existence and Valuation of Issuer C's Goodwill in 2014

25. As of FYE December 31, 2014, Issuer C reported that its goodwill balance was $2,061,649, which represented 52% of total assets. Issuer C also reported that it had $16,016,905 in accumulated losses. Issuer C further reported that it had operating income of $2,513,801 in 2014. Goodwill is an asset representing the future economic benefits arising from other assets acquired in a business combination that are required to be tested for impairment on, at least, an annual basis. Respondents identified goodwill as a significant audit area.

26. Respondents failed to perform sufficient procedures regarding the existence and valuation of goodwill during the 2014 Issuer C Audit.[33] Specifically, Respondents failed to perform any procedures other than reviewing a trial balance and a one-page transaction report obtained from management. Respondents also obtained management representations that goodwill was not impaired.

c. Failure to Obtain Sufficient Appropriate Evidence to Test Issuer C's Reported Revenue for 2014

27. As of FYE December 31, 2014, Issuer C reported revenue of $5,048,190, which was a 40% increase over revenue reported at FYE December 31, 2013.

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30 Id. ¶ .09.

31 See id. ¶ .01.

32 See AU § 331.01; AU § 150.02; AU §§ 230.01, .07-.09; AS 15.

33 See AS 15 ¶¶ 4, 11; AS 9 ¶¶ 18-19.

Respondents identified revenue as a significant audit area and as a risk of fraud while planning the 2014 Issuer C Audit.

28. During the 2014 Issuer C Audit, Respondents failed to perform sufficient procedures regarding revenue. Despite planning to audit revenue controls in response to the risk of fraud identified during planning, Respondents failed to do so.[34] Respondents also failed to perform any substantive procedures to mitigate the identified fraud risk as required by PCAOB standards,[35] including testing whether revenue throughout the year was properly recorded in conformity with the applicable financial reporting framework in the proper period and was properly valued.[36] The only audit procedure performed by Respondents was cut-off testing for the period December 20, 2014 to January 10, 2015, which consisted of using information produced by Issuer C that had not been tested for completeness and accuracy as required by PCAOB standards.[37]

d. Failure to Perform Journal Entry Testing for 2014 Issuer C Audit

29. In performing the 2014 Issuer C Audit, Respondents violated PCAOB standards due to their failure to design or perform any procedures to test the appropriateness of journal entries or other adjustments recorded in the general ledger and adjustments made in the preparation of the financial statements. Specifically, Respondents failed to examine journal entries and other adjustments for evidence of possible material misstatement due to fraud, including but not limited to, selecting from the general ledger journal entries to be tested and examining support for those items.[38]

5. 2015 Issuer C Audit

30. On April 5, 2016, Green authorized the issuance of the Firm's audit report on Issuer C's FYE December 31, 2015 financial statements, which expressed an unqualified opinion, with an explanatory going concern paragraph, and was included in Issuer C's Form 10-K filed with the Commission on April 6, 2016 ("2015 Issuer C Audit"). The Firm's audit report stated, among other things, that the audit of Issuer C's 2015 financial statements had been conducted in accordance with PCAOB standards.

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34 See AS 13 ¶¶ 12-15.

35 Id. ¶ 11.

36 See AS 14 ¶¶ 30-31; AS 13 ¶¶ 12-15; AS 15 ¶¶ 11-12.

37 See AS 15 ¶ 10.

38 See AU §§ 316.01, .58-.62.

31. Green served as the engagement partner on the 2015 Issuer C Audit and authorized the issuance of the Firm's audit report on the 2015 financial statements of Issuer C.

32. For FYE December 31, 2015, Issuer C reported that its inventory balance was $1,206,222, which represented 52% of total current assets and 26% of total assets. During the 2015 Issuer C Audit, Respondents identified inventory as a significant audit area and significant risk of material misstatement. Yet Respondents failed to perform any procedures to determine whether Issuer C's inventory was properly valued.

33. In connection with the 2015 Issuer C Audit, Green failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for the audit opinion issued by the Firm.

6. 2014 Issuer D Audit

a. Background

34. Issuer D, at all relevant times, was a Nevada corporation headquartered in West Palm Beach, Florida. Issuer D's public filings disclosed that, at the time of the audit, its principal line of business was clinical laboratory blood and urine testing services. It was the Firm's largest issuer client by revenue dollars (approximately $77 million in reported gross revenue) at the time the Firm audited the financial statements of Issuer D for FYE December 31, 2014 ("2014 Issuer D Audit"). On March 6, 2015, Issuer D filed a non-timely Form 10-Q/A for the quarter ending September 30, 2014 with the Commission. Issuer D disclosed in that filing that management had identified a material weakness in internal control over financial reporting, which was reviewed by Issuer D's predecessor auditor. It stated that "[i]nsufficient staffing and accounting processes and procedures [had] led to a lack of contemporaneous documentation supporting the accounting for certain transactions."

35. On March 19, 2015, Issuer D disclosed in a Form 8-K filed with the Commission that its predecessor auditor had resigned as the Company's independent registered public accounting firm effective March 13, 2015. Issuer D also disclosed that its Board of Directors had engaged Green & Company as its independent registered public accounting firm effective March 13, 2015.

36. On April 15, 2015, barely a month later, Green, who served as the engagement partner and supervised the engagement team on the 2014 Issuer D Audit, authorized the issuance of his Firm's audit report, which expressed an unqualified opinion on Issuer D's 2014 financial statements and was included in Issuer D's 2014 Form 10-K, which was filed with the Commission the same day. The Firm's audit report stated, among other things, that the audit of Issuer D's 2014 financial statements had been conducted in accordance with PCAOB standards.

37. As discussed more fully below, in connection with the 2014 Issuer D Audit, Green failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for the audit opinion issued by the Firm.

b. Failure to Perform Sufficient Appropriate Audit Procedures to Test Accounts Receivable During the 2014 Issuer D Audit

38. In its 2014 financial statements, Issuer D reported accounts receivable of $17,463,947 at year-end, which represented 49% of total assets.

39. Respondents identified accounts receivable as a significant risk area, including a risk of material misstatement due to fraud, while planning the 2014 Issuer D Audit. Respondents also indicated during planning for the audit that they would perform cut-off testing and subsequent cash collections testing in response to the identified accounts receivable fraud risk. Despite identifying accounts receivable as a fraud risk, Respondents failed to perform any procedures regarding Issuer D's accounts receivable during the 2014 Issuer D Audit.[39]

c. Failure to Appropriately Evaluate Whether Issuer D Had Omitted Information Essential to the Fair Presentation of its Accounting Policy for Revenue in 2014

40. In its 2014 financial statements, Issuer D reported net revenue of $57,927,820, which was a 38.3% increase over the $41,888,871 in revenue reported at FYE December 31, 2013. Respondents identified revenue as a significant audit area and as a fraud risk while planning the 2014 Issuer D Audit.

41. Issuer D reported in its 2014 financial statements that revenues were recognized at the time testing services were performed and were reported at the estimated net realizable amounts. Green, however, understood at the time of the 2014 Issuer D Audit that Issuer D recognized revenue at the time of billing and not at the time testing services were performed. Despite this understanding, Respondents failed to evaluate whether Issuer D's 2014 financial statements were presented fairly, in all material respects, in accordance with U.S. generally accepted accounting principles.[40]

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[39] See AS 15 ¶ 4; AS 13 ¶¶ 12-15.

[40] See AS 14 ¶ 30-31; AS 15 ¶ 11 (see fifth bullet – *Presentation and Disclosure*).

d. Green Failed to Adequately Supervise Staff on the 2014 Issuer D Audit

42. As the engagement partner, Green was responsible for the 2014 Issuer D engagement and its performance.[41] Green was therefore responsible for proper supervision of the work of engagement team members and for the team's compliance with PCAOB standards.[42] Green was also required to review the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[43]

43. As discussed above, Respondents failed to obtain sufficient appropriate audit evidence in several audit areas. In addition, for each of these areas, Green failed to adequately supervise the staff as required by PCAOB standards. In particular, Green failed to inform the staff about their responsibilities, direct them to bring significant accounting and auditing issues to his attention, or review the work performed by audit staff to evaluate whether work was performed and documented, objectives were achieved, and the results supported the conclusions reached. At least 20 work papers purportedly prepared by members of the engagement team, which Green signed off on as the reviewer or lead partner, actually contained no audit work or were blank templates. For example, the 2014 Issuer D audit work papers indicate that the *PCA-AP-14 Audit Program for Income and Expense*, *Revenue Memo*, *Audit Program for Property*, and *2014 Im[p]airment Test v5*, were prepared by members of the engagement team and approved by Green in spite of the fact that those work papers were templates that did not evidence the performance of any audit procedures.

44. Green also failed, when determining the extent of supervision necessary for engagement team members to perform their work as directed and form appropriate conclusions, to take into account the knowledge, skill, and ability of each engagement team member.[44] Green's failure in this regard was particularly egregious because he staffed the 2014 Issuer D Audit principally with contract auditors who were supervised, at times, by the Firm's sole audit staff employee. This audit assistant, who also performed the revenue testing, had less than two years of experience and virtually no training regarding the auditing of public companies under PCAOB standards. Despite being aware

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[41] Auditing Standard No. 10, *Supervision of the Audit Engagement* ("AS 10"), ¶ 3.

[42] Id.

[43] Id. ¶ 5.

[44] Id. ¶ 6.

of this, Green failed to properly supervise the engagement team members during the 2014 Issuer D Audit.

D. Respondents Violated PCAOB Standards by Granting 11 Issuer Clients Permission to Use the Firm's Audit Reports Without Obtaining Concurring Approvals of Issuance from the Engagement Quality Reviewer for the Issuer Audits

45. PCAOB standards require that an engagement quality review be performed on audit engagements and reviews of interim financial information conducted pursuant to PCAOB standards.[45] PCAOB standards also provide that, in an audit, a firm may grant permission to a client to use an audit report only after an engagement quality reviewer provides concurring approval of issuance.[46]

46. The engagement quality reviewer for 11 Issuer Audits identified in the attached Appendix A, did not provide concurring approval of issuance for any of those reports prior to their issuance. In each instance, the audit was of an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), and Green was aware that the engagement quality reviewer had not provided concurring approval of issuance when he authorized the release of the Firm's audit report for the Issuer Audits. As a result, for each of the Issuer Audits, the Firm violated PCAOB standards by improperly permitting the issuance of an audit report without obtaining concurring approvals of issuance from the engagement quality reviewer.

47. Green, the majority owner and managing partner of the Firm, was the engagement partner for each of the Issuer Audits at all relevant times and was principally responsible for the audits conducted by the Firm. Accordingly, Green had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Green knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7, with respect to the Issuer Audits. As a result, he violated PCAOB Rule 3502.

E. Respondents Violated Audit Documentation Standards For 11 Issuer Audits

48. AS 3 requires that the complete and final set of documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its report ("report

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[45] See AS 7 ¶ 1; see also ¶¶ 9-13.

[46] Id. ¶ 13.

release date").[47] AS 3 also requires that "[p]rior to the report release date, the auditor must have completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report."[48] It also requires that the auditor "document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial assertions. Audit documentation must clearly demonstrate that the work was in fact performed."[49]

49. The Firm's computer records and audit software indicate that the audit work papers for the Issuer Audits were not "archived" or otherwise retained in such a manner that the work papers could not be deleted, or added to, without attribution until January 2017, nearly two years after the report release date for those audits. Respondents thus violated AS 3 by failing to assemble a complete and final set of audit documentation for retention as of a date not more than 45 days after the report release date for any of the Issuer Audits.[50]

III.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Travis J. Green is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[51] and

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[47] See AS 3 ¶¶ 14-15.

[48] Id. ¶ 15.

[49] Id. ¶ 6.

[50] Id. ¶ 15.

[51] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Green. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Green & Company CPAs LLC, is revoked.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 16, 2020

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of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Appendix A

At all relevant times, each of the 11 issuers identified below was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

Issuer	Fiscal Year Ended	Date of Audit Report	Date Financial Statements Filed with Securities and Exchange Commission
1. Issuer A	December 31, 2014	April 10, 2015	April 15, 2015
2. Issuer B	December 31, 2014	April 15, 2015	April 15, 2015
3. Issuer C	December 31, 2014	March 27, 2015	March 30, 2015
4. Issuer D	December 31, 2014	April 15, 2015	April 15, 2015
5. Issuer E	December 31, 2014	March 27, 2015	March 31, 2015
6. Issuer F	December 31, 2014	March 27, 2015	April 3, 2015
7. Issuer G	December 31, 2014	April 10, 2015	April 10, 2015
8. Issuer H	December 31, 2014	May 4, 2015	May 6, 2015
9. Issuer I	December 31, 2014	June 29, 2015	June 30, 2015
10. Issuer J	July 31, 2015	November12,2015	November 13, 2015
11. Issuer K	September 30, 2015	January 13, 2016	January 13, 2016

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2020-004
In the Matter of Ahmed & Associates CPA P.C. and Rizwan Ahmed, CPA,	April 21, 2020
Respondents.	

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is revoking Ahmed & Associates CPA P.C.'s ("Firm") registration,[1] barring Rizwan Ahmed, CPA ("Ahmed") from being an associated person for a registered public accounting firm,[2] and imposing a civil money penalty jointly and severally in the amount of $10,000 upon the Firm and Ahmed (collectively, "Respondents"). The Board is imposing these sanctions on the basis of its findings that: (1) Respondents violated PCAOB rules and standards in connection with the Firm's audits of three issuer audit clients; and (2) Respondents violated PCAOB rules in connection with the Firm's failure to disclose reportable events to the Board on PCAOB Form 3, *Special Report*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings

[1] The Firm may reapply for registration after three (3) years from the date of this Order.

[2] Ahmed may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. **Ahmed & Associates CPA P.C.** is, and at all relevant times was, a professional corporation organized under New York law, and headquartered in New Hyde Park, New York. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and is licensed by the New York State Education Department (license no. 096353). At all relevant times, the Firm was the external auditor for the issuers identified below.

2. **Rizwan Ahmed, CPA** is, and at all relevant times was, a certified public accountant licensed by the New York State Education Department (license no. 099486). At all relevant times, Ahmed was the sole owner of the Firm and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. Ahmed and the Firm violated PCAOB rules and standards with respect to the three audit engagements. Specifically, the Firm failed to comply with AS 1220, *Engagement Quality Review*,[5] with respect to three issuer audit clients

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[3] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. §7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits.

by failing to obtain an engagement quality review of each audit. Further, the Firm failed to disclose certain reportable events to the Board on Form 3 as required by PCAOB rules. Ahmed directly and substantially contributed to each of these violations.

C. Respondents Violated PCAOB Rules and Standards

4. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6]

5. AS 1220 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[7] AS 1220 also provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance.[8]

6. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the [Securities and Exchange] Commission [("Commission")] issued under the Act, or professional standards."[9]

7. As described below, Respondents failed to comply with PCAOB rules and standards.

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[6] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[7] See AS 1220.01.

[8] See id. at .13.

[9] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

Audit of Issuer A's Financial Statements

8. At all relevant times, Issuer A was a New York corporation headquartered in Flushing, New York, and an issuer as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. The Firm served as the auditor of Issuer A's financial statements for the year ended March 31, 2017. The Firm issued an audit report, dated June 22, 2017, which was included in Issuer A's Form 10-K filed with the Commission on June 27, 2017. The Firm improperly permitted the issuance of that report without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 1220.[10]

Audit of Issuer B's Financial Statements

10. At all relevant times, Issuer B was a New York corporation headquartered in Flushing, New York, and an issuer as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

11. The Firm served as the auditor of Issuer B's financial statements for the year ended March 31, 2018. The Firm issued an audit report, dated June 30, 2018, which was included in Issuer B's Form 10-K filed with the Commission on June 29, 2018. The Firm improperly permitted the issuance of that report without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 1220.[11]

Audits of Issuer C's Financial Statements

12. At all relevant times, Issuer C was a Delaware corporation headquartered in New York, New York, and an issuer as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

13. The Firm served as the auditor of Issuer C's financial statements for the years ended December 31, 2017 and December 31, 2018. The Firm issued two audit reports, both dated May 24, 2019, which were included in Issuer C's Form 10-Ks filed with the Commission on May 31, 2019 and June 3, 2019, respectively. The Firm improperly permitted the issuance of those reports without

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[10] See AS 1220.13.

[11] See id.

obtaining engagement quality reviews and concurring approvals of issuance. As a result, the Firm violated AS 1220.[12]

Ahmed Contributed to the Firm's Violations

14. Ahmed, the sole owner of the Firm, was the engagement partner for each of the audits described above. Accordingly, Ahmed had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Ahmed knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 1220, as described above. As a result, he violated PCAOB Rule 3502.

The Firm Failed to Disclose Reportable Events to the Board in Violation of PCAOB Rules and Ahmed Contributed to the Firm's Violation

15. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[13] One such specified event occurs when a firm "has become aware that a partner, shareholder, principal, owner, member, or *audit* manager of the Firm who provided at least ten hours of *audit services* for any *issuer, broker, or dealer* during the Firm's current fiscal year or its most recently completed fiscal year has become a defendant in a criminal proceeding prosecuted by a governmental criminal law enforcement authority and is charged with fraud, embezzlement, forgery, extortion, bribery, obstruction of justice, perjury, or false statements; or charged with any crime arising out of alleged conduct relating to accounting, auditing, securities, banking, commodities, taxation, consumer protection, or insurance" ("Item 2.6 Proceeding").[14]

16. On July 28, 2017, Ahmed was named as a defendant in a criminal proceeding prosecuted by the United States of America, and was charged with theft of government Medicare funds. On August 14, 2018, Ahmed pleaded guilty to the charge of theft of government Medicare funds. The Firm, owned by Ahmed,

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[12] See id.

[13] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[14] PCAOB Form 3, at Item 2.6 (italics in original).

learned of these events at the time they occurred, but no later than August 14, 2018. These events constituted an Item 2.6 Proceeding.

17. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the Item 2.6 Proceeding.

18. Ahmed knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violation of Rule 2203, as described above. As a result, he violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Ahmed is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[15]

B. After three (3) years from the date of this Order, Ahmed may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

C. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of the Firm is revoked;

D. After three (3) years from the date of this Order, the Firm may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

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[15] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Ahmed. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed jointly and severally upon the Firm and Ahmed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies the Firm and Ahmed as Respondents in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***Respondents understand that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm, or any reapplication for registration pursuant to PCAOB Rule 2101***.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

April 21, 2020

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2020-008
In the Matter of HLB Mann Judd, Darryl Swindells, and Aidan Smith,	June 29, 2020
Respondents.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon HLB Mann Judd ("Firm"), Darryl Swindells, and Aidan Smith (collectively, "Respondents"). The Board is:

(1) revoking the registration of HLB Mann Judd[1] and imposing on the Firm a $50,000 civil money penalty;

(2) barring Swindells from being an associated person of a registered public accounting firm[2] and imposing on him a $15,000 civil money penalty;

(3) barring Smith from being an associated person of a registered public accounting firm[3] and imposing on him a $10,000 civil money penalty; and

(4) requiring Swindells and Smith each to complete 40 hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license, before filing a petition for Board consent to associate with a registered firm.

The Board is imposing these sanctions on the basis of its findings that: (a) Respondents violated PCAOB rules and auditing standards in connection with the Firm's audits of an issuer client's financial statements for six fiscal years; and (b) the Firm violated PCAOB rules and quality control standards.

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[1] The Firm may reapply for registration after three years from the date of this Order.

[2] Swindells may file a petition for Board consent to associate with a registered public accounting firm after three years from the date of this Order.

[3] Smith may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offer," collectively "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds[5] that:

A. Respondents

1. **HLB Mann Judd** is a partnership located in Sydney, Australia. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Darryl Swindells** is a registered company auditor registered with the Australian Securities and Investments Commission (registration number 15487) and a chartered accountant licensed by the Institute of Chartered Accountants in Australia and New Zealand. Swindells was a partner of HLB Mann Judd before retiring in December 2019. He served, among other things, on the Firm's Quality Control and Independence Committee, its Risk Management Committee, and its Audit & Corporate Advisory

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[4] The findings herein are made pursuant to the Offers and are not binding on any other person or entity in this or any other proceeding.

[5] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

Divisional Committee. Swindells was also the Nominated Head of Quality Control for the Firm's audit practice, responsible—among other things—for ensuring the Firm had adequate resources to undertake its audit appointments and for compliance by Firm personnel with the Firm's quality control and independence procedures. Swindells is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **Aidan Smith** is a registered company auditor registered with the Australian Securities and Investments Commission (registration number 323195) and a chartered accountant licensed by the Institute of Chartered Accountants in Australia and New Zealand and the Institute of Chartered Accountants of Scotland. Smith is a partner of HLB Mann Judd and serves on the Firm's Audit & Corporate Advisory Divisional Committee. Smith is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer A

4. Issuer A was, at all relevant times, an Australian corporation headquartered in Sydney, Australia. Issuer A's public filings disclose that, at the time of the relevant audits, Issuer A was in the business of installing and optimizing renewable power generation systems and delivering products and services designed to increase the efficiency of climate control and other systems. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. In February 2015, HLB Mann Judd registered with the Board. It did so in order to take on Issuer A as an audit client. Issuer A was the only issuer the Firm ever audited.

6. HLB Mann Judd issued a total of four audit reports for Issuer A. The Firm's first report concerned three years of financial statements—reaudits of Issuer A's fiscal year ("FY") 2012 and 2013 financial statements,[6] as well as an original audit of Issuer A's FY 2014 financial statements.[7] Thereafter, the Firm successively issued three audit

[6] Reaudits of Issuer A's FY 2012 and FY 2013 financial statements were performed after Issuer A's audit committee, following discussions with its prior outside auditor, determined that its previously issued audited financial statements for those fiscal years should no longer be relied upon.

[7] Issuer A's fiscal year ran from July 1 through June 30. Issuer A prepared its financial statements in accordance with International Financial Reporting Standards ("IFRS") as issued by the International Accounting Standards Board.

reports on three years of Issuer A's financial statements: FY 2015, FY 2016, and FY 2017. All four audit reports contained unqualified opinions with going concern paragraphs.

7. Swindells was the engagement partner who authorized the issuance of the Firm's first three audit reports on the Issuer A engagement, and who had final responsibility for the audits of Issuer A's FY 2012 through FY 2016 financial statements. Smith was Swindells' successor on the engagement, served as the engagement partner who authorized the issuance of the Firm's fourth audit report on the Issuer A engagement, and had final responsibility for the audit of Issuer A's FY 2017 financial statements.

8. When HLB Mann Judd accepted Issuer A as an audit client and performed audits of six years of Issuer A's financial statements, the Firm was not in a position to adequately audit issuer clients under PCAOB rules and standards. It failed to (i) train its personnel to perform issuer audits in accordance with PCAOB standards and (ii) staff its audits of Issuer A with auditors qualified and knowledgeable to perform issuer audits in accordance with such standards. The Firm also lacked quality control policies and procedures that addressed the requirements of, or otherwise referenced considerations distinctive to, issuer audits. As a result, the Firm violated PCAOB rules, auditing standards, and quality control standards.

9. Swindells and Smith also violated PCAOB rules and auditing standards in connection with their audits of Issuer A. They did so in connection with three aspects of those audits: client acceptance and continuance; audit planning and performance; and documentation. With respect to audit planning and performance, those deficiencies arose in key areas of the audits: risk assessment for Swindells, and revenue testing and goodwill valuation testing for Swindells and Smith.

D. Respondents Violated PCAOB Rules and Standards

10. PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[8] An auditor may express an unqualified opinion on an issuer's financial

[8] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards* (applicable as of December 31, 2016); PCAOB Rule 3200T, *Interim Auditing Standards* (applicable before December 31, 2016); PCAOB Rule 3400T, *Interim Quality Control Standards*. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (March 31, 2015). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondents' conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[9] PCAOB standards require, among other things, that an auditor plan and perform the audit with due professional care[10] and obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[11]

11. As detailed below, Respondents failed to comply with PCAOB rules and standards.

1. Client Acceptance and Continuance

12. PCAOB auditing standards state that "before starting an initial audit" an auditor should "[p]erform procedures regarding the acceptance of the client relationship and the specific audit engagement."[12] PCAOB auditing standards also require certain procedures at the beginning of an audit, including any subsequent audit of an existing client: "The auditor should perform the following activities at the beginning of the audit: . . . Perform procedures regarding the continuance of the client relationship and the specific audit engagement . . . ."[13]

13. In January 2015, Swindells accepted Issuer A as an audit client on behalf of HLB Mann Judd. Before doing so, however, Swindells failed to adequately consider whether the Firm was professionally competent to audit Issuer A in accordance with applicable PCAOB rules and standards, including whether it had (i) sufficiently qualified and experienced personnel knowledgeable of them and (ii) quality control policies and procedures to provide reasonable assurance of compliance with them.[14] Swindells failed to do so before the Firm's initial audit engagement for Issuer A—the audit of its FY 2014 financial statements ("2014 Audit") and the reaudit of its FY 2012 and FY 2013 financial

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[9] AS 3101.07 (formerly AU § 508), *Reports on Audited Financial Statements*. AS 3101 was subsequently replaced for audits of fiscal years ending on or after December 15, 2017. All references to AS 3101 in this Order are to the version of that standard in effect as of the Board's December 31, 2016 reorganization of its auditing standards.

[10] See AS 1015.01 (formerly AU § 230), *Due Professional Care in the Performance of Work*.

[11] See AS 1105.04 (formerly Auditing Standard No. 15), *Audit Evidence*.

[12] AS 2101.18.a (formerly Auditing Standard No. 9), *Audit Planning*.

[13] AS 2101.06 (footnote omitted).

[14] See id.; see also AS 2101.18.

statements (collectively, the "2012-2014 Audits")—and he also failed to do so before each of the two audits thereafter ("2015 Audit" and "2016 Audit").

14. Swindells undertook to address the question of whether the Firm could audit issuer clients in two work papers completed for the 2012-2014 Audits, each two pages long. The first, titled "Considerations - Audit Report," contained without elaboration the statement: "I know from my work with HLB International's Global Audit Working Group that there are very few differences between US Audit Standards and ASAs [Australian Auditing Standards], therefore we are justified in issuing an audit report under US Standards." The second, titled "Comparison of ISAs [International Standards on Auditing] and PCAOB Standards," referenced versions of PCAOB auditing standards effective before December 15, 2010—not those applicable to the work HLB Mann Judd was performing over four years later as part of the 2012-2014 Audits.

15. Swindells during the 2012 through 2016 Audits used audit programs—work paper templates setting out audit-related procedures and considerations for planning and performing an audit—that referenced Australian Auditing Standards, not PCAOB auditing standards. Swindells did so without adequately considering what, if any, differences relevant to the planning and performance of the audit existed between Australian Auditing Standards and PCAOB standards.

16. Smith similarly failed to perform sufficient client continuance procedures before the Firm's audit of Issuer A's FY 2017 financial statements ("2017 Audit"). Smith failed to consider the Firm's professional competence to audit Issuer A in accordance with applicable requirements before the 2017 Audit. None of the client continuance procedures performed by Smith's engagement team included acknowledgment, let alone evaluation, of auditing standards or quality control policies and procedures that were applicable to issuer audits. As with the previous audits supervised by Swindells, the audit programs used during the 2017 Audit referenced Australian Auditing Standards, not PCAOB auditing standards. Smith failed to consider what, if any, differences relevant to the planning and performance of the audit existed between Australian Auditing Standards and PCAOB auditing standards.

2. Training and Staffing

17. PCAOB auditing standards required the Firm's audits of Issuer A "to be performed by a person or persons having adequate technical training and proficiency as an auditor."[15] The personnel assigned to the Issuer A audits were required to "undergo training adequate to meet the requirements of a professional," which "must be adequate

[15] AS 1010.01 (formerly AU § 210), *Training and Proficiency of the Independent Auditor*.

in technical scope."[16] Moreover, auditors "should be assigned to tasks . . . commensurate with their level of knowledge, skill, and ability so that they can evaluate the audit evidence they are examining."[17] Swindells and Smith, as the engagement partners responsible for the Firm's audits of Issuer A, "should know, at a minimum, the relevant professional accounting and auditing standards."[18]

18. Other than a 20-minute session on "Information/discussion for foreign PCAOB registrants" that Smith attended in 2015, none of the members of the engagement teams assigned to the Firm's audits of Issuer A received training in PCAOB auditing standards before or during those engagements. By failing in its audits of Issuer A to assign personnel with adequate technical training and proficiency in issuer audit work, and failing to exercise due professional care in ensuring the engagement teams had knowledge commensurate with their responsibilities in performing issuer audits, the Firm violated AS 1010 and AS 1015.

3. Audit Deficiencies

Inadequate Risk Assessment

19. PCAOB standards require auditors to perform risk assessment procedures that are sufficient to provide a reasonable basis for identifying and assessing the risks of material misstatement, whether due to error or fraud.[19] Auditors "should presume that there is a fraud risk involving improper revenue recognition and evaluate which types of revenue, revenue transactions, or assertions may give rise to such risks."[20] PCAOB standards state that fraud risks are significant risks.[21]

20. During the 2015 Audit and the 2017 Audit, the engagement team identified a fraud risk and significant risk with respect to revenue. During the 2014 Audit and the 2016 Audit, however, Swindells failed to identify improper revenue recognition as a fraud risk—even though the engagement team's work papers acknowledged such a presumption was required—and failed to document any basis to overcome the

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[16] AS 1010.03.

[17] AS 1015.06.

[18] Id.

[19] See AS 2110.04 (formerly Auditing Standard No. 12), *Identifying and Assessing Risks of Material Misstatement*.

[20] AS 2110.68.

[21] See AS 2110.71.b.

presumption that improper revenue recognition should have been identified as a fraud risk.[22]

Inadequate Revenue Testing

21. In each of the 2014, 2015, 2016, and 2017 Audits, the engagement team identified revenue as a significant account. PCAOB standards require auditors to perform substantive procedures for each relevant assertion of each significant account and disclosure.[23]

22. However, Swindells failed in each of the 2014, 2015, and 2016 Audits to perform any procedures to test revenue beyond a year-over-year comparison of revenue and inquiry of management. In performing these comparisons, Swindells failed to (1) develop an expectation at a sufficient level of precision to provide the necessary degree of assurance that differences that could be potential material misstatements, individually or when aggregated with other misstatements, would be identified for investigation,[24] or (2) establish a threshold for identifying significant differences and evaluate significant unexpected differences requiring further investigation.[25] As a result, the year-over-year revenue comparisons were not substantive analytical procedures, and Swindells failed to obtain sufficient appropriate audit evidence relating to the occurrence and valuation of revenue—that is, whether revenue was recorded in the proper period and in the proper amount—in each of the 2014, 2015, and 2016 Audits. Moreover, because the engagement team in the 2015 Audit identified and assessed a fraud risk relating to revenue, Swindells' failure to perform substantive procedures during the 2015 Audit additionally violated the requirement that an auditor perform substantive procedures, including tests of details, that are specifically responsive to the assessed fraud risk.[26]

23. During the 2017 Audit, Smith and the engagement team identified the occurrence and allocation of revenue as a fraud risk and a significant risk. In FY 2017, Issuer A derived approximately 77 percent of its revenue from one operating segment ("Segment 1"). The majority of Segment 1's revenue (or 66 percent of Issuer A's total revenue) was recognized using the percentage of completion ("POC") method of

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[22] See AS 2401.83 (formerly AU § 316), *Consideration of Fraud in a Financial Statement Audit*.

[23] See AS 2301.36 (formerly Auditing Standard No. 13), *The Auditor's Responses to the Risks of Material Misstatement*.

[24] See AS 2305.17 (formerly AU § 329), *Substantive Analytical Procedures*.

[25] See AS 2305.20-.21.

[26] See AS 2301.11, .13.

accounting.[27] To apply the POC method, some basis or standard for measuring the progress to completion for each contract at particular interim dates is necessary. Issuer A disclosed that its basis for measuring the stage of completion of a project was contract costs incurred to date as a percentage of the estimated total costs for the contract. Issuer A recognized gross revenue from projects in Segment 1 throughout a reporting period based on invoices issued to the customer for amounts specified in the contract with that customer (progress billings). Then, at the end of each reporting period, Issuer A recorded for each project an adjustment to the gross revenue amount to reflect management's calculated stage of completion for that project ("POC Adjustment").

24. To test gross POC revenue from projects in Segment 1, the engagement team selected a sample of revenue transactions recorded in the last three months of FY 2017 and compared the recorded amounts to the amounts specified in customer invoices obtained from Issuer A and in the contracts with those customers. The engagement team also obtained a schedule of projects outstanding at year end in which management calculated the POC Adjustment for each incomplete project using actual costs to date and estimated costs to complete. To test the POC Adjustments at year end, the engagement team selected two projects from the issuer's schedule of outstanding projects and (1) compared the costs to date for each selected project to cost information in reports from the issuer's project management system and (2) made inquiry of Issuer A's management and personnel about its process for estimating costs to complete the selected projects.

25. Smith and the engagement team, however, failed to perform adequate procedures to determine whether revenue was recorded in the proper period and properly valued. First, the engagement team limited its selection of revenue transactions for Segment 1 to sales recorded in the last three months of the year. These selections were not representative of the entire population, as all items in the population did not have an opportunity to be selected.[28] In addition, in its testing of the POC Adjustments recorded at year end, the engagement team failed to perform any procedures to test estimated costs of completion beyond inquiry of management and personnel.[29] Furthermore, the engagement team failed to test the accuracy and completeness of (1) the issuer's schedule of projects outstanding at year end and (2) the system-generated reports of

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[27] See International Accounting Standard ("IAS") 11, *Construction Contracts.* Under IFRS, when the outcome of a construction contract can be estimated reliably, contract revenue and contract costs associated with the construction contract are required to be recognized as revenue and expense respectively by reference to the stage of completion of the contract activity at the end of the reporting period.

[28] See AS 1105.27; AS 2315.24 (formerly AU § 350), *Audit Sampling*.

[29] See AS 2805.02 (formerly AU § 333), *Management Representations*; see also 2501.11 (formerly AU § 342), *Auditing Accounting Estimates*.

costs to date that the engagement team used in testing costs to date for the selected projects.[30]

26. In FY 2017, Issuer A derived approximately 11 percent of its revenue from product sales by its U.S. subsidiary. During the 2017 Audit, Smith failed to perform adequate procedures to test whether revenue relating to this subsidiary was recorded in the proper period and in the proper amount, as the engagement team failed to perform substantive procedures, including tests of details, that were specifically responsive to the assessed fraud risk.[31] The engagement team failed to perform any procedures beyond a year-over-year comparison of product sales revenue and inquiry of management, and that year-over-year comparison—which (like those performed in the previous audits) lacked a sufficiently precise expectation and a threshold for identifying significant differences—was not a substantive analytical procedure.[32]

Inadequate Goodwill Valuation Testing

27. Issuer A reported goodwill relating to one of its operating segments ("Segment 2") in both its FY 2015 and FY 2016 financial statements. As of June 30, 2015 and 2016, Segment 2 goodwill represented approximately 40 percent and 35 percent, respectively, of Issuer A's total assets.

28. Goodwill should be tested for impairment at least annually, and whenever there is an indication that the goodwill may be impaired.[33] Issuer A disclosed that impairment was determined by assessing the recoverable amount, or value-in-use, of Segment 2 as compared to its carrying amount. Issuer A's management prepared an impairment analysis of goodwill allocated to Segment 2 at each fiscal year end that purported to calculate the recoverable amount of Segment 2 using discounted projected cash flows.

29. In both the 2015 and 2016 Audits, Swindells and the engagement teams identified a significant risk relating to the valuation of goodwill. Moreover, Swindells understood that management's calculation of the recoverable amount of Segment 2 was an estimate.

30. In both audits, however, Swindells failed to adequately evaluate the reasonableness of that estimate. Swindells should have used one or a combination of the

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30 See AS 1105.10.

31 See AS 2301.11, .13.

32 See AS 2305.17, .20-.21.

33 See IAS 36, *Impairment of Assets.*

following approaches in evaluating the reasonableness of Issuer A's recoverable amount estimate for Segment 2:

> "a. Review and test the process used by management to develop the estimate.
>
> b. Develop an independent expectation of the estimate to corroborate the reasonableness of management's estimate.
>
> c. Review subsequent events or transactions occurring prior to the date of the auditor's report."[34]

31. Swindells and the engagement teams failed to adequately perform any of these approaches. They understood that management used certain projected amounts—such as the projected number of new and renewing customers each year (megawatts installed), the projected average price per megawatt, and the associated projected cost of sales—as key assumptions in formulating the cash flow projections on which it based its impairment analysis. Swindells and the engagement teams, however, failed to perform adequate procedures to evaluate those assumptions or otherwise test the process for generating those projected amounts.[35] Nor did they develop an independent expectation of the estimated recoverable amount or review subsequent events or transactions to evaluate its reasonableness.

32. Swindells failed to perform adequate procedures even though he communicated in a report to Issuer A's audit committee during each of the 2015 and 2016 Audits that it was "highly likely" that impairment of goodwill for Segment 2 would be required absent significantly better performance in the future than had been achieved in recent years. Swindells also communicated to the audit committee during the 2016 Audit, in connection with Issuer A's valuation of Segment 2's goodwill, that Issuer A had a history of not meeting its forecasts. He was aware that, in its goodwill impairment analysis prepared during the 2015 Audit, Issuer A forecasted FY 2016 revenues of A$7.5 million for Segment 2, but reported only A$2.6 million in such revenue in its FY 2016 financial statements.[36]

33. As of June 30, 2017, goodwill relating to Segment 2 represented approximately 44 percent of Issuer A's total assets. Like Swindells in prior audits, Smith

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[34] AS 2501.10.

[35] See AS 2501.11.

[36] See AS 2501.09 ("The auditor normally should consider the historical experience of the entity in making past estimates as well as the auditor's experience in the industry.")

and the engagement team during the 2017 Audit identified a significant risk relating to the valuation of goodwill.

34. Smith and the engagement team obtained an issuer-prepared impairment analysis relating to Segment 2's goodwill. That analysis calculated the recoverable amount of Segment 2 based largely on cash flow projections. Like Swindells in prior audits, however, Smith failed during the 2017 Audit to adequately evaluate the reasonableness of that recoverable amount estimate. Although Smith, like Swindells in previous audits, identified certain key assumptions as part of management's process in formulating those projections, Smith and the engagement team failed to perform adequate procedures to evaluate those assumptions or otherwise test the process for generating those projected amounts.[37] Smith also failed to test the accuracy and completeness of system-generated reports used to test certain other assumptions.[38] Nor did Smith develop an independent expectation of the estimated recoverable amount or review subsequent events or transactions to evaluate its reasonableness.[39]

35. Smith failed to perform adequate procedures even though (1) he knew that during the 2016 Audit Issuer A had forecasted A$11.5 million in FY 2017 revenue for Segment 2 as part of its goodwill impairment analysis but reported only A$4 million in its FY 2017 financial statements, and (2) he communicated in a report to Issuer A's audit committee during the 2017 Audit that the recoverability of goodwill for Segment 2 depended on significantly better performance in the future and that Issuer A had a history of not meeting its forecasts.[40]

4. Documentation

36. PCAOB auditing standards state: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[41] Swindells and Smith failed to timely assemble final sets of audit documentation for their respective engagements.

37. Engagement teams at HLB Mann Judd used an archiving (or "lock-down") feature in HLB Mann Judd's audit software to assemble final sets of audit documentation.

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37 See AS 2501.11.

38 See id.; AS 1105.10.

39 See AS 2501.10.

40 See AS 2501.09.

41 AS 1215.15 (formerly Auditing Standard No. 3), *Audit Documentation*.

Swindells and Smith did the same in their Issuer A audits. However, they both failed to do so by the applicable documentation completion date. Specifically, Swindells assembled a final set of audit documentation for the 2012-2014 Audits over three months late, for the 2015 Audit one week late, and for the 2016 Audit five months late. Similarly, Smith assembled a final set of audit documentation for the 2017 Audit over three weeks late.

5. Quality Control

38. PCAOB rules and quality control standards require that a registered firm have a system of quality control for its auditing practice.[42] A firm should establish policies and procedures to encompass, among other things, personnel management, acceptance and continuance of clients and engagements, engagement performance, and monitoring.[43] As described below, HLB Mann Judd violated PCAOB quality control standards in several respects.

Client Acceptance and Continuance

39. A firm should establish policies and procedures "for deciding whether to accept or continue a client relationship and whether to perform a specific engagement for that client."[44] These policies and procedures should provide reasonable assurance that the firm "[u]ndertakes only those engagements that the firm can reasonably expect to be completed with professional competence" and "[a]ppropriately considers the risks associated with providing professional services in the particular circumstances."[45]

40. Throughout the time period of the Issuer A audits, the Firm failed to establish and implement policies and procedures necessary to decide whether to accept or continue a client relationship with an issuer and whether to perform a specific engagement for that client. The Firm's policies and procedures, for instance, prescribed two different forms of client acceptance documentation for use by engagement team members—one for audits of entities subject to the reporting requirements of Australia's Corporations Act 2001 ("Corporations Act") and the other for entities not subject to the Corporations Act—but neither reflected, nor otherwise directed the attention of engagement team members to, considerations applicable to audits of issuers. Moreover, HLB Mann Judd's policies assigned to engagement partners the responsibilities to ensure appropriate acceptance and continuance procedures, to determine the nature and extent

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[42] See PCAOB Rule 3400T; QC § 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice.*

[43] See QC § 20.07.

[44] QC § 20.14.

[45] QC § 20.15.

of those procedures, and to determine whether the most recent acceptance or continuance decision remained appropriate for the current audit engagement, but did so without taking steps to ensure that the engagement partners assigned to the Firm's only issuer audit—Swindells and Smith—had sufficient knowledge, experience, training, and proficiency to carry out those responsibilities in connection with an issuer client.

Personnel Management

41. A firm should establish policies and procedures to provide reasonable assurance that, among other things, (1) "[w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances," and (2) "[p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned."[46] A firm's policies and procedures should also provide reasonable assurance that "individuals possess the kinds of competencies that are appropriate given the circumstances of individual client engagements,"[47] and that "a practitioner-in-charge of an engagement possesses the competencies necessary to fulfill his or her engagement responsibilities."[48]

42. Throughout the time period of the Issuer A audits, the Firm failed to establish policies and procedures to provide reasonable assurance that personnel assigned to the Issuer A engagement had the technical training, proficiency, and competencies required to audit an issuer in accordance with PCAOB rules and standards. Moreover, the Firm failed to establish policies and procedures to ensure personnel assigned to Issuer A had proficiency with, and participated in continuing professional education related to, PCAOB standards and relevant regulatory requirements.

Engagement Performance

43. A firm should establish policies and procedures to provide reasonable assurance "that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[49]

44. Throughout the time period of the Issuer A audits, the Firm failed to implement and maintain a system of quality control that would provide it with reasonable

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[46] QC § 20.13; QC § 40.02, *The Personnel Management Element of a Firm's System of Quality Control-Competencies Required by a Practitioner-in-Charge of an Attest Engagement.*

[47] QC § 40.03.

[48] QC § 40.06.

[49] QC § 20.17.

assurance that the work performed by the Issuer A engagement personnel would comply with applicable PCAOB professional standards. As described above, the Firm failed to have in place adequate policies and procedures to provide reasonable assurance that the Firm and its personnel performed and documented their work in accordance with PCAOB auditing standards. Among other things, HLB Mann Judd's deficient system of quality control failed to prevent the repeated failures (1) to plan and perform procedures in compliance with PCAOB standards during the course of the Issuer A audits and (2) to timely archive audit work papers in accordance with PCAOB standards.

Monitoring

45. A firm should establish policies and procedures to provide reasonable assurance that its quality control policies and procedures "are suitably designed and are being effectively applied."[50] Monitoring involves an ongoing consideration and evaluation of, among other things, the (1) "[r]elevance and adequacy of the firm's policies and procedures"; (2) "[a]ppropriateness of the firm's guidance materials and any practice aids"; and (3) "[e]ffectiveness of professional development activities."[51] HLB Mann Judd failed, both at the time it accepted Issuer A as an audit client and throughout the time period of the Issuer A audits, to adequately consider and evaluate whether the Firm's policies and procedures, its guidance materials and practice aids (including audit programs), and its professional development activities were being effectively applied to audits of issuers.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in the Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of HLB Mann Judd is revoked;

B. After three years from the date of this Order, HLB Mann Judd may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Darryl Swindells and Aidan Smith are each barred from being an associated

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[50] See QC § 20.20; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[51] Id.

person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[52]

D. After three years from the date of this Order, Darryl Swindells may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

E. After one year from the date of this Order, Aidan Smith may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

F. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Darryl Swindells and Aidan Smith are each required to complete, before filing a petition for Board consent to associate with a registered firm, forty hours of professional education and training relating to PCAOB auditing standards (such hours shall be in addition to, and shall not be counted in, the continuing professional education each is required to obtain in connection with any professional license); and

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), civil money penalties are imposed in the amounts of $50,000 upon HLB Mann Judd, $15,000 upon Darryl Swindells, and $10,000 upon Aidan Smith. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. HLB Mann Judd shall pay the civil money penalty imposed within ten days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter that identifies the payer as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of said cover letter and money order or check shall be sent to Office of the Secretary,

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[52] As a consequence of the bars, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to both Darryl Swindells and Aidan Smith. Section 105(c)(7)(B) of the Act provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. Pursuant to the same procedures, Darryl Swindells shall pay $3,750 of the penalty within ten days of the issuance of this Order, an additional $3,750 by September 30, 2020, an additional $3,750 by December 31, 2020, and the remaining $3,750 by March 31, 2021. Pursuant to the same procedures, Aidan Smith shall pay $2,500 of the penalty within ten days of the issuance of this Order, an additional $2,500 by September 30, 2020, an additional $2,500 by December 31, 2020, and the remaining $2,500 by March 31, 2021. ***Respondents understand that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm, or any reapplication for registration pursuant to PCAOB Rule 2101.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

June 29, 2020

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Ryan J. Collins, CPA,* Respondent.	PCAOB Release No. 105-2020-009 July 21, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is barring Ryan J. Collins, CPA ("Collins" or "Respondent") from being an associated person of a registered public accounting firm.[1] The Board is imposing this sanction on the basis of its findings that Collins failed to cooperate with a Board inspection in connection with the audit of an issuer.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which is admitted, Respondent consents

[1] Collins may petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. **Ryan J. Collins** is, and at all relevant times was, a certified public accountant licensed by the Indiana Board of Accountancy (license no. CP11300016). Collins was employed by PricewaterhouseCoopers LLP ("PwC") between September 2010 and May 2019. At all relevant times, Collins was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Respondent's failure to cooperate with a Board inspection. Collins was a senior manager for PwC's integrated audit of the financial statements and internal control over financial reporting of an issuer ("Issuer A") for the fiscal year-ended September 30, 2018 ("Audit").[4] As part of the Board's annual inspection of PwC for 2019, Board staff selected the Audit for review ("Inspection"). During field work for the Inspection, Collins: (a) made a misleading statement to the Board's inspectors; and (b) prepared a misleading document that he understood would be presented to the inspectors in response to a specific request from the inspectors. Through his actions and omissions Collins violated his obligation to cooperate with the Board's Inspection.

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] At all relevant times, Issuer A was an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Respondent Violated a PCAOB Rule

Applicable PCAOB Rule

3. PCAOB Rule 4006 provides that "[e]very registered public accounting firm, and every associated person of a registered public accounting firm, shall cooperate with the Board in the performance of any Board inspection." Cooperation includes complying with requests for "any record in the possession, custody, or control of such firm or person" as well as complying with requests to "provide information by oral interviews, written responses, or otherwise." Id. "Implicit in this cooperation requirement is that auditors provide accurate and truthful information" to the Board's inspectors.[5]

Background Related to the Inspection

4. Collins began working on PwC's audit of Issuer A in 2010. Collins worked on each audit of Issuer A for fiscal years 2010 through 2018. Also, Collins participated in two Board inspections of PwC's audits of Issuer A prior to the Inspection.

5. In early-March 2019, Collins learned that the Board would inspect the Audit as part of its annual inspection of PwC. Prior to the beginning of inspection field work, Collins understood that taxes would be one of the focus areas for the Inspection.

Collins Made a Misleading Statement and Provided a Misleading Document to the Board's Inspectors During the Inspection.

6. Inspection field work commenced on April 1, 2019. During field work, the Board's inspectors asked the engagement team questions related to the tax focus area and, specifically, related to transfer pricing.

7. During his preparations for the Inspection, Collins opened the archived work papers for the 2009 audit of Issuer A and found a memo that related to transfer pricing ("2009 Memo").

8. During the evening of April 3, 2019, in an attempt to respond to open questions from the inspectors related to transfer pricing, Collins met with the other members of the engagement team. As part of addressing questions from the Board's inspectors related to transfer pricing, he downloaded the 2009 Memo from the archived 2009 work papers. After downloading the 2009 Memo, Mr. Collins edited the 2009 Memo, which included deleting both the date on the memo and information that was not relevant

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[5] *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), *petition for review denied*, *Kabani & Co., Inc. v. SEC*, 733 Fed. App'x 918 (9th Cir. 2018). See also *Humayoun G. Khan*, PCAOB Rel. No. 105-2019-013 (June 4, 2019).

to the questions of the inspectors. Collins made additional changes to the 2009 Memo the following morning (as modified, the "2019 Memo").

9. Collins and other members of the engagement team for the Audit met with the Board's inspectors during the morning of April 4, 2019. During that meeting, another member of the engagement team used the 2019 Memo to answer questions from the inspectors related to transfer pricing. At some point during that meeting, the other engagement team member provided the 2019 Memo to the inspectors.

10. The inspectors asked what the document was and why it was not dated. Collins responded that the document was from the "2010 audit." Collins did not inform the inspectors that the 2019 Memo was, in fact, prepared the previous day and finalized earlier that same morning, April 4, 2019. Likewise, he did not explain to the inspectors that the 2019 Memo was based on a 2009 work paper, not a 2010 work paper.

11. His decision to tell the inspectors that the document was from 2010, and not from 2009, was intentional. Collins knew that information PwC sent to the Board's inspectors in advance of Inspection field work stated that Collins started working on the Issuer A audit in 2010, and Collins thought it would raise questions if he identified the document as predating his work on the Audit.

12. After the meeting at which Collins provided the inspectors the misleading information about the 2019 Memo, the inspectors asked the Audit engagement partner to provide the original memo from the archived 2010 work papers. The engagement partner asked Collins to send a copy of the original work paper to the engagement partner.

13. Collins understood that the engagement partner would provide that document to the inspectors. Collins went back into the archived 2009 work papers, downloaded a copy of the 2009 Memo, and changed the date on the memo from 2009 to 2010, *i.e.*, to a date that was consistent with his misrepresentation to the Board's inspectors earlier that morning. Collins then sent that document ("Purported 2010 Memo") to the engagement partner. And the engagement partner provided the Purported 2010 Memo to the Board's inspectors.

14. At no time did Collins advise the inspectors that the Purported 2010 Memo was really from the 2009 work papers and that Collins had changed the date on that document on April 4, 2019.

15. By his statements, actions, and omissions, Collins violated his duty to cooperate with the Board's Inspection of the Audit.[6]

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[6] See PCAOB Rule 4006.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Collins is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[7] and

B. After one year from the date of this Order, Collins may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 21, 2020

[7] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Collins. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Liggett & Webb, P.A., James Howard Liggett, CPA, and Derek Martin Webb, CPA,* *Respondents.*	PCAOB Release No. 105-2020-010 August 25, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon Liggett & Webb, P.A. ("L&W" or "Firm"), James Howard Liggett, CPA ("Liggett"), and Derek Martin Webb, CPA ("Webb") (collectively, "Respondents"). The Board is:

(1) censuring L&W and imposing a $20,000 civil money penalty on the Firm;

(2) barring Liggett from being associated with a registered public accounting firm,[1] limiting Liggett's activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for an additional period of one year following the termination of the bar, and imposing a $20,000 civil money penalty on Liggett; and

(3) limiting Webb's activities in connection with any "audit," as that term is defined in Section 110(1) of the Act, for a period of one year and imposing a $10,000 civil money penalty on Webb.

The Board is imposing these sanctions based on its findings that Respondents violated PCAOB rules and standards in connection with the audits of the financial statements of Issuer A for the years ended March 31, 2016 and March 31, 2017 (the "Audits").

[1] Liggett may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act") and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), as set forth below.[2]

III.

On the basis of Respondents' Offers, the Board finds that:[3]

A. Respondents

1. **Liggett & Webb, P.A.** is a professional association organized under the laws of the State of Florida, and headquartered in Boynton Beach, Florida. The Firm is licensed in Florida (License No. AD63352), Georgia (License No. ACF006411), and New York (License No. 101655). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **James Howard Liggett** is a certified public accountant licensed by the New Jersey State Board of Accountancy (License No. 20CC02486800) and the New York

[2] The findings herein are made pursuant to the Offers and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

State Board of Accountancy (License No. 081585). At all relevant times, Liggett was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **Derek Martin Webb** is a certified public accountant licensed by the Florida State Board of Accountancy (License No. AC0030565). At all relevant times, Webb was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

4. This matter concerns Liggett's violations of PCAOB rules and standards in connection with the Audits. Liggett failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence concerning, among other things, transactions between Issuer A and an undisclosed related party ("Distributor").

5. This matter also concerns Webb's violations of AS 1220, *Engagement Quality Review*, while serving as the engagement quality review ("EQR") partner for the Audits.[4] During his EQR, Webb failed to properly evaluate, with due professional care, significant judgments made by Liggett and the engagement team concerning the transactions with Distributor.

6. This matter also concerns the Firm's violations of PCAOB rules and quality control standards by failing to establish quality control policies and procedures sufficient to provide it with reasonable assurance that its personnel would comply with applicable professional standards and the Firm's standards of quality.

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[4] As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017). While Respondents' conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity. With the exception of references to the reorganized numbering, all references to PCAOB rules and standards in this Order are to the versions of those rules and standards in effect at the time of audits discussed herein.

C. Respondents Violated PCAOB Rules and Standards in Connection with the Audits

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on the financial statements of a company only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6]

8. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit.[7] Due professional care requires that the auditor exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[8]

9. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report, including obtaining reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud.[9] Auditors must design and implement audit responses that address the identified and assessed risks of material misstatement.[10] In designing the audit procedures to be performed, the auditor should obtain more persuasive audit evidence the higher the auditor's assessment of risk.[11] Auditors are required to evaluate the results

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards;* PCAOB Rule 3200*, Auditing Standards* (applicable as of December 31, 2016)*;* and PCAOB Rule 3200T, *Interim Auditing Standards* (applicable before December 31, 2016).

[6] See AS 3101.07, *Reports on Audited Financial Statements*.

[7] See AS 1015.01, *Due Professional Care in the Performance of Work*.

[8] See AS 1015.07-.09; AS 2401.13, *Consideration of Fraud in a Financial Statement Audit*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*.

[9] See AS 1105.04, *Audit Evidence*; AS 2401.01, .12.

[10] See AS 2301.03, .08.

[11] See AS 2301.09.

of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[12]

10. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[13] PCAOB standards require a registered public accounting firm to establish policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements and the firm's standards of quality.[14]

11. As detailed below, Respondents failed to comply with the aforementioned rules and standards, among others, in connection with the Audits.

1. Background

12. Issuer A's public filings disclosed that it operated an India-based mobile electronic wallet service used to pay for goods and services from a mobile phone. During the 2016 and 2017 fiscal years, Issuer A's business included purchasing mobile phone minutes at wholesale rates and reselling the minutes to distributors. Issuer A required the majority of its distributors to pay an advance from which Issuer A would draw down as the distributor purchased phone minutes. For a small minority of distributors, Issuer A sold mobile phone minutes on credit.

13. L&W served as the external auditor of Issuer A for the Audits. Liggett was the engagement partner for the Audits and Webb was the EQR partner. Liggett authorized the Firm's issuance of audit reports dated August 19, 2016 and July 6, 2017, expressing unqualified audit opinions. The reports were included with Issuer A's Forms 10-K filed with the Securities and Exchange Commission on August 19, 2016 and July 6, 2017, respectively.

14. Just prior to Issuer A's March 31, 2016 fiscal year-end, Issuer A purportedly sold approximately $4.6 million of mobile phone minutes to Distributor on credit, resulting in a $4.6 million receivable at year-end (the "Distributor Receivable"). As of March 31, 2016, the Distributor Receivable made up ninety-three percent of Issuer A's accounts receivable, fifty-four percent of its total current assets, and fifteen percent of the

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[12] See AS 2810.02, .33, *Evaluating Audit Results*.

[13] PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards.*

[14] See QC § 20.17, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

company's total assets. The Distributor Receivable also drove a 622 percent increase in Issuer A's receivable balance from year-end 2015.

15. Two months after Issuer A's fiscal 2016 year-end, during L&W's audit of Issuer A's 2016 financial statements, and while the Distributor Receivable was still outstanding, Issuer A management emailed Liggett and another member of the engagement team to inform them of Issuer A's intent to acquire Distributor "in the next two weeks." Attached to the email was a draft memorandum concerning the accounting for the proposed acquisition. Embedded in the draft memorandum attachment was a draft acquisition agreement between Issuer A and Distributor, as well as other supporting documents. The draft acquisition agreement identified the owners of Distributor as family members of, and businesses controlled by, managers and directors of Issuer A's Indian operations. Liggett did not review the draft acquisition agreement.

16. Issuer A's acquisition of Distributor closed on July 20, 2016 (the "Acquisition"). Under the terms of the Acquisition, Issuer A, among other things, was to receive more than five percent of Issuer A stock purportedly owned by Distributor in exchange for forgiveness of the outstanding Distributor Receivable.

17. In November 2016, as part of L&W's review of Issuer A's second quarter financial statements, Issuer A management provided Liggett and other members of the L&W engagement team with a revised memorandum describing the company's accounting for the Acquisition. Embedded in the updated memorandum was a copy of the executed acquisition agreement. Liggett failed to review the executed acquisition agreement either during the second quarter review or the 2017 fiscal year-end audit.

2. Liggett Failed to Obtain Sufficient Appropriate Evidence Concerning the Distributor Receivable During the 2016 Audit

18. During the 2016 audit, Liggett identified a fraud risk related to management recording fictitious receivables and also identified a significant risk of "overstatement" for Issuer A's accounts receivable balance, but failed to exercise due professional care, including professional skepticism, when performing audit procedures over that account.[15] He failed to gather sufficient appropriate audit evidence to determine whether the Distributor Receivable was properly valued.[16] Although Liggett understood while conducting the 2016 audit that the Distributor Receivable remained unpaid months after the fiscal 2016 year-end and that Issuer A planned to acquire Distributor in order to settle

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[15] See AS 1015.01, .07-.09; AS 2301.03, .08.

[16] See AS 1105.04.

the Distributor Receivable, Liggett failed to read the draft acquisition agreement or inquire as to the status of the acquisition at any point during the 2016 audit.

19. In addition, although the Distributor Receivable was a significant unusual transaction due to its size and nature, Liggett failed to perform sufficient procedures in evaluating the receivable.[17] For example, Liggett failed to review the documentation underlying the 2016 sales to Distributor and he failed to evaluate Distributor's financial capability with respect to its obligations to repay the Distributor Receivable. He also failed to evaluate whether Issuer A's proffered business purpose for the sales to Distributor indicated that Issuer A might be engaged in fraudulent financial reporting or concealing the misappropriation of assets.[18]

20. Finally, Liggett failed to obtain sufficient appropriate audit evidence to determine whether related parties and relationships and transactions with related parties, including the Distributor Receivable, were properly identified, accounted for, and disclosed in the financial statements.[19] Specifically, Liggett identified that Distributor shared a similar company name with another company disclosed by Issuer A in its public filings as wholly owned by, and holding Issuer A shares on behalf of, a beneficial owner of greater than 5 percent of Issuer A stock. Liggett also understood, based on management representations during the 2016 audit, that Distributor purportedly owned more than 5 percent of Issuer A's stock. Despite this information, Liggett failed to perform procedures, beyond inquiry of management, to determine whether the Distributor Receivable was properly presented and disclosed in the financial statements for the period ended March 31, 2016 as a related party transaction.[20]

3. Liggett Failed to Obtain Sufficient Appropriate Evidence Concerning the Acquisition During the 2017 Audit

21. During the 2017 audit, Liggett failed to exercise due professional care, including professional skepticism, and failed to gather sufficient appropriate audit evidence concerning the Acquisition.[21] Although Liggett received a memorandum from

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17 See AS 2401.66-67A.

18 See id. at .67.

19 See AS 2410.02, *Related Parties*.

20 See id. at .15.

21 See AS 1015.01, .07-.09; AS 1105.04.

Issuer A management detailing the company's accounting for the Acquisition, in which a copy of the executed acquisition agreement was embedded, Liggett neither retained the memorandum in the audit work papers nor reviewed the executed agreement. He failed to perform any other procedures to test the Acquisition.

22. Although the Acquisition was a significant transaction outside the normal course of Issuer A's business, Liggett failed to perform the required procedures for significant unusual transactions.[22] He failed to review the documentation underlying the Acquisition and he failed to evaluate Distributor's financial capability with respect to its obligations under the acquisition agreement. For instance, Liggett and the engagement team failed to verify that Distributor actually held the shares of Issuer A stock that it was supposed to return to Issuer A in exchange for forgiveness of the Distributor Receivable. He also failed to evaluate whether Issuer A's proffered business purpose for the Acquisition indicated that Issuer A might be engaged in fraudulent financial reporting or concealing the misappropriation of assets.

23. Finally, Liggett failed to obtain sufficient appropriate audit evidence to determine whether related parties and relationships and transactions with related parties, including the Acquisition, were properly identified, accounted for, and disclosed in the financial statements.[23] Similar to the 2016 audit, Liggett was aware of the same information indicating Distributor might be a related party. Yet Liggett again failed to perform procedures, beyond management inquiry, to determine whether the Acquisition was, in fact, a related party transaction.[24]

4. Webb Failed to Perform His Engagement Quality Reviews for the Audits with Due Professional Care

24. An EQR is required for all audits conducted pursuant to PCAOB standards.[25] The standards provide that a firm may grant permission to an audit client to use the firm's audit report only after the EQR partner provides concurring approval of issuance of the report.[26]

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[22] See AS 2401.66-67A.

[23] See AS 2410.02, .15.

[24] See id. at .15.

[25] See AS 1220.01.

[26] See id. at .13.

25. The EQR partner is responsible for evaluating the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report, if a report is to be issued.[27] In an audit, the EQR partner is responsible for evaluating the engagement team's responses to significant risks identified by the team and the EQR partner.[28] The EQR partner should also evaluate whether the documentation that he or she reviewed when performing such procedures supports the conclusions reached by the engagement team with respect to the matters reviewed.[29] The EQR partner must perform his or her responsibilities with due professional care, including professional skepticism.[30] The documentation of an EQR should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the EQR partner, including the documents reviewed by the EQR partner.[31]

26. During the 2016 audit, the engagement team identified a fraud risk related to management recording fictitious receivables and also identified a significant risk of "overstatement" for Issuer A's accounts receivable.[32] The team's planned audit response to these significant risks was to test subsequent receipts, send out confirmations, and ascertain the adequacy of the allowance for bad debts.

27. While serving as the EQR partner for the 2016 audit, Webb failed to adequately evaluate the engagement team's response to the significant risks identified by the engagement team related to Issuer A's accounts receivable. Specifically, Webb failed to obtain an understanding of what, if any, procedures had been performed by the engagement team to evaluate the adequacy of the allowance for bad debts with respect to the Distributor Receivable.

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[27] See id. at .09.

[28] See id. at .10(b).

[29] See id. at .11.

[30] See id. at .12; AS 1015.07-.09.

[31] See AS 1220.19.

[32] See AS 2110.71b, *Identifying and Assessing Risks of Material Misstatement* ("fraud risk is a significant risk").

28. In addition, the work papers did not include any documentation of the engagement team's consideration of whether an allowance for bad debt was necessary. Webb failed to adequately evaluate whether the engagement documentation he reviewed indicated that the engagement team responded appropriately to the significant risks they had identified relating to Issuer A's accounts receivable and supported the conclusions reached by the engagement team with respect to those risks.[33]

29. During the 2017 audit, the engagement team identified a significant risk concerning the equity account. The Acquisition materially affected Issuer A's equity account by purportedly requiring Distributor to transfer more than five percent of Issuer A stock back to Issuer A.

30. While serving as the EQR partner for the 2017 audit, Webb failed to adequately evaluate the engagement team's response to the significant risk related to the equity account. Specifically, he failed to obtain an understanding of what procedures were performed by the engagement team to test the Acquisition, including whether the engagement team had obtained an understanding of the business purpose of the transaction.

31. In addition, the work papers did not contain adequate documentation of audit procedures performed by the engagement team regarding the Acquisition. Webb therefore failed to adequately evaluate whether the engagement documentation he reviewed indicated that the engagement team responded appropriately to the significant risk they had identified relating to Issuer A's equity account and supported the conclusions reached by the engagement team with respect to that risk.[34]

32. During both of the Audits, Webb also failed to properly document his EQR because he did not identify any of the specific documents he reviewed.[35] As such, Webb's documentation failed to comply with the requirements of AS 1220.[36]

5. The Firm Violated PCAOB Standards Related to Quality Control

33. Throughout the relevant time period, the Firm violated PCAOB quality control standards because it failed to maintain an adequate system of quality control. As

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33 See AS 1220.11.

34 Id.

35 Id. at .19.

36 Id.

described above, the Firm failed to have in place adequate policies and procedures to provide reasonable assurance that the work performed by its engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality.[37] Among other things, the Firm's deficient system of quality control resulted in Firm personnel repeatedly failing to perform procedures necessary to comply with PCAOB standards during the Audits such as failing to: (i) exercise due professional care; (ii) perform the required procedures for significant unusual transactions; and (iii) obtain sufficient appropriate audit evidence to determine whether related parties and relationships and transactions with related parties, including the Acquisition, were properly identified, accounted for, and disclosed in the financial statements.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Liggett & Webb, P.A. is hereby censured.

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), James Howard Liggett is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[38]

C. Pursuant to PCAOB Rule 5302(b), James Howard Liggett may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

D. If James Howard Liggett is permitted to associate once again with a registered public accounting firm, pursuant to Section 105(c)(4)(C) of the

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[37] QC § 20.17.

[38] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to James Howard Liggett. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Act and PCAOB Rule 5300(a)(3), for one year following the termination of the bar ordered in paragraph B, his role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: James Howard Liggett shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

E. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date of this Order, Derek Martin Webb's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Derek Martin Webb shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

1. Liggett & Webb, P.A., $20,000;

2. James Howard Liggett, $20,000; and

3. Derek Martin Webb, $10,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay these civil money penalties within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***By consenting to this Order, James Howard Liggett acknowledges that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

August 25, 2020

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of Jones Simkins LLC, Michael C. Kidman, CPA, and Mark E. Low, CPA,

Respondents.

PCAOB Release No. 105-2020-011

September 15, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon Jones Simkins LLC ("JS" or the "Firm"), Michael C. Kidman ("Kidman"), and Mark E. Low ("Low") (collectively, "Respondents"). The Board is:

(1) revoking the registration of JS,[1] a registered public accounting firm, and, in the event that the Board grants any future registration application by the Firm, requiring the Firm to undertake certain remedial measures, as described in Section IV of this Order, and imposing a $10,000 civil money penalty on JS;

(2) barring Kidman from being associated with a registered public accounting firm,[2] imposing a $10,000 civil money penalty on Kidman, and requiring Kidman to complete forty (40) additional hours of continuing professional education ("CPE") before filing any petition for Board consent to associate with a registered public accounting firm; and

(3) barring Low from being associated with a registered public accounting firm,[3] imposing a $10,000 civil money penalty on Low, and requiring Low to complete forty (40) additional hours of CPE before filing any petition for Board consent to associate with a registered public accounting firm.

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[1] The Firm may reapply for registration after two years from the date of this Order.

[2] Kidman may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

[3] Low may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

The Board is imposing these sanctions on the basis of its findings that: (a) the Firm violated PCAOB rules and quality control standards; (b) Kidman violated PCAOB rules and standards in connection with the integrated audits of an issuer, and (c) Low violated PCAOB rules and standards in connection with the integrated audits of an issuer.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds[5] that:

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[4] The findings herein are made pursuant to the Offers and are not binding on any other person or entity in this or any other proceeding.

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

A. Respondents

1. Jones Simkins LLC is a limited liability company organized under the laws of the State of Utah, and headquartered in Logan, Utah. The Firm is licensed by the Utah Board of Accountancy (Lic. No. 112668-2603). On April 2, 2013, the Firm succeeded to the registration status of its predecessor firm, Jones Simkins, P.C., which registered with the Board on October 16, 2003, pursuant to Section 102 of the Act and PCAOB rules.

2. Michael C. Kidman is a certified public accountant licensed by the Utah Board of Accountancy (Lic. No. 148725-2601). At all relevant times, Mr. Kidman was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. Mark E. Low is a certified public accountant licensed by the Utah Board of Accountancy (Lic. No. 272099-2601). At all relevant times, Mr. Low was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer

4. Issuer A was, at all relevant times, a Utah corporation. Issuer A's public filings disclosed that, at all relevant times, it was in the business of providing medical devices that were predominantly proprietary, disposable and for hospital use. Its common stock was registered, at all relevant times under Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act"). It was, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the integrated audits of Issuer A, for the years ending December 31, 2015 through December 31, 2017. Specifically, Kidman and Low, while serving as engagement partners, repeatedly violated PCAOB rules and standards by failing: (a) in the 2015 through 2017 internal control over financial reporting ("ICFR") audits, to adequately evaluate whether Issuer A's ICFR was effective; and (b) in the 2015 and 2016 financial statement audits, to perform sufficient procedures regarding inventory.

6. In the audit reports for each of the three integrated audits of Issuer A, the Firm expressed an unqualified audit opinion on Issuer A's financial statements and Issuer A's ICFR. These audit reports stated that the Firm's integrated audit was conducted in accordance with

PCAOB standards, that the company's financial statements were fairly presented in all material respects in conformity with U.S. Generally Accepted Accounting Principles ("GAAP"), and that the company maintained effective ICFR based on criteria established in *Internal Control – Integrated Framework* (1992) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). As detailed below, Kidman and Low failed to perform sufficient audit procedures in connection with the issuance of these audit reports in violation of PCAOB rules and auditing standards.

7. Additionally, this matter concerns Kidman and Low's violations of AS 1220, *Engagement Quality Review*,[6] while serving as the engagement quality review ("EQR") partner for the Firm's audits of Issuer A. Kidman was the EQR partner for Issuer A's FY 2015 integrated audit, and Low was the EQR partner for Issuer A's FY 2016 and 2017 integrated audits. In performing these EQRs, Kidman and Low provided their concurring approvals of issuance despite being aware of significant engagement deficiencies. As a consequence, Kidman and Low failed to perform their reviews of the Firm's audits of Issuer A with due professional care.

8. This matter also concerns the Firm's violations of PCAOB rules and quality control standards in connection with the Firm's 2015 through 2017 audits, including after the PCAOB staff brought ICFR and other auditing concerns to the Firm's attention during two inspections. In connection with these audits, the Firm failed to: (a) maintain a system of quality control sufficient to give the Firm reasonable assurance that engagement teams performed issuer audits and reviews in accordance with applicable professional standards, regulatory requirements, and PCAOB auditing standards related to ICFR, and (b) establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures were suitably designed and were being effectively applied.

D. Background

9. JS was Issuer A's external auditor for multiple years, including for the years ending December 31, 2015 through December 31, 2017. Low was the engagement partner for

[6] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondents' conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

the integrated audit of Issuer A for the year ending December 31, 2015 and the EQR partner for the integrated audits for the years ending December 31, 2016 through 2017. Kidman was the engagement partner for the integrated audits of Issuer A for the years ending December 31, 2016 through 2017 and the EQR partner for the integrated audit of Issuer A for the year ending December 31, 2015.

10. In each of Issuer A's Forms 10-K filed with the Commission for the 2015 through 2017 audits, management included its annual ICFR report pursuant to Section 404(a) of the Act and represented that it had assessed the effectiveness of the company's ICFR under the criteria set forth by the 1992 COSO framework.

11. As Kidman and Low were aware during the 2015 through 2017 audits, Issuer A's internal control was highly dependent on the company's enterprise resource planning ("ERP") system. The ERP system included a general ledger module, which collected, stored, and processed all accounting data used to prepare Issuer A's financial statements. The ERP system was also used for operational processes, including inventory management. Indeed, virtually all of Issuer A's key controls were either reliant on data and reports generated by the ERP system or directly performed by the ERP system as automated controls.

12. Kidman and Low knew the ERP system presented an additional risk to Issuer A's ICFR because management had the ability to modify the application source code. Specifically, they knew that management had the ability to change the underlying rules and specifications that controlled how the ERP system functioned. A modification of the source code could impact the effectiveness of automated controls or the accuracy and completeness of system-generated data and reports.

13. In each of the 2015 through 2017 integrated audits, the engagement team tested the effectiveness of information technology general controls ("ITGCs") for the ERP system. ITGCs apply to a company's IT environment and help ensure the integrity of programs, data files, and IT operations. Even though the engagement team considered the ERP system to be highly important to Issuer A's ICFR, they determined that it was not necessary for a person with specialized IT skill or knowledge to participate in the ITGC testing or any other area of the audit.

i. Prior to the 2015 Audit, Respondents Received Notice from PCAOB Inspection of Potential Issues Specific to the Audit of Issuer A

14. In connection with an October 2015 inspection of the Firm, the PCAOB inspection staff brought to the Firm's attention apparent failures by the engagement team concerning the audit of Issuer A's 2014 financial statements and ICFR. Specifically, the

inspection staff informed the Firm that it had failed to comply with PCAOB standards because its audit procedures to evaluate certain ITGCs for the ERP system were limited to inquiry only. Inspection staff also informed the Firm that it had failed to comply with PCAOB standards because it had not sufficiently evaluated the reliability of Issuer A's inventory cycle count process.[7]

15. During the 2015 inspection, the PCAOB inspection staff concluded that, because the Firm had not sufficiently evaluated the effectiveness of ITGCs in the ERP system, the Firm had no basis to conclude that cycle counts produced results substantially the same as a full inventory count. In October 2015, Low agreed with the inspection staff's finding that the engagement team relied on inquiry alone to test the ITGCs of the ERP system.

16. Despite being on notice that the Firm's 2014 ICFR audit failed to comply with PCAOB standards, the Firm did not modify its planned procedures for the 2015 integrated audit of Issuer A, which commenced in December 2015, approximately two months after the inspection.

17. As described below, the Firm failed to comply with PCAOB standards in connection with subsequent audits of Issuer A.

E. Kidman and Low Violated PCAOB Rules and Standards in Connection with the 2015 Through 2017 Audits of Issuer A

18. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[8] An auditor is in a position to express an unqualified opinion on an issuer's financial statements when the auditor has

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[7] In contrast to a full physical inventory count, where a company counts all inventory items simultaneously, a cycle count process involves counting a small subset of inventory on a continuous basis so that each item of inventory is subjected to a count over a certain period. To conduct reliable cycle counts, a company must have reliable controls. Issuer A's cycle count process relied heavily on the ERP system, which managed the company's perpetual inventory records and tracked the results of each cycle count.

[8] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for fiscal years ending before December 31, 2016); and PCAOB Rule 3200, *Auditing Standards* (applicable to audits for fiscal years ending on or after December 31, 2016).

conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[9] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[10]

19. Section 404 of the Act requires company management to assess and report on the effectiveness of internal control. The Act also requires a company's independent auditor to attest, in certain circumstances, to management's disclosures regarding the effectiveness of internal control. Effective internal control provides reasonable assurance regarding the reliability of financial reporting and the preparation of the financial statements for external purposes.[11] However, a company's internal control cannot be considered effective if one or more material weaknesses in internal controls exist.[12]

20. PCAOB standards provide that, after forming an opinion on the effectiveness of the company's ICFR, the auditor should evaluate the presentation of the elements that management is required, under the SEC's rules, to present in its annual report on ICFR.[13] If the auditor determines that any required elements of management's annual report on ICFR are incomplete or improperly presented, the auditor should modify his or her report to include an explanatory paragraph describing the reasons for this determination.[14]

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[9] See AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion* (applicable to audits for fiscal years ending on or after December 15, 2017); AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending before December 15, 2017); see also AS 2201.85D, *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements* (ICFR report must state that audit was conducted in accordance with PCAOB standards).

[10] See AS 1015.01, *Due Professional Care in the Performance of Work*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*, and AS 1105.04, *Audit Evidence*.

[11] AS 2201.02.

[12] Id. at .03.

[13] Id. at .72.

[14] Id. at .73, .C2.

21. When using information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by both: (a) "[t]est[ing] the accuracy and completeness of the information, or test[ing] the controls over the accuracy and completeness of that information"; and (b) "[e]valuat[ing] whether the information is sufficiently precise and detailed for purposes of the audit."[15]

22. Further, while management representations are part of the evidential matter the auditor obtains, they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit.[16] If management representations are contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made and, based on the circumstances, consider whether his reliance on management's representations relating to other aspects of the financial statements is appropriate and justified.[17]

23. PCAOB standards also provide that, if an auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the financial statements as a whole are free of material misstatement, the auditor should express a qualified opinion or a disclaimer of opinion.[18]

24. PCAOB standards require that in circumstances when an issuer develops inventory controls or methods of determining inventories that make an annual physical count of each item unnecessary, the auditor must satisfy himself that the client's procedures or methods are sufficiently reliable to produce results substantially the same as those which would be obtained by a count of all items each year.[19]

25. As described below, Kidman and Low failed to comply with these PCAOB rules and standards in connection with the integrated audits of Issuer A.

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[15] AS 1105.10.

[16] See AS 2805.02, *Management Representations*.

[17] Id. at .04; see also AS 2201.75-.77 (requirement to obtain written representations in an ICFR audit).

[18] See AS 2810.35; see also AS 3105.05-.09, *Departures from Unqualified Opinions and Other Reporting Circumstances* (containing requirements regarding audit scope limitations).

[19] See AS 2510.11, *Auditing Inventories*.

i. Integrated Audit of Issuer A's 2015 Financial Statements

26. The Firm issued separate audit reports dated March 3, 2016, containing unqualified audit opinions on the 2015 financial statements and ICFR of Issuer A. Low, as the engagement partner, authorized the Firm's issuance of the audit reports, and Kidman, as the EQR partner, provided concurring approval of issuance of the audit reports. The audit reports were included in Issuer A's Form 10-K filed with the Commission on March 10, 2016.

27. As part of the integrated audit, Low identified 36 relevant ITGCs for the ERP system. In testing 33 of these ITGCs for effectiveness, Low failed to perform any procedures other than inquiries of management.[20] Given the critical importance of the ERP system, Low thereby failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for his opinion on the effectiveness of Issuer A's ICFR.[21]

28. Issuer A's 2015 financial statements reported inventories of $4.2 million at year-end, approximately 7% of total assets, and income before taxes of $15.5 million. Low performed procedures regarding these inventories by observing Issuer A perform four inventory cycle counts near year-end. In total, these cycle counts comprised approximately $100,000 of inventory, or 3% of the account balance subject to audit. These procedures were inadequate, however, because Low failed to obtain sufficient appropriate audit evidence to support reliance on controls. [22]

29. First, Low failed to reasonably satisfy himself that Issuer A's cycle counts produced results substantially the same as a full count of all inventory items. Indeed, he relied on the effectiveness of ITGCs within the ERP system to produce accurate and complete cycle count information during the entire year, but failed to sufficiently test these controls by only performing inquiries of management.[23]

30. Second, Low and the engagement team failed to select a sample of inventory items that was representative of the entire inventory population.[24] Their audit sample consisted only of a small subset of items pre-selected by the company for the cycle counts they

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20 See AS 2201.50, note.

21 See AS 1105.04; AS 2201.71.

22 See AS 1105.04; AS 2301.08.

23 See AS 2510.11; AS 1105.10; AS 2301.16.

24 See AS 2315.24.

observed. This approach excluded the majority of Issuer A's inventory from an opportunity to be selected for testing and did not provide a basis for extrapolation of the results to the remaining inventory items. Moreover, Low failed to adequately consider whether the audit sample was appropriate in these circumstances, such as by testing the logic of the queries or the parameters within the ERP system used to make the cycle count selections.[25]

31. Low also failed to adequately evaluate the presentation of management's annual ICFR report filed in Issuer A's Form 10-K, which stated that the company had maintained effective ICFR as of December 31, 2015 under the 1992 COSO framework.[26] Other than obtaining management representations, Low failed to obtain any evidence that management had, in fact, performed an evaluation of the effectiveness of the company's ICFR as of December 31, 2015 under the 1992 COSO framework.[27] Indeed, the audit evidence obtained by Low suggested that management had not evaluated Issuer A's ICFR based on any established control framework.[28]

ii. Integrated Audit of Issuer A's 2016 Financial Statements

32. The Firm issued separate audit reports dated March 6, 2017, containing unqualified audit opinions on the 2016 financial statements and ICFR of Issuer A. Kidman, as the engagement partner, authorized the Firm's issuance of the audit reports. Low, as the EQR partner, provided concurring approval of issuance of the audit reports. The audit reports were included in Issuer A's Form 10-K filed with the Commission on March 8, 2017.

33. Kidman failed to perform the 2016 integrated audit in accordance with PCAOB standards. Indeed, at the time he authorized the issuance of the Firm's audit reports, Kidman knew that he and the Firm had not yet fully remediated the audit violations identified by the PCAOB more than a year earlier. Further, although Kidman had taken steps in response to the

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[25] See AS 2315.17.

[26] See AS 2201.72.

[27] See AS 2805.02.

[28] See AS 2805.04; see also 17 C.F.R. § 240.13a-15(c) ("The framework on which management's evaluation of the issuer's internal control over financial reporting is based must be a suitable, recognized control framework that is established by a body or group that has followed due-process procedures, including the broad distribution of the framework for public comment.").

PCAOB inspection to alter the nature, timing, and extent of the Firm's audit procedures, these procedures still failed to comply with PCAOB auditing standards.

34. Kidman failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for their opinion on the effectiveness of Issuer A's ICFR.[29] Specifically, he failed to adequately evaluate the effectiveness of the ERP system's ITGC over change management.[30] Kidman evaluated a control that the CEO reviewed a log of all changes to the ERP system's source code on a weekly basis. Kidman and the engagement team obtained oral representations from Issuer A's CEO and IT Programmer that (a) the CEO performed his reviews as designed, and (b) no changes were made to the source code in 2016 that affected the general ledger. Although not retained in the audit documentation, Kidman and the engagement team also obtained a handwritten "change log" that purportedly listed all modifications made to the ERP system source code during 2016, but as they were aware, this did not provide reliable audit evidence. Indeed, other than obtaining oral representations from the IT Programmer, Kidman failed to perform any procedures, such as directly inspecting the ERP system's source code, to test the accuracy or completeness of the change log, or the controls over the accuracy and completeness of the change log.[31]

35. Issuer A's financial statements reported inventories of $4.5 million at year-end, approximately 6% of total assets, and income before taxes of $16.4 million. Kidman and the engagement team tested these inventories by observing Issuer A perform four inventory cycle counts around year-end. In total, these cycle counts comprised approximately $150,000 of inventory in total, or 4% of the account balance subject to audit. These procedures were inadequate, however, because Kidman failed to obtain sufficient appropriate audit evidence to support reliance on controls.

36. First, Kidman failed to reasonably satisfy himself that Issuer A's cycle counts produced results substantially the same as a full count of all inventory items. Similar to the Firm's prior audits of Issuer A, he relied on the effectiveness of the ERP system's change management control to produce accurate and complete cycle count information during the

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[29] See AS 1105.04; AS 2201.71.

[30] See AS 2201.50, note.

[31] See AS 1105.10; AS 2805.02.

entire year, but failed to sufficiently test this control by only performing inquiries of management. [32]

37. Second, Kidman failed to select a sample of inventory items that was representative of the entire inventory population.[33] His audit sample once again consisted only of a small subset of items pre-selected by the company for the cycle counts they observed. Moreover, Kidman failed to adequately consider whether this sample was appropriate, such as by testing the logic of the queries or the parameters used within the ERP system to make the cycle count selections.[34]

38. Kidman also failed to adequately evaluate the presentation of management's annual ICFR report filed in Issuer A's Form 10-K, which stated that the company had maintained effective ICFR as of December 31, 2016 under the 1992 COSO framework.[35] Other than obtaining management representations, Kidman failed to obtain any evidence that management had, in fact, performed an evaluation of the effectiveness of the company's ICFR under the 1992 COSO framework.[36] Indeed, the audit evidence obtained by Kidman suggested that management had not evaluated Issuer A's ICFR based on any established control framework.[37]

iii. Prior to the 2017 Audit, Respondents Received a Second Notice from PCAOB Inspection of Potential Issues Specific to the Audit of Issuer A

39. In connection with a July 2017 inspection of the Firm, the PCAOB inspection staff brought to the Firm's attention apparent failures by the engagement team for the 2016 audit of Issuer A. These apparent failures were substantially identical to those identified during the 2015 PCAOB inspection.

40. Kidman represented to the inspection staff that he and the Firm would consider the inspection findings to improve their audit work and related documentation in the Firm's 2017 audit of Issuer A. Further, during the 2017 audit, Kidman represented that the Firm

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32 See AS 2510.11; AS 1105.10; AS 2301.16.

33 See AS 2315.24.

34 See AS 2315.17.

35 See AS 2201.72.

36 See AS 2805.02.

37 See AS 2805.04; see also 17 C.F.R. § 240.13a-15(c).

planned to fully implement the corrective action plan that he and the Firm had formulated in response to the 2015 inspection of the Firm's audit of Issuer A.

41. Notwithstanding these representations, Kidman failed to comply with the auditing standards in connection with the 2017 audit of Issuer A.

iv. Integrated Audit of Issuer A's 2017 Financial Statements

42. The Firm issued separate audit reports dated March 5, 2018, containing unqualified audit opinions on the 2017 financial statements and ICFR of Issuer A. Kidman authorized the Firm's issuance of the audit report, which stated that the Firm's audit was conducted in accordance with PCAOB standards. Low, as the EQR partner, provided concurring approval of issuance of the audit. The audit report was included in Issuer A's Form 10-K filed with the Commission on March 6, 2018.

43. Kidman failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for their opinion on the effectiveness of Issuer A's ICFR.[38] Specifically, he failed to obtain sufficient appropriate audit evidence to evaluate the effectiveness of the ERP system's ITGC over change management.[39] Indeed, he performed substantially the same audit procedures as he did in connection with the 2016 audit, knowing they were deficient. Similar to the 2016 audit, Kidman evaluated the CEO's weekly review of the handwritten change log, which purportedly contained the IT Programmer's notes of all changes made to the ERP system's source code in 2017.[40] Although Kidman again obtained oral representations from management and obtained the change log, he was aware that the change log did not provide reliable audit evidence. Other than obtaining an oral representation from the IT programmer, Kidman once again failed to perform any procedures to test the accuracy or completeness of the change log, or the controls over the accuracy and completeness of the change log.[41]

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[38] See AS 1105.04; AS 2201.71.

[39] AS 2201.50, note.

[40] During the 2017 audit, Kidman evaluated the ERP system's inability to produce a report of application changes as a significant deficiency in Issuer A's ICFR. Notwithstanding his conclusion that this significant deficiency had a pervasive impact on the financial statements and that there were no compensating controls, Kidman concluded that it did not constitute a material weakness.

[41] See AS 1105.10; AS 2805.02.

44. Kidman also failed to obtain sufficient appropriate evidence to support their unqualified audit opinion on the effectiveness of Issuer A's ICFR.[42] Specifically, Kidman authorized the Firm to express an unqualified opinion even though he knew Issuer A did not maintain sufficient ICFR documentation to support an assessment under the 1992 COSO framework.[43] Not only did this appear to contradict management's annual report on ICFR in the 2017 Form 10-K, which stated that Issuer A maintained effective ICFR under the 1992 COSO framework, but Kidman also failed to evaluate whether the Firm should have modified its audit report as a result.

F. Kidman and Low Violated PCAOB Rules and Standards in Connection with Their EQRs for the 2015 Through 2017 Audits of Issuer A

45. AS 1220 requires that an EQR be performed on all audits conducted pursuant to PCAOB standards.[44] AS 1220 also provides that a firm may grant permission to an audit client to use the firm's audit report only after an EQR partner provides concurring approval of issuance of the report.[45]

46. The EQR partner may provide concurring approval of issuance for an audit report only if, after performing with due professional care the review required by AS 1220, he or she is not aware of a significant engagement deficiency.[46] A significant engagement deficiency in an audit exists when: (1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB; (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement; (3) the engagement report is not appropriate in the circumstances; or (4) the firm is not independent of its client.[47]

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[42] See AS 2201.03, .71-.74.

[43] During the 2017 audit, Kidman identified a significant deficiency relating to Issuer A's "lack of COSO documentation," particularly for the risk assessment component under the 1992 COSO framework.

[44] See AS 1220.01.

[45] Id. at .13.

[46] See id. at .12.

[47] Id.

47. As detailed below, Kidman and Low violated AS 1220 by providing their concurring approval of issuance without performing an EQR for Issuer A's 2015 through 2017 audits with due professional care.

i. Kidman's Engagement Quality Review

48. During the 2015 audit, Kidman was aware that management override of controls was assessed as a fraud risk. At the time of performing his 2015 EQR, Kidman was also aware that the PCAOB inspectors had criticized the Firm's 2014 ICFR audit because the Firm had relied solely on management inquiry in performing parts of the ICFR audit, including the testing of certain ITGCs.

49. In addition, while performing the EQR, Kidman reviewed the 2015 ICFR audit work papers and learned that the 2015 engagement team had again relied solely on management inquiry in testing certain ITGCs and performed no other procedures. Kidman also was aware that, in light of the insufficient testing of ITGCs, the engagement team had improperly relied on the effectiveness of ITGCs as audit evidence in its substantive procedures over inventory.

50. As a result, Kidman was aware of significant engagement deficiencies regarding the testing of ITGCs and inventory during the 2015 audit.[48] Nevertheless, Kidman provided his concurring approval of issuance of the audit report without performing his review with due professional care in violation of AS 1220.

ii. Low's Engagement Quality Reviews

51. During the 2016 audit, Low was aware that management override of controls was assessed as a significant risk. While performing the 2016 EQR, Low reviewed audit work papers demonstrating that the engagement team had relied exclusively on management inquiries to evaluate the effectiveness of the ERP system's IT change management control. Low also evaluated the engagement team's judgment that Issuer A's lack of appropriate documentation for this control constituted a control deficiency, but did not rise to the level of a significant deficiency or material weakness. In addition, Low knew that the ERP system affected every account on Issuer A's financial statements, including inventory, and that the engagement

[48] AS 1220.12 Note.

team had not tested any compensating controls to mitigate the financial statement impact of the identified control deficiency.

52. As a result, Low was aware of significant engagement deficiencies regarding the testing of ITGCs and inventory during the 2016 audit.[49] Nevertheless, Low provided his concurring approval of issuance of the audit report without performing his review with due professional care in violation of AS 1220.

53. During the 2017 audit, Low was aware that management override of controls was assessed as a significant risk. At the time of performing his 2017 EQR, Low was aware that the PCAOB inspectors had criticized the Firm's 2016 ICFR audit because, similar to the 2015 inspection comments, the Firm had relied exclusively on management inquiries to evaluate the effectiveness of the ERP system's IT change management control. When Low reviewed the 2017 ICFR audit work papers, he became aware that the 2017 engagement team's procedures for evaluating the IT change management control had consisted exclusively of obtaining the change log and management inquiries.

54. During the 2017 audit, Low also reviewed the engagement team's evaluation of the severity of each identified control deficiency. The engagement team identified a significant deficiency due to the ERP system's inability to generate a report of changes made to the application source code. The engagement team's work papers concluded that the severity of this deficiency was mitigated by Issuer A's maintenance of the handwritten IT change log, but conceded that there was no way to ensure the completeness of that handwritten change log.

55. Thus, Low was aware of significant engagement deficiencies regarding the testing of ITGCs on the 2017 audit. Nevertheless, Low provided his concurring approval of issuance of the audit report without performing his review with due professional care in violation of AS 1220.

G. The Firm Violated PCAOB Quality Control Standards

56. PCAOB rules and standards require that a registered firm establish and maintain a system of quality control for its accounting and auditing practice.[50] "A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and

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[49] Id.

[50] See PCAOB Rule 3400T, *Interim Quality Control Standards*; Quality Control Standard 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20").

procedures established to provide the firm with reasonable assurance of complying with professional standards."[51] A firm's system of quality control should, among other things, include policies and procedures for engagement performance and monitoring.[52] A firm should establish policies and procedures to provide it with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[53] A firm should also establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures are suitably designed and are being effectively applied.[54]

57. The PCAOB inspected the Firm's 2014 audit of Issuer A during its October 2015 inspection of the Firm. The PCAOB also inspected the Firm's 2016 audit of Issuer A during its July 2017 inspection of the Firm. During those inspections, the Board identified deficiencies related to the engagement team's testing of the design and operating effectiveness of controls over revenue, accounts receivable, and inventory, and the testing of the existence of inventory.

58. Despite knowing of significant engagement deficiencies regarding ICFR testing through the PCAOB inspections, the Firm failed to implement timely and necessary corrective action to address these problems in subsequent audits. As a result, from 2015 through 2017, the Firm violated PCAOB quality control rules and standards by failing to: (a) effectively implement policies and procedures to provide it with reasonable assurance that its engagement personnel would meet applicable professional standards; and (b) establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures were suitably designed and were being effectively applied.[55]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

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[51] QC § 20.04.

[52] See QC § 20.07.

[53] QC § 20.17.

[54] See QC § 20.20; Quality Control Standard 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice.*

[55] See QC § 20.17; QC § 30.02.

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Jones Simkins LLC is revoked;

B. After two years from the date of this Order, Jones Simkins LLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Michael C. Kidman is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[56]

D. Pursuant to PCAOB Rule 5302(b), Kidman may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order;

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Mark E. Low is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[57]

F. Pursuant to PCAOB Rule 5302(b), Low may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order;

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

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[56] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Kidman. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[57] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act, discussed supra, at n. 56, will apply with respect to Low.

1. Jones Simkins LLC, $10,000;

2. Michael C. Kidman, $10,000; and

3. Mark E. Low, $10,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay these civil money penalties within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. By consenting to this Order, Respondents acknowledge that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm, or any reapplication for registration pursuant to PCAOB Rule 2101.

H. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Kidman and Low are required to complete CPE in subjects that are related to the audits of issuer financial statements under PCAOB standards (such hours shall be in addition to, and shall not be counted in, the CPE they are required to obtain in connection with any professional license) as follows:

1. Kidman shall complete forty additional hours of CPE before filing any petition for Board consent to associate with a registered public accounting firm, including CPE related to audits of ICFR and the performance of EQRs under PCAOB standards; and

2. Low shall complete forty additional hours of CPE before filing any petition for Board consent to associate with a registered public accounting firm, including CPE related to audits of ICFR and the performance of EQRs under PCAOB standards.

I. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm, should the Board grant any future application of the Firm for registration, shall carry out the following Undertakings:

1. within ninety days from the date the Board grants any future application of the Firm for registration ("Future Registration Date"), JS shall establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable PCAOB rules and standards;

2. within ninety days from the Future Registration Date, JS shall establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable PCAOB rules and standards, of any Firm audit personnel who participate in any way in the planning or performing of any audit or interim review of an issuer or any SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Exchange Act Rule 17a-5, 17 C.F.R. § 240.17a-5, as amended);

3. within ninety days from the Future Registration Date and before the Firm's commencement of any audit or interim review of an issuer or commencement of any SEC Registered Broker-Dealer Engagement, JS shall ensure training pursuant to the policy described in paragraph IV.I.2. above on at least one occasion; and

4. JS shall certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs IV.I.1 through I.3 above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. JS shall submit such certification within one hundred twenty days from the Future Registration Date. JS shall also submit such additional evidence of and information concerning

compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 15, 2020

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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of Marcum LLP,

Respondent.

PCAOB Release No. 105-2020-012

September 24, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Marcum LLP ("Marcum," "Firm," or "Respondent"); (2) imposing a civil money penalty of $250,000 on Marcum; (3) prohibiting Marcum, for a period of three years from the date of this Order, from issuing an audit report for an issuer client with substantially all of its operations in the People's Republic of China; and (4) requiring Marcum to undertake a review of its quality control policies and procedures regarding initial acceptance of, and audits performed for, certain issuer clients.

The Board is imposing these sanctions on the basis of its findings that Marcum violated PCAOB rules and auditing standards in connection with the audits of the financial statements of an issuer ("Issuer") for the years ended December 31, 2013 and 2014 ("Audits").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Marcum pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Marcum has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over it and the subject matter

of these proceedings, which are admitted, Marcum consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Marcum LLP** is a New York limited liability partnership headquartered in Melville, New York. Marcum is licensed by the New York State Education Department (License No. 067839) and several other states. Marcum is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Marcum served as the Issuer's independent auditor from April 2015 to November 2016.[3]

B. Other Relevant Entity

2. **Marcum Bernstein & Pinchuk LLP** ("MarcumBP") is a New York limited liability partnership headquartered in New York, New York. It was formed as a joint venture between Marcum and another registered firm. MarcumBP is licensed by the New York State Education Department (License No. 093038), the Texas State Board of Accountancy (License No. P05632), and the Nevada State Board of Accountancy (License No. PART-0888). MarcumBP is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the Audits, Marcum supervised MarcumBP personnel, who performed auditing procedures regarding the Issuer's China-based operations and transactions.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] Marcum concurrently audited the Issuer's 2013 and 2014 financial statements, and later audited the 2015 financial statements. Marcum issued a single audit report addressing all three years, which was included in the Issuer's Form 10-K for the year ended December 31, 2015, filed with the Securities and Exchange Commission in November 2016.

C. Issuer

3. The Issuer was, at all relevant times, a Delaware corporation whose public filings disclosed that it developed and manufactured energy storage systems and related products. At all times relevant to this Order, (1) the Issuer's common stock was registered under Section 12(g) of the Securities Exchange Act of 1934, and (2) the Issuer was an "issuer" within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. In 2011, the Issuer became majority owned by a company organized under the laws of Hong Kong ("Controlling Shareholder"). The Issuer later announced plans to manufacture its products in mainland China, and began moving its manufacturing operations from the United States to China in 2012. By the end of 2013, the Issuer was operating primarily from China.

D. Summary

5. Marcum violated PCAOB rules and standards[4] during the Audits when it failed to perform appropriate procedures regarding significant unusual transactions engaged in by the Issuer. The transactions—between one of the Issuer's wholly-owned Chinese subsidiaries ("Subsidiary") and a Chinese purchasing agent ("Agent")—involved the Subsidiary's transfers of loan proceeds to the Agent as prepayments to buy equipment and materials that the Agent never delivered. The loans were obtained from Chinese lenders for the purpose of making these purchases. While the Agent returned a portion of the prepayments—some in unusual same-day, round-trip transfers—it did not return most of them.

6. There were fraud risks associated with these significant unusual transactions, particularly the risks that the Subsidiary may have defrauded its lenders by transferring loan proceeds to the Agent and that the Agent may have been an undisclosed related party. But Marcum's engagement team failed to respond appropriately to these fraud risks. First, the team improperly acquiesced to management's deletion of important language from confirmation requests designed to test the Subsidiary's compliance with loan agreements. Second, Issuer management further interfered in the confirmation process by directing a junior member of the engagement team to particular persons at each lender from whom he obtained the lenders' confirmation responses. Finally, the team failed to perform the audit procedures

[4] There have been changes to the numbering, organization, and, in some cases, content of PCAOB rules and standards since the 2013 and 2014 Issuer audits and the events described in this Order. This Order cites only those rules and standards that were in effect for the 2013 and 2014 audits. Current and archived versions of PCAOB standards are available at www.pcaobus.org/standards.

necessary to resolve inconsistent audit evidence concerning whether the Agent was a related party.

7. By failing to adequately respond to the known fraud risks, Marcum's engagement team breached its duty to perform the Audits with the due professional care and professional skepticism required by PCAOB standards. The team also failed to adequately understand the business rationale (or the lack thereof) for the significant unusual transactions and failed to obtain sufficient appropriate audit evidence to support Marcum's opinion on the Issuer's financial statements.

8. The Firm shares responsibility for the violations of PCAOB standards that occurred during the Audits.[5] As described below, during the client acceptance process, Marcum became aware of serious risks associated with this audit engagement, particularly relating to the Issuer's operations in China. The Firm assigned a new partner with no experience auditing companies with substantial operations in China, but failed to adequately oversee the performance of the Audits to obtain reasonable assurance that engagement personnel had appropriately responded to the fraud risks and complied with PCAOB standards.

E. The Predecessor Auditor Resigned

9. Marcum accepted the Issuer as a new audit client in April 2015. At that time, the Issuer was seriously delinquent in making its required filings with the Securities and Exchange Commission; its last periodic filing was a Form 10-Q for the 2013 third quarter.

10. When it approved client acceptance, Marcum knew that the Issuer's predecessor auditor had resigned in August 2014. In its resignation letter, the predecessor auditor advised the Issuer that it could not complete the 2013 audit, in part because it had been unable to perform sufficient procedures to determine the completeness of subsequent event transactions that may have occurred in China.

11. As disclosed in a September 2014 Form 8-K filing, the predecessor auditor also advised the Issuer that it had identified several material weaknesses in the Issuer's internal controls over financial reporting, including:

- A failure to implement adequate procedures and controls to ensure accurate and timely communication between the Issuer's subsidiaries in China and its

[5] *See also John E. Klenner*, PCAOB Release No. 105-2020-013 (Sept. 24, 2020); *Helen R. Liao*, PCAOB Release No. 105-2020-014 (Sept. 24, 2020).

U.S.-based accounting team, which had led to material misstatements identified by the predecessor auditor during the audit process;

- A significant turnover in executive management (four CEOs and three CFOs since 2012) and accounting personnel, which had led to a lack of segregation of duties throughout the company and resulted in a lack of controls to perform a timely review of transactions at an appropriate level of precision; and

- A failure to implement adequate procedures and controls to appropriately evaluate routine and non-routine transactions, which had led to a failure to detect material misstatements identified by the predecessor auditor during the audit process.

12. In March 2015, the Issuer filed a Form 8-K reporting that management had analyzed the internal control issues and material weaknesses identified by its predecessor auditor, and concluded that there was "factual support that such issues and weaknesses existed in 2013." As a result, the Issuer disclosed that investors should no longer rely on the financial statements in its Form 10-Q for the period ended September 30, 2013.

F. Background of the Significant Unusual Transactions in China

13. As Marcum knew, the Issuer's predecessor auditor had resigned due, in part, to its concerns about certain transactions that had occurred between the Subsidiary and its Agent in 2013 and 2014. During the Audits, Marcum's engagement team identified these and certain other transactions—described in the work papers as "significant cash disbursements to [the Agent]"—as significant unusual transactions.[6]

14. These transactions stemmed from an August 2013 cooperation agreement in which the Agent agreed to act as the Subsidiary's agent for purchasing equipment and raw materials.[7] The equipment and raw materials were needed to fulfill commitments made by another Chinese subsidiary of the Issuer in a 2012 agreement with two Chinese municipal

[6] PCAOB standards describe significant unusual transactions as "significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment." AU § 316.66.

[7] According to a client-prepared memo in Marcum's audit documentation, "[The Agent]'s business is that of being a purchasing agent for inventory, equipment, or anything else a company needs to purchase . . . . [The Agent] requires an upfront prepayment from clients to place orders for them . . . . [The Agent] then makes an arbitrage profit on the timing difference between when prepayment is received and when the money is actually paid out to vendors."

governments. Under that agreement, the other subsidiary agreed to construct a production plant on land to which it had been granted use rights by one municipal government. Both municipal governments agreed to purchase electric-powered buses from that subsidiary, which was not in the business of manufacturing or selling electric buses.

15. The significant unusual transactions involved the Subsidiary's transfers to the Agent of the proceeds of loans obtained purportedly to help finance the equipment and raw material purchases. The transactions took two forms: (a) prepayments to the Agent for goods that were never delivered; and (b) round-trip cash transfers. Details of these transactions were set forth in a client-prepared memo included in the audit documentation. Those details—which were known to the engagement team during the Audits—are summarized below.

i. Prepayments to the Agent for Goods Never Delivered

16. In 2013 and 2014, the Subsidiary issued purchase orders ("POs") to the Agent to procure production-line equipment and raw materials for the total purchase price of approximately $63 million.[8] To help finance those purchases, the Subsidiary borrowed $17.2 million from a Chinese rural credit cooperative ("Credit Co-op") in 2013 and $20.9 million from a local Chinese bank ("Bank") in 2014. The loan agreements with the Credit Co-op and the Bank (collectively, "Lenders") restricted the Subsidiary's use of the proceeds to equipment and raw material purchases, as well as construction costs. The Subsidiary submitted the POs to the Lenders to show that the proceeds were being used in accordance with the loan agreements.

17. When the Lenders released the borrowed funds, the Subsidiary transferred all of the loan proceeds to the Agent, purportedly as prepayments for the equipment and raw material purchases. In one instance, the prepayment was almost double what the Subsidiary then owed the Agent under the PO terms. The Agent, which never delivered any goods, eventually returned portions of the prepayments to the Subsidiary.

18. In the fall of 2014, the Subsidiary and the Agent cancelled their cooperation agreement and the POs. Although the Agent agreed to refund $27.5 million of prepayments (representing the balance of the loan proceeds purportedly still held by the Agent),[9] the Agent

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[8] For purposes of this Order, all transactions originally denominated in Chinese Yuan have been converted into U.S. Dollars, which have been approximated using the then-current Chinese Yuan to U.S. Dollar exchange rate.

[9] The Subsidiary had prepaid the Agent a total of $38.1 million from funds it borrowed from the Lenders. By the time the POs were cancelled, the Agent had returned a net amount of $10.6 million to the Subsidiary.

did not return any of that money. Instead, a Chinese company affiliated with the Issuer ("Affiliate")[10] agreed to settle the Agent's obligation to return the $27.5 million by delivering electric buses of equivalent value to the Subsidiary. Later, the Affiliate (an electric bus manufacturer) and the Controlling Shareholder delivered buses to the Subsidiary. The buses were then purchased by the two Chinese municipal governments under their agreement with the Issuer's other Chinese subsidiary.

ii. Same-Day, Round-Trip Cash Transfers

19. As described in Marcum's audit documentation, even after the cooperation agreement and the POs were cancelled, the Subsidiary continued to send loan proceeds to the Agent. In these transactions, however, the Agent did not retain the proceeds. Instead, it immediately returned them to the Subsidiary.

20. In September 2014, the Subsidiary secured a $7.3 million draw from its then existing line of credit with the Credit Co-op. The Subsidiary sent the borrowed funds from its Credit Co-op account to the Agent in two transfers ($6.6 million and $0.7 million). In each transaction, the Agent returned all of the money the same day, but not to the Subsidiary's account at the Credit Co-op. The Agent instead sent the money to the Subsidiary's account at a different financial institution.

21. Later that fall, the Subsidiary executed a new loan agreement with the Credit Co-op in the principal amount of $17.1 million. After the money was released and deposited into its Credit Co-op account, the Subsidiary sent the entire amount to the Agent, and the Agent returned the funds the same day to a Subsidiary account elsewhere.

iii. Management Representations about the Significant Unusual Transactions

22. During the Audits, management of the Issuer and the Controlling Shareholder made certain representations to Marcum's engagement team about the purported business rationale for the significant unusual transactions. Management represented that the POs had been submitted to the Lenders in order to secure release of the borrowed funds, and that the funds (including those round-tripped back to the Subsidiary) were transferred to the Agent to show the Lenders that the proceeds were being used in accordance with the loan agreements.

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[10] The Issuer and the Affiliate were under common control of the Controlling Shareholder, which held a majority of the Issuer's shares and wholly owned the Affiliate. The Issuer disclosed the Affiliate and the Controlling Shareholder as related parties in its Form 10-K. *See* FASB Accounting Standards Codification ("ASC") 850-10-20, *Related Party Disclosures* (glossary definitions of "affiliate," "control," and "related parties").

23. However, management also represented that the transfers of borrowed funds to the Agent were mere formalities. According to management, the Lenders did not care whether the Subsidiary procured from the Agent or some other party, as long as the loan proceeds were used to purchase the equipment and raw materials specified in the POs and the loan agreements (management represented that the goods were eventually purchased from other sources for a better price). In addition, management represented that the Agent was not a related party and that the transactions with the Agent did not have to be disclosed as related party transactions in the Issuer's financial statements.

G. Marcum Violated PCAOB Standards in Connection with the Audits

i. Relevant Provisions of PCAOB Standards

24. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[11] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[12] Among other things, PCAOB standards require the auditor to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion on the financial statements.[13]

25. PCAOB standards also require the auditor to exercise due professional care, including professional skepticism, in planning and performing the audit.[14] Because of the characteristics of fraud, the auditor's exercise of professional skepticism is important when considering fraud risks,[15] including fraud risks associated with significant unusual transactions.

26. Under PCAOB standards, Marcum was required to gain an understanding of the business rationale for the significant unusual transactions between the Subsidiary and the

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[11] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards;* PCAOB Rule 3200T, *Interim Auditing Standards*.

[12] *See* AU § 508.07, *Reports on Financial Statements*.

[13] *See* Auditing Standard ("AS") No. 15, *Audit Evidence*, ¶ 4.

[14] *See* AU § 230.07, *Due Professional Care in the Performance of Work* ("Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence.").

[15] *See* AU § 316.13, *Consideration of Fraud in a Financial Statement Audit*.

Agent.[16] In gaining that understanding, the standards set forth several factors requiring consideration, including whether the form of the transactions was overly complex and whether the transactions involved previously unidentified related parties.[17]

27. PCAOB standards also required Marcum to evaluate whether the business rationale (or the lack thereof) for the significant unusual transactions suggested that they may have been entered into to engage in, among other things, fraudulent financial reporting.[18] Misstatements arising from fraudulent financial reporting involve intentional misstatements or omissions of amounts or disclosures in financial statements.[19] The engagement partner knew that material misstatements due to fraud could have arisen from the significant unusual transactions if, among other things, (1) the Subsidiary had defrauded its Lenders through those transactions, or (2) the Agent was a previously unidentified related party.

28. As described below, Marcum violated these and other PCAOB standards in performing the Audits.

ii. Marcum Knew that Management had Interfered in Audit Procedures Designed to Test Compliance with Loan Agreements

29. To assess whether the Subsidiary's transfers of loan proceeds to the Agent violated the agreements with its Lenders, Marcum's engagement team decided to send customized confirmation requests to the Lenders.[20] The customized requests included specific factual details of the Subsidiary's dealings with the Agent. Among other things, the requests detailed that: (a) the Subsidiary used POs issued to the Agent to secure release of borrowed funds; (b) the Subsidiary disbursed the loan proceeds to the Agent; (c) the Agent returned certain of the funds to the Subsidiary; (d) the POs were cancelled; and (e) the Subsidiary never purchased any goods from the Agent. The requests asked the Lenders to confirm in writing that they were aware of these facts and that the Subsidiary had nonetheless complied with the loan agreements.

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16 *See* AU § 316.66.

17 *See* AU § 316.67.

18 AU § 316.66.

19 AU § 316.06.

20 *See* AU § 330.08, *The Confirmation Process*, which addresses confirming the terms of unusual or complex transactions that are associated with high levels of inherent and control risk; *see also* AU § 330.25 ("auditor should consider requesting confirmation of the terms of unusual agreements or transactions").

30. An audit director at MarcumBP in China was instructed to obtain in-person, written responses to the customized confirmation requests from the Lenders. But before he had an opportunity to obtain the Lenders' confirmation responses, the MarcumBP director informed the engagement partner and the engagement quality review ("EQR") partner that Issuer management had unilaterally approached the Lenders about the requests, and that, according to management, the Lenders would not confirm the requests as written. Management then revised the confirmation requests by deleting all details about the Agent transactions. The MarcumBP director forwarded the client-revised requests to the engagement partner and the EQR partner, telling them that management believed the Lenders were willing to confirm the requests as revised. In an emailed response to the director, the engagement partner wrote that "[i]t appears that we are removing all of the information that is critical to the confirmation process . . . ."

31. Despite the engagement partner's objections to the client-revised confirmation requests and without his authorization, the MarcumBP director dispatched a junior staff member to the Lenders with the revised requests. An Issuer employee accompanied the junior staff member and directed him to a particular respondent at each Lender from whom he obtained written confirmations on the client-revised requests.[21] When meeting with the Lender respondents, the junior staff member also orally reviewed with them the specific details about the Agent transactions that had been deleted from the original confirmation requests. Although the Lenders purportedly were unwilling to confirm knowledge of those specific details in writing, the Lenders' respondents orally acknowledged the details and stated that they did not present a loan compliance issue. The MarcumBP junior staff member contemporaneously documented the oral acknowledgements, which were then summarized in the work papers.

32. After he received the responses to the client-revised confirmations, the engagement partner again objected, informing the MarcumBP director that those "confirmations were not approved by Marcum." Because "all of the [Agent] transaction information was removed from the confirmations," the engagement partner said the revised requests did not "satisfy the requirement for which we were requesting the original

[21] Under PCAOB standards governing the confirmation process, the auditor should direct a confirmation request to "a third party who the auditor believes is knowledgeable about the information to be confirmed." AU § 330.26. The standards use the term "respondent" to refer to the third-party recipient of a confirmation request. *See* AU § 330.27.

confirmations."[22] Nevertheless, after conferring with Issuer's management, the engagement partner ultimately accepted the Lender respondents' confirmations on the client-revised requests, together with the oral acknowledgments documented by the junior staff member. The engagement partner failed to exercise due professional care and professional skepticism when he relied on the Lender respondents' written confirmation responses and oral acknowledgments as evidence of the Subsidiary's compliance with its loan agreements.[23]

33. Management's interference raised serious questions about whether the confirmation responses obtained by the junior staff member were reliable evidence of the Subsidiary's compliance with its lending agreements. Management's deletion of information about the Agent transactions from the written requests was particularly suspect in light of the round-trip cash transfers, whose structure suggested a possible motive to conceal from the Credit Co-op the Agent's returns of loan proceeds. In each round-trip transfer, the Subsidiary sent the loan proceeds from its account at the Credit Co-op to the Agent, who returned them the same day to a Subsidiary account at a different financial institution. The engagement team never obtained audit evidence to support a legitimate business rationale for the round-trip transfers.

34. In addition, management's direction of the MarcumBP junior staff member to particular individuals at each Lender raised serious questions about whether the confirmation requests had been directed to respondents with the appropriate competence, knowledge, motivation, objectivity, and freedom from bias as to the Issuer.[24] In such cases, "the auditor should consider whether there is sufficient basis for concluding that the confirmation request is being sent to a respondent from whom the auditor can expect the response will provide meaningful and appropriate evidence."[25] But Marcum's engagement team failed to adequately evaluate whether the respondents were capable of providing meaningful and appropriate evidence of the Subsidiary's compliance with its loan agreements.

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[22] As a result of management unilaterally approaching the Lenders and changing the confirmation requests, the engagement team had failed to maintain control over the confirmation requests and responses as required by PCAOB standards. *See* AU § 330.28.

[23] *See* AU § 330.15 ("Professional skepticism is important in designing the confirmation request, performing the confirmation procedures, and evaluating the results of the confirmation procedures."); *see also* AU § 230.07 and .09; AU § 316.13.

[24] *See* AU § 330.27.

[25] *Id.*

35. By relying on the Lender respondents' confirmation responses and oral acknowledgments as evidence of the Subsidiary's compliance with the loan agreements, Marcum failed to obtain sufficient appropriate audit evidence of the Subsidiary's compliance with the loan agreements and failed to adequately evaluate the business rationale (or the lack thereof) for the significant unusual transactions with the Agent.[26]

iii. Marcum Failed to Obtain Sufficient Appropriate Evidence to Determine Whether the Transactions with the Agent Involved a Previously Unidentified Related Party

36. During the Audits, Marcum identified and assessed related party transactions as a risk of material misstatement due to fraud. In identifying the risk, the team noted that "management might have [the] intention to omit or conceal significant and unusual related party transactions." They also assessed the risk of material misstatement as high for "related party transactions without proper approval or business rationale[,] and not properly or adequately disclosed."

37. Although management represented that the Agent was not a related party, the engagement partner was aware of contradictory audit evidence. For example, he reviewed audit evidence that caused him to question whether the Issuer's Controlling Shareholder had the ability to control or significantly influence the Agent's management or operating policies, which, if true, would render the Agent a related party of the Issuer.[27] He also knew that the Agent and the Controlling Shareholder had engaged in transactions as "longtime business partners."

38. To evaluate whether the Agent and the Controlling Shareholder were related parties, Marcum's engagement team requested, among other things, details of the transactions between the two parties. In lieu of the transaction details, management provided excerpts of the Controlling Shareholder's audited financial statements, which did not disclose the Agent as a related party.[28] But reading excerpts of the Controlling Shareholder's audited financial

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[26] *See* AS No. 15; AU § 316.66 and .67.

[27] If the Controlling Shareholder also controlled the Agent, the Agent would be an affiliate, and therefore a related party, of the Issuer. *See* ASC 850-10-20 (glossary definitions of "affiliate," "control," and "related parties"). In that case, U.S. GAAP would have required the Issuer to disclose the Subsidiary's transactions with the Agent, which were material to the Issuer's financial statements. *See* ASC 850-10-50.

[28] The Controlling Shareholder's financial statements were audited by a firm unaffiliated with Marcum or MarcumBP.

statements was not an adequate response to this fraud risk,[29] particularly in light of inconsistent evidence suggesting that the Agent was a possible related party. By failing to perform the audit procedures necessary to resolve the inconsistent audit evidence,[30] the engagement partner again failed to exercise due professional care, including professional skepticism, in performing the Audits. Consequently, Marcum failed to obtain sufficient appropriate evidence to determine whether the significant unusual transactions with the Agent were related party transactions and, if so, to satisfy itself concerning the adequacy of the Issuer's disclosures in its financial statements.[31]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Marcum LLP is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $250,000 is imposed upon Marcum LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Marcum LLP shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Marcum LLP as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the

[29] Among other things, the engagement team had no basis for knowing what procedures may have been performed by the Controlling Shareholder's auditor to identify related parties and related party transactions.

[30] *See* AS No. 15 ¶ 29.

[31] *See* AS No. 15; AU § 334.01 and .11, *Related Parties*.

Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

C. Pursuant to Sections 105(c)(4)(C), (F), and (G) of the Act and PCAOB Rules 5300(a)(3), (6), and (9), the Board orders that:

1. Issuance of Audit Reports for SEC Issuers in China: For a period of three years from the date of this Order, Marcum LLP shall not issue an audit report for an issuer client with substantially all of its operations in the People's Republic of China.

2. Review by Marcum LLP: Within the period specified in paragraph C.3 below, Marcum LLP shall review and evaluate the following:

   a. Marcum LLP's quality control policies and procedures related to initial acceptance of issuer clients and engagements to ensure that the Firm appropriately considers the risks associated with performing audit services for certain "higher-than-normal-risk" issuer clients. Solely for purposes of the undertakings in this Order, a "higher-than-normal risk" issuer client refers to a newly-accepted issuer client (i) whose former auditor issued an adverse, qualified, or other opinion or disclaimer described in 17 CFR § 229.304(a)(1)(ii); (ii) that had a disagreement with its former auditor as described in 17 CFR § 229.304(a)(1)(iv); or (iii) whose former auditor advised it of any of the matters described in 17 CFR § 229.304(a)(1)(v); and

   b. Marcum LLP's quality control or other policies and procedures to provide the Firm with reasonable assurance that its engagement personnel comply with PCAOB standards in performing audit services for "higher-than-normal risk" issuer clients, including policies and procedures regarding: (i) the assignment of appropriately qualified engagement partners and engagement quality review partners to such audits; (ii) the circumstances in which engagement personnel are required to seek consultation on accounting and auditing matters arising from such audits; and (iii) the mechanisms by which the Firm oversees such audits to ensure compliance with PCAOB standards.

3. Reporting: Within one year of the date of this Order, Marcum LLP shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the areas specified in paragraph C.2 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by Marcum LLP or, if Marcum LLP concludes no such modifications or additions should be adopted, a detailed explanation of why the Firm believes changes are not warranted. In addition, Marcum LLP shall submit any additional information and evidence concerning the Report, the information in the Report, and Marcum LLP's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Certificate of Implementation: Within eighteen months of the date of this Order, Marcum LLP's head of quality assurance shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that Marcum LLP has implemented all of the modifications and additions to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of the Firm's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. The Firm shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 24, 2020

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of John E. Klenner, CPA,

Respondent.

PCAOB Release No. 105-2020-013

September 24, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring John E. Klenner, CPA ("Klenner" or "Respondent"); (2) barring Klenner from being an associated person of a registered public accounting firm, but allowing Klenner, after two years, to petition the Board for consent to associate with a registered firm; (3) in the event Klenner seeks and the Board grants consent for him to associate with a registered firm, prohibits him from serving as an engagement partner or engagement quality reviewer on issuer audits for a one year period after the Board grants consent for him to associate with a registered firm; (4) imposing a civil money penalty of $25,000; and (5) requiring Klenner to complete forty hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license, before filing a petition for Board consent to associate with a registered firm.

The Board is imposing these sanctions on the basis of its findings that Klenner violated PCAOB rules and auditing standards as the engagement partner on the audits of the financial statements of an issuer ("Issuer") for the years ended December 31, 2013 and 2014 ("Audits").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Klenner pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Klenner has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Klenner consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **John E. Klenner, CPA** is a certified public accountant licensed by the New York State Education Department (License No. 088642). He is a partner of Marcum LLP ("Marcum") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Klenner served as the engagement partner for Marcum's audits of the Issuer's 2013, 2014, and 2015 financial statements. He authorized Marcum to issue an audit report containing an unqualified opinion on all three years' financial statements in November 2016.[3]

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] Marcum concurrently audited the Issuer's 2013 and 2014 financial statements, and later audited the 2015 financial statements. Marcum issued a single audit report addressing all three years, which was included in the Issuer's Form 10-K for the year ended December 31, 2015, filed with the Securities and Exchange Commission in November 2016.

B. Relevant Entities

2. **Marcum LLP** is a New York limited liability partnership headquartered in Melville, New York. Marcum is licensed by the New York State Education Department (License No. 067839) and several other states. Marcum is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Marcum served as the Issuer's independent auditor from April 2015 to November 2016.

3. **Marcum Bernstein & Pinchuk LLP** ("MarcumBP") is a New York limited liability partnership headquartered in New York, New York. It was formed as a joint venture between Marcum and another registered firm. MarcumBP is licensed by the New York State Education Department (License No. 093038), the Texas State Board of Accountancy (License No. P05632), and the Nevada State Board of Accountancy (License No. PART-0888). MarcumBP is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the Audits, Marcum supervised MarcumBP personnel, who performed auditing procedures regarding the Issuer's China-based operations and transactions.

C. Issuer

4. The Issuer was, at all relevant times, a Delaware corporation whose public filings disclosed that it developed and manufactured energy storage systems and related products. At all times relevant to this Order, (1) the Issuer's common stock was registered under Section 12(g) of the Securities Exchange Act of 1934, and (2) the Issuer was an "issuer" within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. In 2011, the Issuer became majority owned by a company organized under the laws of Hong Kong ("Controlling Shareholder"). The Issuer later announced plans to manufacture its products in mainland China, and began moving its manufacturing operations from the United States to China in 2012. By the end of 2013, the Issuer was operating primarily from China.

6. The Issuer's predecessor auditor, which resigned in August 2014, advised the Issuer that it could not complete the 2013 audit, in part because it had been unable to perform sufficient procedures to determine the completeness of subsequent events that may have occurred in China. The predecessor auditor also advised that it had identified material weaknesses in the Issuer's internal controls and procedures, including a failure to implement adequate procedures and controls to ensure accurate and timely communication with its Chinese subsidiaries.

7. In March 2015, the Issuer filed a Form 8-K reporting that management had analyzed the internal control issues and material weaknesses identified by its predecessor

auditor, and concluded that there was "factual support that such issues and weaknesses existed in 2013." As a result, the Issuer disclosed that investors should no longer rely on the financial statements in its Form 10-Q for the period ended September 30, 2013.

D. Summary

8. This matter involves Klenner's violations of PCAOB rules and standards[4] in performing the Audits.[5] In auditing the Issuer's financial statements, Klenner encountered what he identified as significant unusual transactions between one of the Issuer's wholly-owned Chinese subsidiaries ("Subsidiary") and a Chinese purchasing agent ("Agent"). The transactions, which occurred in 2013 and 2014, involved the Subsidiary's transfers of loan proceeds to the Agent as prepayments to purchase specified materials that the Agent never delivered. The loans were obtained from Chinese lenders for the purpose of making these purchases. While the Agent returned a portion of the prepayments—some in unusual same-day, round-trip transfers—it did not return most of them.

9. Klenner failed to perform appropriate procedures regarding these transactions. First, he improperly acquiesced to management's deletion of important language from confirmation requests designed to test the Subsidiary's compliance with loan agreements. Second, he knew that management directed a junior member of the audit team to particular persons at each lender from whom he obtained the lenders' confirmation responses. Finally, Klenner failed to perform the audit procedures necessary to resolve inconsistent audit evidence concerning whether the Agent was a related party.

10. Klenner knew that the significant unusual transactions with the Agent presented a risk of material misstatement due to fraud. And he had identified intentional omission or concealment of significant unusual related-party transactions as a specific fraud risk. By failing to adequately respond to these known fraud risks, Klenner breached his duty to perform the Audits with the due professional care and professional skepticism required by PCAOB standards. He also failed to adequately understand the business rationale (or the lack thereof) for the significant unusual transactions and failed to obtain sufficient appropriate audit evidence to support his opinion on the Issuer's financial statements. In addition, Klenner

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[4] There have been changes to the numbering, organization, and, in some cases, content of PCAOB rules and standards since the 2013 and 2014 Issuer audits and the events described in this Order. This Order cites only those rules and standards that were in effect for the 2013 and 2014 audits. Current and archived versions of PCAOB standards are available at www.pcaobus.org/standards.

[5] *See also Marcum LLP*, PCAOB Release No. 105-2020-012 (Sept. 24, 2020); *Helen R. Liao*, PCAOB Release No. 105-2020-014 (Sept. 24, 2020).

violated audit documentation requirements in connection with audit committee communications.

E. Background of the Significant Unusual Transactions in China

11. From the outset of the engagement, Klenner knew that the Issuer's predecessor auditor had resigned due, in part, to its concerns about certain transactions that had occurred between the Subsidiary and its Agent in 2013 and 2014. During the Audits, Klenner and his engagement team identified these and certain other transactions—described in the work papers as "significant cash disbursements to [the Agent]"—as significant unusual transactions.[6]

12. These transactions stemmed from an August 2013 cooperation agreement in which the Agent agreed to act as the Subsidiary's agent for purchasing equipment and raw materials.[7] The equipment and raw materials were needed to fulfill commitments made by another Chinese subsidiary of the Issuer in a 2012 agreement with two Chinese municipal governments. Under that agreement, the other subsidiary agreed to construct a production plant on land to which it had been granted use rights by one municipal government. Both municipal governments agreed to purchase electric-powered buses from that subsidiary, which was not in the business of manufacturing or selling electric buses.

13. The significant unusual transactions involved the Subsidiary's transfers to the Agent of the proceeds of loans obtained purportedly to help finance the equipment and raw material purchases. The transactions took two forms: (a) prepayments to the Agent for goods that were never delivered; and (b) round-trip cash transfers. Details of these transactions were set forth in a client-prepared memo included in the audit documentation. Those details—which were known to Klenner during the Audits—are summarized below.

i. Prepayments to the Agent for Goods Never Delivered

14. In 2013 and 2014, the Subsidiary issued purchase orders ("POs") to the Agent to procure production-line equipment and raw materials for the total purchase price of

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[6] PCAOB standards describe significant unusual transactions as "significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment." AU § 316.66.

[7] According to a client-prepared memo in Marcum's audit documentation, "[The Agent]'s business is that of being a purchasing agent for inventory, equipment, or anything else a company needs to purchase . . . . [The Agent] requires an upfront prepayment from clients to place orders for them . . . . [The Agent] then makes an arbitrage profit on the timing difference between when prepayment is received and when the money is actually paid out to vendors."

approximately $63 million.[8] To help finance those purchases, the Subsidiary borrowed $17.2 million from a Chinese rural credit cooperative ("Credit Co-op") in 2013 and $20.9 million from a local Chinese bank ("Bank") in 2014. The loan agreements with the Credit Co-op and the Bank (collectively, "Lenders") restricted the Subsidiary's use of the proceeds to equipment and raw material purchases, as well as construction costs. The Subsidiary submitted the POs to the Lenders to show that the proceeds were being used in accordance with the loan agreements.

15. When the Lenders released the borrowed funds, the Subsidiary transferred all of the loan proceeds to the Agent, purportedly as prepayments for the equipment and raw material purchases. In one instance, the prepayment was almost double what the Subsidiary then owed the Agent under the PO terms. The Agent, which never delivered any goods, eventually returned portions of the prepayments to the Subsidiary.

16. In the fall of 2014, the Subsidiary and the Agent cancelled their cooperation agreement and the POs. Although the Agent agreed to refund $27.5 million of prepayments (representing the balance of the loan proceeds purportedly still held by the Agent),[9] the Agent did not return any of that money. Instead, a Chinese company affiliated with the Issuer ("Affiliate")[10] agreed to settle the Agent's obligation to return the $27.5 million by delivering electric buses of equivalent value to the Subsidiary. Later, the Affiliate (an electric bus manufacturer) and the Controlling Shareholder delivered buses to the Subsidiary. The buses were then purchased by the two Chinese municipal governments under their agreement with the Issuer's other Chinese subsidiary.

ii. Same-Day, Round-Trip Cash Transfers

17. As described in Marcum's audit documentation, even after the cooperation agreement and the POs were cancelled, the Subsidiary continued to send loan proceeds to the

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[8] For purposes of this Order, all transactions originally denominated in Chinese Yuan have been converted into U.S. Dollars, which have been approximated using the then-current Chinese Yuan to U.S. Dollar exchange rate.

[9] The Subsidiary had prepaid the Agent a total of $38.1 million from funds it borrowed from the Lenders. By the time the POs were cancelled, the Agent had returned a net amount of $10.6 million to the Subsidiary.

[10] The Issuer and the Affiliate were under common control of the Controlling Shareholder, which held a majority of the Issuer's shares and wholly owned the Affiliate. The Issuer disclosed the Affiliate and the Controlling Shareholder as related parties in its Form 10-K. *See* FASB Accounting Standards Codification ("ASC") 850-10-20, *Related Party Disclosures* (glossary definitions of "affiliate," "control," and "related parties").

Agent. In these transactions, however, the Agent did not retain the proceeds. Instead, it immediately returned them to the Subsidiary.

18. In September 2014, the Subsidiary secured a $7.3 million draw from its then existing line of credit with the Credit Co-op. The Subsidiary sent the borrowed funds from its Credit Co-op account to the Agent in two transfers ($6.6 million and $0.7 million). In each transaction, the Agent returned all of the money the same day, but not to the Subsidiary's account at the Credit Co-op. The Agent instead sent the money to the Subsidiary's account at a different financial institution.

19. Later that fall, the Subsidiary executed a new loan agreement with the Credit Co-op in the principal amount of $17.1 million. After the money was released and deposited into its Credit Co-op account, the Subsidiary sent the entire amount to the Agent, and the Agent returned the funds the same day to a Subsidiary account elsewhere.

iii. Management Representations about the Significant Unusual Transactions

20. During the Audits, management of the Issuer and the Controlling Shareholder made certain representations to Klenner and the engagement team about the purported business rationale for the significant unusual transactions. Management represented that the POs had been submitted to the Lenders in order to secure release of the borrowed funds, and that the funds (including those round-tripped back to the Subsidiary) were transferred to the Agent to show the Lenders that the proceeds were being used in accordance with the loan agreements.

21. However, management also represented that the transfers of borrowed funds to the Agent were mere formalities. According to management, the Lenders did not care whether the Subsidiary procured from the Agent or some other party, as long as the loan proceeds were used to purchase the equipment and raw materials specified in the POs and the loan agreements (management represented that the goods were eventually purchased from other sources for a better price). In addition, management represented that the Agent was not a related party and that the transactions with the Agent did not have to be disclosed as related party transactions in the Issuer's financial statements.

F. Klenner Violated PCAOB Standards in Connection with the Audits

i. Relevant Provisions of PCAOB Standards

22. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the

Board's auditing and related professional practice standards.[11] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[12] Among other things, PCAOB standards require the auditor to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion on the financial statements.[13]

23. PCAOB standards also require the auditor to exercise due professional care, including professional skepticism, in planning and performing the audit.[14] Because of the characteristics of fraud, the auditor's exercise of professional skepticism is important when considering fraud risks,[15] including fraud risks associated with significant unusual transactions.

24. Under PCAOB standards, Klenner and the engagement team were required to gain an understanding of the business rationale for the significant unusual transactions between the Subsidiary and the Agent.[16] In gaining that understanding, the standards set forth several factors requiring consideration, including whether the form of the transactions was overly complex and whether the transactions involved previously unidentified related parties.[17]

25. PCAOB standards also required Klenner and the engagement team to evaluate whether the business rationale (or the lack thereof) for the significant unusual transactions suggested that they may have been entered into to engage in, among other things, fraudulent financial reporting.[18] Misstatements arising from fraudulent financial reporting involve intentional misstatements or omissions of amounts or disclosures in financial statements.[19] Klenner knew that material misstatements due to fraud could have arisen from the significant

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[11] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards;* PCAOB Rule 3200T, *Interim Auditing Standards*.

[12] *See* AU § 508.07, *Reports on Financial Statements*.

[13] *See* Auditing Standard ("AS") No. 15, *Audit Evidence*, ¶ 4.

[14] *See* AU § 230.07, *Due Professional Care in the Performance of Work* ("Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence.").

[15] *See* AU § 316.13, *Consideration of Fraud in a Financial Statement Audit*.

[16] *See* AU § 316.66.

[17] *See* AU § 316.67.

[18] *See* AU § 316.66.

[19] AU § 316.06.

unusual transactions if, among other things, (1) the Subsidiary had defrauded its Lenders through those transactions, or (2) the Agent was a previously unidentified related party.

26. As described below, Klenner violated these and other PCAOB standards in performing the Audits.

ii. Klenner Knew that Management had Interfered in Audit Procedures Designed to Test Compliance with Loan Agreements

27. To assess whether the Subsidiary's transfers of loan proceeds to the Agent violated the agreements with its Lenders, Klenner and the engagement team decided to send customized confirmation requests to the Lenders.[20] The customized requests included specific factual details of the Subsidiary's dealings with the Agent. Among other things, the requests detailed that: (a) the Subsidiary used POs issued to the Agent to secure release of borrowed funds; (b) the Subsidiary disbursed the loan proceeds to the Agent; (c) the Agent returned certain of the funds to the Subsidiary; (d) the POs were cancelled; and (e) the Subsidiary never purchased any goods from the Agent. The requests asked the Lenders to confirm in writing that they were aware of these facts and that the Subsidiary had nonetheless complied with the loan agreements.

28. With Klenner's knowledge, an audit director at MarcumBP in China was instructed to obtain in-person, written responses to the customized confirmation requests from the Lenders. But before he had an opportunity to obtain the Lenders' confirmation responses, the MarcumBP director informed Klenner and the engagement quality review ("EQR") partner that Issuer management had unilaterally approached the Lenders about the requests, and that, according to management, the Lenders would not confirm the requests as written. Management then revised the confirmation requests by deleting all details about the Agent transactions. The MarcumBP director forwarded the client-revised requests to Klenner and the EQR partner, telling them that management believed the Lenders were willing to confirm the requests as revised. In an emailed response to the director, Klenner wrote that "[i]t appears that we are removing all of the information that is critical to the confirmation process . . . ."

29. Despite Klenner's objections to the client-revised confirmation requests and without his authorization, the MarcumBP director dispatched a junior staff member to the

[20] *See* AU § 330.08, *The Confirmation Process*, which addresses confirming the terms of unusual or complex transactions that are associated with high levels of inherent and control risk; *see also* AU § 330.25 ("auditor should consider requesting confirmation of the terms of unusual agreements or transactions").

Lenders with the revised requests. An Issuer employee accompanied the junior staff member and directed him to a particular respondent at each Lender from whom he obtained written confirmations on the client-revised requests.[21] When meeting with the Lender respondents, the junior staff member also orally reviewed with them the specific details about the Agent transactions that had been deleted from the original confirmation requests. Although the Lenders purportedly were unwilling to confirm knowledge of those specific details in writing, the Lenders' respondents orally acknowledged the details and stated that they did not present a loan compliance issue. The MarcumBP junior staff member contemporaneously documented the oral acknowledgements, which were then summarized in the work papers.

30. After he received the responses to the client-revised confirmations, Klenner again objected, informing the MarcumBP director that those "confirmations were not approved by Marcum." Because "all of the [Agent] transaction information was removed from the confirmations," Klenner said the revised requests did not "satisfy the requirement for which we were requesting the original confirmations."[22] Nevertheless, after conferring with Issuer's management, Klenner ultimately accepted the Lender respondents' confirmations on the client-revised requests, together with the oral acknowledgments documented by the junior staff member. Klenner failed to exercise due professional care and professional skepticism when he relied on the Lender respondents' written confirmation responses and oral acknowledgments as evidence of the Subsidiary's compliance with its loan agreements.[23]

31. Management's interference raised serious questions about whether the confirmation responses obtained by the junior staff member were reliable evidence of the Subsidiary's compliance with its lending agreements. Management's deletion of information about the Agent transactions from the written requests was particularly suspect in light of the round-trip cash transfers, whose structure suggested a possible motive to conceal from the Credit Co-op the Agent's returns of loan proceeds. In each round-trip transfer, the Subsidiary

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[21] Under PCAOB standards governing the confirmation process, the auditor should direct a confirmation request to "a third party who the auditor believes is knowledgeable about the information to be confirmed." AU § 330.26. The standards use the term "respondent" to refer to the third-party recipient of a confirmation request. *See* AU § 330.27.

[22] As a result of management unilaterally approaching the Lenders and changing the confirmation requests, Klenner understood that, contrary to PCAOB standards, the engagement team had failed to maintain control over the confirmation requests and responses. *See* AU § 330.28.

[23] *See* AU § 330.15 ("Professional skepticism is important in designing the confirmation request, performing the confirmation procedures, and evaluating the results of the confirmation procedures."); *see also* AU § 230.07 and .09; AU § 316.13.

sent the loan proceeds from its account at the Credit Co-op to the Agent, who returned them the same day to a Subsidiary account at a different financial institution. The engagement team never obtained audit evidence to support a legitimate business rationale for the round-trip transfers.

32. In addition, management's direction of the MarcumBP junior staff member to particular individuals at each Lender raised serious questions about whether the confirmation requests had been directed to respondents with the appropriate competence, knowledge, motivation, objectivity, and freedom from bias as to the Issuer.[24] In such cases, "the auditor should consider whether there is sufficient basis for concluding that the confirmation request is being sent to a respondent from whom the auditor can expect the response will provide meaningful and appropriate evidence."[25] But Klenner and the engagement team failed to adequately evaluate whether the respondents were capable of providing meaningful and appropriate evidence of the Subsidiary's compliance with its loan agreements.

33. By relying on the Lender respondents' confirmation responses and oral acknowledgments as evidence of the Subsidiary's compliance with the loan agreements, Klenner failed to obtain sufficient appropriate audit evidence of the Subsidiary's compliance with the loan agreements and failed to adequately evaluate the business rationale (or the lack thereof) for the significant unusual transactions with the Agent.[26]

iii. Klenner Failed to Obtain Sufficient Appropriate Evidence to Determine Whether the Transactions with the Agent Involved a Previously Unidentified Related Party

34. During the Audits, Klenner and the engagement team identified and assessed related party transactions as a risk of material misstatement due to fraud. In identifying the risk, Klenner and the team noted that "management might have [the] intention to omit or conceal significant and unusual related party transactions." They also assessed the risk of material misstatement as high for "related party transactions without proper approval or business rationale[,] and not properly or adequately disclosed."

35. Although management represented that the Agent was not a related party, Klenner was aware of contradictory audit evidence. For example, he reviewed audit evidence

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24 *See* AU § 330.27.

25 *Id.*

26 *See* AS No. 15; AU § 316.66 and .67.

that caused him to question whether the Issuer's Controlling Shareholder had the ability to control or significantly influence the Agent's management or operating policies, which, if true, would render the Agent a related party of the Issuer.[27] He also knew that the Agent and the Controlling Shareholder had engaged in transactions as "longtime business partners."

36. To evaluate whether the Agent and the Controlling Shareholder were related parties, Klenner and his engagement team requested, among other things, details of the transactions between the two parties. In lieu of the transaction details, management provided excerpts of the Controlling Shareholder's audited financial statements, which did not disclose the Agent as a related party.[28] But reading excerpts of the Controlling Shareholder's audited financial statements was not an adequate response to this fraud risk,[29] particularly in light of inconsistent evidence suggesting that the Agent was a possible related party. By failing to perform the audit procedures necessary to resolve the inconsistent audit evidence,[30] Klenner again failed to exercise due professional care, including professional skepticism, in performing the Audits. Consequently, Klenner failed to obtain sufficient appropriate evidence to determine whether the significant unusual transactions with the Agent were related party transactions and, if so, to satisfy himself concerning the adequacy of the Issuer's disclosures in its financial statements.[31]

iv. Klenner Violated Audit Documentation Requirements

37. PCAOB standards require the auditor to timely communicate with the company's audit committee about certain audit-related matters before the audit report is issued.[32] The auditor must document the audit committee communications in the work papers, even if they

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[27] If the Controlling Shareholder also controlled the Agent, the Agent would be an affiliate, and therefore a related party, of the Issuer. *See* ASC 850-10-20 (glossary definitions of "affiliate," "control," and "related parties"). In that case, U.S. GAAP would have required the Issuer to disclose the Subsidiary's transactions with the Agent, which were material to the Issuer's financial statements. *See* ASC 850-10-50.

[28] The Controlling Shareholder's financial statements were audited by a firm unaffiliated with Marcum or MarcumBP.

[29] Among other things, the engagement team had no basis for knowing what procedures may have been performed by the Controlling Shareholder's auditor to identify related parties and related party transactions.

[30] *See* AS No. 15 ¶ 29.

[31] *See* AS No. 15; AU § 334.01 and .11, *Related Parties*.

[32] *See* AS No. 16, *Communications with Audit Committees,* ¶¶ 1 and 26.

take place orally.[33] The audit documentation should be in sufficient detail to enable an experienced auditor, having no previous connection with the engagement, to understand the audit committee communications made to comply with the provisions of AS No. 16.[34] The audit documentation should also demonstrate that the engagement complied with PCAOB standards, and must clearly demonstrate that the work was in fact performed and when the work was performed.[35]

38. After the audit report was issued, but before the documentation completion date,[36] Klenner instructed a staff member to complete three letters on Marcum letterhead addressed to the Issuer's audit committee chair. The letters documented required communications to the audit committee, certain of which Klenner had orally communicated shortly before the audit report was issued. All of the letters were dated prior to the audit report, in one case by more than a year. Klenner signed the letters and they were added to the audit documentation with no explanation. Klenner violated AS No. 3 because the backdated letters suggested that they had been sent to the audit committee on the dates indicated on the letters, when, in fact, they had not.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), John E. Klenner is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), John E. Klenner is barred from being "an associated person of a registered public

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33 *See id.* ¶ 25.

34 *See id.* ¶ 25 n.42.

35 *See* AS No. 3, *Audit Documentation*, ¶¶ 5 and 6.

36 *Id.* ¶ 15.

accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[37]

C. After two years from the date of this Order, John E. Klenner may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. If John E. Klenner is permitted to associate once again with a registered public accounting firm, pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date his bar is terminated, his role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Klenner shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to, but differently denominated from, engagement partner (such as "lead partner" or "practitioner-in-charge") or engagement quality reviewer (such as "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, to either sign a registered public accounting firm's name to an audit report or to consent to the use of a previously issued audit report for any issuer, broker, or dealer; (5) assist the engagement partner in fulfilling his or her responsibilities under paragraph 4 of AS 1201, *Supervision of the Audit Engagement*; (6) serve, or supervise the work of another person serving, as the "other auditor" or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*; or (7) serve, or supervise the work of another individual serving, as a professional practice director;

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon John E. Klenner. All

[37] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Klenner. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Klenner shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Klenner as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. *Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm*; and

F. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), John E. Klenner is required to complete, before filing a petition for Board consent to associate with a registered firm, forty hours of professional education and training relating to PCAOB auditing standards (such hours shall be in addition to, and shall not be counted in, the continuing professional education he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 24, 2020

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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of Helen R. Liao, CPA,

Respondent.

PCAOB Release No. 105-2020-014

September 24, 2020

By this Order, the Public Company Accounting Oversight Board ("PCAOB" or "Board") is: (1) censuring Helen R. Liao, CPA ("Liao" or "Respondent"); (2) barring Liao from being an associated person of a registered public accounting firm, but allowing Liao, after one year, to petition the Board for consent to associate with a registered firm; (3) imposing a civil money penalty of $15,000; and (4) requiring Liao to complete twenty hours of continuing professional education ("CPE") (in addition to any CPE required for any professional license) concerning PCAOB auditing standards, including standards relating to performing engagement quality reviews.

The Board is imposing these sanctions on the basis of its findings that Liao violated PCAOB rules and auditing standards as the engagement quality reviewer on the audits of the financial statements of an issuer ("Issuer") for the years ended December 31, 2013 and 2014 ("Audits").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Liao pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Liao has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on

behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over her and the subject matter of these proceedings, which are admitted, Liao consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Helen R. Liao, CPA** is a certified public accountant licensed by the New York State Education Department (License No. 074974), the New Jersey Division of Consumer Affairs (License No. 20CC03171100), and the District of Columbia Board of Accountancy (License No. CPA900205). She is a partner of Marcum LLP ("Marcum") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Liao served as the engagement quality review ("EQR") reviewer for Marcum's audits of the Issuer's 2013, 2014, and 2015 financial statements. Liao provided her concurring approval of Marcum's issuance of an audit report containing an unqualified opinion on all three years' financial statements in November 2016.[3]

B. Relevant Entities

2. **Marcum LLP** is a New York limited liability partnership headquartered in Melville, New York. Marcum is licensed by the New York State Education Department (License No. 067839) and several other states. Marcum is, and at all relevant times was, registered with

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] Marcum concurrently audited the Issuer's 2013 and 2014 financial statements, and later audited the 2015 financial statements. Marcum issued a single audit report addressing all three years, which was included in the Issuer's Form 10-K for the year ended December 31, 2015, filed with the Securities and Exchange Commission in November 2016.

the Board pursuant to Section 102 of the Act and PCAOB rules. Marcum served as the Issuer's independent auditor from April 2015 to November 2016.

3. **Marcum Bernstein & Pinchuk LLP** ("MarcumBP") is a New York limited liability partnership headquartered in New York, New York. It was formed as a joint venture between Marcum and another registered firm. MarcumBP is licensed by the New York State Education Department (License No. 093038), the Texas State Board of Accountancy (License No. P05632), and the Nevada State Board of Accountancy (License No. PART-0888). MarcumBP is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the Audits, Marcum supervised MarcumBP personnel, who performed auditing procedures regarding the Issuer's China-based operations and transactions.

C. Issuer

4. The Issuer was, at all relevant times, a Delaware corporation whose public filings disclosed that it developed and manufactured energy storage systems and related products. At all times relevant to this Order, (1) the Issuer's common stock was registered under Section 12(g) of the Securities Exchange Act of 1934, and (2) the Issuer was an "issuer" within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. In 2011, the Issuer became majority owned by a company organized under the laws of Hong Kong ("Controlling Shareholder"). The Issuer later announced plans to manufacture its products in mainland China, and began moving its manufacturing operations from the United States to China in 2012. By the end of 2013, the Issuer was operating primarily from China.

6. The Issuer's predecessor auditor, which resigned in August 2014, advised the Issuer that it could not complete the 2013 audit, in part because it had been unable to perform sufficient procedures to determine the completeness of subsequent events that may have occurred in China. The predecessor auditor also advised that it had identified material weaknesses in the Issuer's internal controls and procedures, including a failure to implement adequate procedures and controls to ensure accurate and timely communication with its Chinese subsidiaries.

7. In March 2015, the Issuer filed a Form 8-K reporting that management had analyzed the internal control issues and material weaknesses identified by its predecessor auditor, and concluded that there was "factual support that such issues and weaknesses existed in 2013." As a result, the Issuer disclosed that investors should no longer rely on the financial statements in its Form 10-Q for the period ended September 30, 2013.

D. Summary

8. This matter concerns Liao's failure to perform an EQR of the Audits in compliance with PCAOB standards.[4] As detailed below, Liao violated Auditing Standard ("AS") No. 7, *Engagement Quality Reviews*,[5] by providing her concurring approval to issue Marcum's audit report when she was aware of significant engagement deficiencies in the Audits. She also failed to maintain objectivity in performing her EQR and failed to perform the review with due professional care.

9. Liao's violations arose from her participation in, and review of, audit procedures concerning significant unusual transactions between one of the Issuer's wholly-owned Chinese subsidiaries ("Subsidiary") and a Chinese entity that purportedly acted as the Subsidiary's purchasing agent ("Agent"). The transactions involved the Subsidiary's transfers of loan proceeds to the Agent as prepayments to purchase specified equipment and materials that the Agent never delivered. The loans were obtained from Chinese lenders for the purpose of making these purchases. While the Agent returned a portion of the prepayments—some in unusual same-day, round-trip transfers—it did not return most of them.

10. While performing the EQR, Liao was aware of the fraud risks associated with the significant unusual transactions, particularly the risks that the Subsidiary may have defrauded its lenders by transferring loan proceeds to the Agent and that the Agent may have been an undisclosed related party. Liao was involved in designing audit procedures to address one of the fraud risks. Specifically, to get evidence of whether the Subsidiary had complied with its lending agreements when it transferred loan proceeds to the Agent, she provided detailed comments on the content of confirmation requests to be directed to the Subsidiary's lenders and how the confirmations should be obtained. By assuming these engagement team responsibilities, Liao failed to maintain objectivity in performing her EQR, thus violating AS No. 7.

11. Before the Audits were concluded, Liao learned, among other things, that management had deleted important language from the confirmation requests that she had helped the engagement team design. She also learned that, at management's suggestion, the engagement team had performed related party procedures that were significantly more limited

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[4] *See also Marcum LLP*, PCAOB Release No. 105-2020-012 (Sept. 24, 2020); *John E. Klenner*, PCAOB Release No. 105-2020-013 (Sept. 24, 2020).

[5] There have been changes to the numbering, organization, and, in some cases, content of PCAOB rules and standards since the 2013 and 2014 Issuer audits and the events described in this Order. This Order cites only those rules and standards that were in effect for the 2013 and 2014 audits. Current and archived versions of PCAOB standards are available at www.pcaobus.org/standards.

than had been planned. As a result, Liao was aware that the engagement team had failed to adequately respond to the fraud risks associated with the significant unusual transactions, which resulted in significant engagement deficiencies. Liao provided concurring approval to issue the audit report despite these significant deficiencies. As a result, she violated AS No. 7.

E. Background of the Significant Unusual Transactions in China

i. Liao Understood the Details and Fraud Risks of the Significant Unusual Transactions

12. Liao knew the engagement team had identified significant unusual transactions between the Subsidiary and the Agent in 2013 and 2014.[6] Details of those transactions were set forth in a client-prepared memo included in the audit documentation. Those details—which were known to Liao during the Audits—are summarized below.

13. The transactions involved the Subsidiary's transfers of loan proceeds to the Agent. The Subsidiary had obtained loans (totaling $38.1 million)[7] from two Chinese lending institutions (collectively, "Lenders"), to help finance the purchases of equipment and raw materials specified in purchase orders ("POs") issued to the Agent. The Subsidiary submitted the POs to the Lenders as evidence that the borrowed funds were being used in accordance with the loan agreements.

14. When the Lenders' released the borrowed funds, the Subsidiary transferred all of the loan proceeds to the Agent purportedly as prepayments for the specified equipment and raw materials. But the Agent returned portions of the prepayments to the Subsidiary and never delivered any of the goods.

15. In the fall of 2014, the Subsidiary and the Agent cancelled the POs and the Agent agreed to refund $27.5 million of prepayments, representing the balance of the loan proceeds

[6] PCAOB standards describe significant unusual transactions as "significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment." AU § 316.66.

[7] For purposes of this Order, all transactions originally denominated in Chinese Yuan have been converted into U.S. Dollars, which have been approximated using the then-current Chinese Yuan to U.S. Dollar exchange rate.

purportedly still held by the Agent.[8] The Agent, however, did not return the money. Instead, a Chinese company affiliated with the Issuer ("Affiliate")[9] agreed to settle the Agent's obligation to return the $27.5 million by delivering electric buses of equivalent value to the Subsidiary.[10]

16. The Subsidiary and the Agent later engaged in three unusual, round-trip cash transfers, also involving loan proceeds. After the POs were cancelled, the Subsidiary received an additional $24.4 million from one of the Lenders in two loan transactions. Soon after receiving the proceeds, the Subsidiary sent them all to the Agent in three cash transfers from its account at the Lender. In each instance, the Agent returned the money to the Subsidiary the same day, but not to the Subsidiary's account at the Lender. Instead, the Agent directed the money to the Subsidiary's account at a different financial institution.

17. Both the engagement team and Liao understood that there was a risk that management may have entered into these significant unusual transactions to engage in fraudulent financial reporting.[11] In particular, Liao understood that material misstatements due to fraud could have arisen from these transactions if, among other things, (1) the Subsidiary had defrauded its Lenders through its transactions with the Agent, or (2) the Agent were an undisclosed related party.

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[8] The Subsidiary had prepaid the Agent a total of $38.1 million from funds it borrowed from the Lenders. But by the time the POs were cancelled, the Agent had returned a net amount of $10.6 million to the Subsidiary.

[9] The Issuer and the Affiliate were under common control of the Controlling Shareholder, which held a majority of the Issuer's shares and wholly owned the Affiliate. The Issuer disclosed the Affiliate and the Controlling Shareholder as related parties in its Form 10-K. *See* FASB Accounting Standards Codification ("ASC") 850-10-20, *Related Party Disclosures* (glossary definitions of "affiliate," "control," and "related parties").

[10] Thereafter, the Affiliate and the Controlling Shareholder delivered buses to the Subsidiary in satisfaction of the Affiliate's obligation.

[11] To address fraud risks related to significant unusual transactions, PCAOB standards provided that the auditor "should gain an understanding of the business rationale for such transactions and whether that rationale (or the lack thereof) suggests that the transactions may have been entered into to engage in fraudulent financial reporting or conceal misappropriation of assets." AU § 316.66. In understanding the business rationale for the transactions, the auditor should consider a number of factors, including whether the form of the transactions is overly complex and whether the transactions involve previously unidentified related parties. AU § 316.67.

ii. Liao Was Aware of Management's Representations about the Significant Unusual Transactions

18. During the Audits, Liao was aware of management's representations to the engagement team about the purported business rationale for the significant unusual transactions between the Subsidiary and the Agent. Management of the Issuer and the Controlling Shareholder told the engagement team that the POs had been submitted to the Lenders in order to secure release of the borrowed funds, and that the funds (including those round-tripped back to the Subsidiary) were transferred to the Agent to show the Lenders that the proceeds were being used in accordance with the loan agreements.

19. However, management also represented that the transfers of borrowed funds to the Agent were mere formalities. According to management, the Lenders did not care whether the Subsidiary procured from the Agent or some other party, as long as the loan proceeds were used to purchase the equipment and raw materials specified in the POs and the loan agreements (management represented that the goods were eventually purchased from other sources for a better price). In addition, management represented that the Agent was not a related party and that the transactions with the Agent did not have to be disclosed as related party transactions in the Issuer's financial statements.

F. Liao Violated the Board's Engagement Quality Review Standard in Connection with the Audits

i. Relevant Provisions of PCAOB Standards

20. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[12] An EQR is required for all audits and reviews under PCAOB standards.[13] The EQR is intended to "serve as a meaningful check on the work performed by the engagement team."[14] To achieve that objective, AS No. 7 imposes a number of requirements on the EQR reviewer, including that the reviewer maintain objectivity in performing the review.[15] To maintain objectivity, the reviewer

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12 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards;* PCAOB Rule 3200T, *Interim Auditing Standards*.

13 AS No. 7 ¶ 1.

14 PCAOB Rel. No. 2009-004 (July 28, 2009) at 2.

15 AS No. 7 ¶¶ 4, 6.

should not make decisions on behalf of the engagement team or assume any of the team's responsibilities.[16]

21. In an audit engagement, the EQR reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the audit report. To evaluate those judgments and conclusions, the EQR reviewer should, to the extent necessary, hold discussions with the engagement partner and other members of the engagement team and review audit documentation. The EQR reviewer should also evaluate the team's assessment of, and audit responses to, significant risks (including fraud risks) of material misstatement.[17]

22. The EQR reviewer, after performing a review with due professional care,[18] may provide concurring approval of issuance of an audit report only if the reviewer is not aware of any significant engagement deficiencies.[19] Significant engagement deficiencies include the engagement team's failure to obtain sufficient appropriate evidence in accordance with PCAOB standards.[20]

23. As described below, Liao violated AS No. 7 in performing an EQR of the Audits.

ii. Liao Improperly Assumed Engagement Team Responsibilities for, and Was Aware of a Significant Engagement Deficiency Resulting From, the Design and Execution of Audit Procedures to Test Compliance with Loan Agreements

24. To assess whether the Subsidiary's transfers of loan proceeds to the Agent violated the agreements with its Lenders, the engagement team decided to send customized confirmation requests to the Lenders.[21] Liao actively participated in this process, providing

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16 *Id.* ¶ 7.

17 *Id.* ¶¶ 9, 10b, 14.

18 *Id.* ¶ 12. To perform an EQR with due professional care, the reviewer must exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence. *See* AU § 230.07, *Due Professional Care in the Performance of Work*.

19 AS No. 7 ¶ 12.

20 *Id.* Note to ¶ 12.

21 *See* AU § 330.08, *The Confirmation Process*, which addresses confirming the terms of unusual or complex transactions that are associated with high levels of inherent and control risk; *see also* AU § 330.25 ("auditor should consider requesting confirmation of the terms of unusual agreements or transactions . . . .").

detailed input on the design of the confirmation requests and how the responses should be obtained. Liao thus assumed engagement team responsibilities and violated AS No. 7 by failing to maintain objectivity in performing the EQR.[22]

25. The written confirmation requests, prepared by the team with the engagement partner and Liao's guidance, included specific factual details of the Subsidiary's dealings with the Agent. Among other things, the customized requests detailed that: (a) the Subsidiary used POs issued to the Agent to secure release of borrowed funds; (b) the Subsidiary disbursed the loan proceeds to the Agent; (c) the Agent returned certain of the funds to the Subsidiary; (d) the POs were cancelled; and (e) the Subsidiary never purchased any goods from the Agent. The requests asked the Lenders to confirm in writing that they were aware of these facts and that the Subsidiary had nonetheless complied with the loan agreements.

26. Liao then told an audit director at MarcumBP in China to obtain in-person, written responses to the customized confirmation requests from the Lenders. But before he had an opportunity to obtain the Lenders' confirmation responses, the MarcumBP director informed Liao and the engagement partner that Issuer management had unilaterally approached the Lenders about the requests, and that, according to management, the Lenders would not confirm the requests as written. Management revised the confirmation requests to delete all details about the Agent transactions. The MarcumBP director then forwarded the client-revised requests to Liao and the engagement partner, telling them that management believed the Lenders were willing to confirm the revised requests in writing.

27. Although Liao and the engagement partner objected to the client-revised confirmation requests, the MarcumBP director dispatched a junior staff member to the Lenders with the revised requests. An Issuer employee accompanied the junior staff member and directed him to a particular respondent at each Lender from whom he obtained written confirmations on the client-revised requests.[23] When meeting with the Lender respondents, the junior staff member also orally reviewed with them the specific details about the Agent transactions that had been deleted from the original confirmation requests. Although the Lenders purportedly were unwilling to confirm their knowledge of those specific details in writing, the Lenders' respondents orally acknowledged the details and stated that they did not

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[22] AS No. 7 ¶¶ 6-7.

[23] Under PCAOB standards governing the confirmation process, the auditor should direct a confirmation request to "a third party who the auditor believes is knowledgeable about the information to be confirmed." AU § 330.26. The standards use the term "respondent" to refer to the third-party recipient of a confirmation request. *See* AU § 330.27.

present a loan compliance issue. The MarcumBP junior staff member contemporaneously documented the oral acknowledgements, which were then summarized in the work papers.

28. Management's interference, which Liao knew about, raised serious questions about whether the confirmation responses obtained by the junior staff member were reliable evidence of the Subsidiary's compliance with its lending agreements. Management's deletion of information about the Agent transactions from the written requests was particularly suspect in light of the round-trip cash transfers, whose structure suggested a possible motive to conceal from the Lender the Agent's returns of loan proceeds.[24] In each round-trip transfer, the Subsidiary sent loan proceeds to the Agent from its account at the Lender, and the Agent returned them the same day to a Subsidiary account at a different financial institution. The engagement team never obtained, and did not provide Liao with, audit evidence to support a legitimate business rationale for the round-trip transfers.

29. In addition, management's direction of the MarcumBP junior staff member to particular individuals at each Lender raised serious questions about whether the confirmation requests had been directed to respondents with the appropriate competence, knowledge, motivation, objectivity, and freedom from bias as to the Issuer.[25] In such cases, "the auditor should consider whether there is sufficient basis for concluding that the confirmation request is being sent to a respondent from whom the auditor can expect the response will provide meaningful and appropriate evidence."[26] But as Liao knew, the engagement team failed to adequately evaluate whether the respondents were capable of providing meaningful and appropriate evidence of the Subsidiary's compliance with its loan agreements.

30. Liao also was aware that the engagement partner, after conferring with the Issuer's management, accepted and relied on the Lender respondents' confirmations on the client-revised requests, together with their oral acknowledgments documented by the junior staff member, as evidence of the Subsidiary's compliance with its loan agreements. As a result, she was aware of a significant engagement deficiency because the engagement team had failed to obtain appropriate evidence of the Subsidiary's compliance with the loan agreements and failed to adequately evaluate the business rationale (or the lack thereof) for the significant

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[24] As a result of management unilaterally approaching the Lenders and changing the confirmation requests, Liao understood that, contrary to PCAOB standards, the engagement team had failed to maintain control over the confirmation requests and responses. *See* AU § 330.28.

[25] *See* AU § 330.27.

[26] *Id.*

unusual transactions with the Agent.[27] Failing to perform her EQR with due professional care, Liao violated AS No.7 when she provided concurring approval to issue Marcum's audit report despite this significant engagement deficiency.[28]

iii. Liao Was Aware of a Significant Engagement Deficiency Resulting From the Related Party Audit Procedures

31. Liao knew that the engagement team had identified and assessed related party transactions as a risk of material misstatement due to fraud. In identifying the risk, the team noted that "management might have [the] intention to omit or conceal significant and unusual related party transactions." The team also assessed the risk of material misstatement as high for "related party transactions without proper approval or business rationale[,] and not properly or adequately disclosed."

32. Although management represented that the Agent was not a related party, Liao and the engagement team were aware of contradictory audit evidence. For example, Liao reviewed audit evidence that caused her to question whether the Issuer's Controlling Shareholder had the ability to control or significantly influence the Agent's management or operating policies, which, if true, would render the Agent a related party of the Issuer.[29] She also was aware that the Agent and the Controlling Shareholder had engaged in transactions as "longtime business partners."

33. During the Audits, Liao knew that the engagement team had requested evidence of the details of the transactions between the Controlling Shareholder and the Agent in order to evaluate whether those transactions were indicative of a related party relationship. Liao also knew that, in response, management had provided the engagement team with excerpts of the Controlling Shareholder's audited financial statements, which did not disclose the Agent as a

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[27] *See* AS No. 15, *Audit Evidence*; AU § 316.66 and .67.

[28] AS No. 7 ¶ 12.

[29] If the Controlling Shareholder also controlled the Agent, the Agent would be an affiliate, and therefore a related party, of the Issuer. *See* ASC 850-10-20 (glossary definitions of "affiliate," "control," and "related parties"). In that case, U.S. GAAP would have required the Issuer to disclose the Subsidiary's transactions with the Agent, which were material to the Issuer's financial statements. *See* ASC 850-10-50.

related party.[30] And she knew that the engagement partner had accepted the audited financial statements of the Controlling Shareholder as evidence that the Agent was not a related party.

34. But reading excerpts of the Controlling Shareholder's audited financial statements was not an adequate response to this fraud risk,[31] particularly in light of inconsistent evidence suggesting that the Agent was a possible related party. As Liao understood, the engagement team failed to perform the audit procedures necessary to resolve the inconsistent audit evidence.[32] As a result, Liao was aware of another significant engagement deficiency because the engagement team had failed to obtain sufficient appropriate evidence to determine whether the significant unusual transactions with the Agent were related party transactions and, if so, to satisfy themselves concerning the adequacy of the Issuer's disclosures in its financial statements.[33] Liao thus violated AS No. 7 by providing concurring approval for issuance of Marcum's audit report while being aware of this significant engagement deficiency, and by failing to perform her EQR with due professional care.[34]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Helen R. Liao is hereby censured;

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[30] The Controlling Shareholder's financial statements were audited by a firm unaffiliated with Marcum or MarcumBP.

[31] Among other things, the engagement team had no basis for knowing what procedures may have been performed by the Controlling Shareholder's auditor to identify related parties and related party transactions.

[32] *See* AS No. 15 ¶ 29.

[33] *See* AS No. 15; AU § 334.01 and .11, *Related Parties*.

[34] AS No. 7 ¶ 12.

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Helen R. Liao is barred from being "an associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act;[35]

C. After one year from the date of this Order, Helen R. Liao may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon Helen R. Liao. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Liao shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Liao as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. *Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm*; and

E. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Helen R. Liao is required to complete, before filing a petition for Board consent to associate with a registered firm, twenty hours of professional education and training directly related to the audits of issuer financial statements under PCAOB

[35] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Liao. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

standards, covering, among other topics, the performance of engagement quality reviews in accordance with AS 1220, *Engagement Quality Review* (such hours shall be in addition to, and shall not be counted in, the continuing professional education Liao is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 24, 2020

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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of Da Hua CPAs (Special General Partnership),

Respondent.

PCAOB Release No. 105-2020-015

September 29, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Da Hua CPAs (Special General Partnership) (the "Firm" or "Respondent"), a registered public accounting firm, imposing a civil money penalty in the amount of $10,000 upon the Firm, and requiring the Firm to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements. The Board is imposing these sanctions on the basis of its findings that the Firm failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting

Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Da Hua CPAs (Special General Partnership)** is, and at all relevant times was, a partnership organized under Chinese law, and headquartered in Beijing, China. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed in China by the Chinese Ministry of Finance.

B. Summary

2. This matter concerns the Firm's failures to disclose two reportable events, concerning one disciplinary proceeding, to the Board on Form 3 as required by PCAOB rules. PCAOB rules require the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm is required to report on Form 3 are its becoming a respondent in certain disciplinary proceedings and the conclusion of such proceedings.

3. No later than July 31, 2018, the Firm and three of its associated persons became respondents in a disciplinary proceeding initiated by the China Securities Regulatory Commission ("CSRC"). The initiation of this proceeding against the Firm was a reportable event under Form 3. With respect to the proceeding, the Firm failed to file a Form 3 reporting that it had become a respondent in the proceeding.

4. In addition, the conclusion of the proceeding was a reportable event under Form 3. The Firm also failed to file a report of the conclusion of the matter on Form 3.

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

C. Respondent Failed to Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3] Another such specified event occurs when a firm has become aware that a reportable proceeding (i.e., a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[4]

6. With respect to two such reportable events occurring in 2018, the Firm failed to file a Form 3 with the Board.

7. No later than July 31, 2018, the Firm became aware that the CSRC had initiated a disciplinary proceeding against it and three of its associated persons. The proceeding related to the provision of professional services by the Firm to a company that was not an issuer.[5] The Firm first learned of the conclusion of the proceeding on or around July 31, 2018.

8. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the initiation and conclusion of this proceeding.

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[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

[4] PCAOB Form 3, at Item 2.10.

[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

9. The Firm's internal compliance and reporting systems failed to identify the initiation of the proceeding described above, and its conclusion, as being reportable to the PCAOB. As a result, the Firm inappropriately failed to notify the PCAOB of the initiation and conclusion of the disciplinary proceeding.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable

events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process;

3. within ninety (90) days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm; and

4. within one hundred twenty (120) days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C.1 through C.3 above.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 29, 2020

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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of East Asia Sentinel Limited,

Respondent.

PCAOB Release No. 105-2020-016

September 29, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring East Asia Sentinel Limited (the "Firm" or "Respondent"), a registered public accounting firm, imposing a civil money penalty in the amount of $10,000 upon the Firm, and requiring the Firm to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements. The Board is imposing these sanctions on the basis of its findings that the Firm failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting

Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **East Asia Sentinel Limited** is, and at all relevant times was, a limited liability corporation organized under Hong Kong law, and headquartered in Hong Kong. It is part of the East Asia Sentinel Group and is associated with the BKR International network. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed in Hong Kong by the Hong Kong Institute of Certified Public Accountants ("HKICPA").

B. Summary

2. This matter concerns the Firm's failures to disclose two reportable events, concerning one disciplinary proceeding, to the Board on Form 3 as required by PCAOB rules. PCAOB rules required the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm was required to report on Form 3 were its becoming a respondent in certain disciplinary proceedings and the conclusion of such proceedings.

3. In 2018, the Firm and two of its associated persons became respondents in a disciplinary proceeding initiated by the HKICPA. The initiation of this proceeding against the Firm and its associated persons was a reportable event under Form 3. With respect to the proceeding, the Firm failed to file a Form 3 reporting that it and two associated persons had become respondents in the proceeding.

4. In addition, the conclusion of each proceeding was a reportable event under Form 3. The Firm also failed to file a report of the conclusion of the proceeding on Form 3.

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

C. Respondent Failed to Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3] Another such specified event occurs when a firm has become aware that a reportable proceeding (i.e., a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[4]

6. With respect to two such reportable events occurring in 2018, the Firm failed to file a Form 3 with the Board.

7. No later than May 17, 2018, the Firm became aware that the HKICPA had initiated a disciplinary proceeding against it and two of its associated persons. The proceeding related to the provision of professional services by the Firm to a company that was not an issuer.[5]

8. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the initiation of this proceeding.

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[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

[4] PCAOB Form 3, at Item 2.10.

[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

9. The proceeding against the Firm concluded on or around November 5, 2018.

10. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the conclusion of this proceeding.

11. The Firm's internal compliance and reporting systems failed to identify the initiation of the proceeding described above, and their conclusion, as being reportable to the PCAOB. As a result, the Firm inappropriately failed to notify the PCAOB of the initiation and conclusion of the disciplinary proceeding.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process;

3. within ninety (90) days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm; and

4. within one hundred twenty (120) days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C.1 through C.3 above.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 29, 2020

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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of Ruihua Certified Public Accountants,

Respondent.

PCAOB Release No. 105-2020-017

September 29, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Ruihua Certified Public Accountants (the "Firm" or "Respondent"), a registered public accounting firm, and imposing a civil money penalty in the amount of $10,000 upon the Firm. The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting

Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Ruihua Certified Public Accountants** is, and at all relevant times was, a partnership organized under Chinese law, and headquartered in Beijing, China. The Firm is a member of the Crowe Global network. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed in China by the Chinese Ministry of Finance.

B. Summary

2. This matter concerns the Firm's failures to timely disclose seven reportable events, concerning five disciplinary proceedings, to the Board on Form 3 as required by PCAOB rules. PCAOB rules required the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm was required to report on Form 3 were its becoming a respondent in certain administrative or disciplinary proceedings and the conclusion of such proceedings.

3. Between November 2015 and January 2020, the Firm became a respondent in five separate disciplinary proceedings initiated by the China Securities Regulatory Commission ("CSRC"). The initiation of each of these proceedings against the Firm was a reportable event under Form 3. The Firm failed to file a Form 3 reporting one of the proceedings for over a year after learning of the initiation of that proceeding and failed to file a Form 3 reporting the initiation of the other proceedings until over four years after the initiation of one proceeding and well past the 30-day reporting deadline for the remaining proceedings.

4. Additionally, the Firm learned that two disciplinary proceedings against it by the CSRC had been concluded in December 2018 and August 2019. The conclusion of those proceedings against the Firm also constituted reportable events under Form 3. The Firm failed to report any of the events until June 16, 2020, well after the 30-day reporting deadline.

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

C. Respondent Failed to Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3] Another such specified event occurs when a firm has become aware that a reportable proceeding (i.e., a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[4]

6. Between 2015 and 2020, the CSRC initiated disciplinary proceedings against the Firm and certain of its associated persons. Each of the proceedings related to the Firm's provision of professional services to companies that were not issuers.[5] The Firm first learned of the initiation of the proceedings no later than the following dates:

- Proceeding 1: November 20, 2015
- Proceeding 2: May 31, 2016
- Proceeding 3: January 31, 2019

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[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

[4] PCAOB Form 3, at Item 2.10.

[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

- Proceeding 4: July 31, 2019

- Proceeding 5: January 31, 2020

7. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the initiation of Proceeding 1 until June 29, 2017, over a year after the initiation of that proceeding. In addition, in violation of Rule 2203, the Firm failed to file a Form 3 for the four other proceedings until June 16, 2020, over four years after the initiation of Proceeding 2 and well past the 30-day reporting deadline for the remaining three proceedings.

8. Additionally, the CSRC concluded Proceeding 2 on December 29, 2018, and Proceeding 1 on August 27, 2019.

9. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the conclusion of these two proceedings until June 16, 2020.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W.

Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 29, 2020

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

1666 K Street NW
Washington, DC 20006

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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of Zhonghua Certified Public Accountants LLP,

Respondent.

PCAOB Release No. 105-2020-018

September 29, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Zhonghua Certified Public Accountants LLP (the "Firm" or "Respondent"), a registered public accounting firm, imposing a civil money penalty in the amount of $10,000 upon the Firm, and requiring the Firm to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements. The Board is imposing these sanctions on the basis of its findings that the Firm failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order Instituting

Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Zhonghua Certified Public Accountants LLP** is, and at all relevant times was, a partnership organized under Chinese law, and headquartered in Shanghai, China. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed in China by the Chinese Ministry of Finance.

B. Summary

2. This matter concerns the Firm's failures to disclose four reportable events, concerning two disciplinary proceedings, to the Board on Form 3 as required by PCAOB rules. PCAOB rules required the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm was required to report on Form 3 were its becoming a respondent in certain disciplinary proceedings and the conclusion of such proceedings.

3. In 2019, the Firm and certain of its associated persons became respondents in two disciplinary proceedings initiated by the China Securities Regulatory Commission ("CSRC"). The initiation of each of those proceedings against the Firm was a reportable event under Form 3. With respect to each of the proceedings, the Firm failed to file a Form 3 reporting that it had become a respondent in the proceeding.

4. In addition, the conclusion of these proceedings constituted reportable events under Form 3. The Firm also failed to file a report of the conclusion of each matter on Form 3.

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

C. Respondent Failed to Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3] Another such specified event occurs when a firm has become aware that a reportable proceeding (i.e., a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[4]

6. No later than May 24, 2019, the Firm became aware that the CSRC had initiated disciplinary proceedings against it and two of its associated persons. The proceeding related to the provision of professional services by the Firm to a company that was not an issuer.[5]

7. No later than October 28, 2019, the Firm became aware that the CSRC had initiated disciplinary proceedings against it and two of its associated persons. The proceeding related to the provision of professional services by the Firm to a company that was not an issuer.

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[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

[4] PCAOB Form 3, at Item 2.10.

[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

8. In violation of Rule 2203, the Firm failed to file a Form 3 with the Board with respect to either the initiation or conclusion of these proceedings.

9. The Firm's internal compliance and reporting systems failed to identify the initiation of the proceedings described above, and their conclusion, as being reportable to the PCAOB. As a result, the Firm inappropriately failed to notify the PCAOB of the initiation and conclusion of relevant disciplinary proceedings.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

   1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and

procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process;

3. within ninety (90) days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm; and

4. within one hundred twenty (120) days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C.1 through C.3 above.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 29, 2020

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Grant Thornton LLP, Gary Homsley, CPA, and Larry Dana Leslie, CPA,

Respondents.

PCAOB Release No. 105-2020-019

November 5, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon Grant Thornton LLP (the "Firm" or "GT"), Gary C. Homsley, CPA, and Larry Dana Leslie CPA (collectively, "Respondents"). The Board is:

(1) imposing a $750,000 civil money penalty on the Firm;

(2) barring Homsley from being associated with a registered public accounting firm,[1] if Homsley is permitted to associate once again with any registered public accounting firm, limiting his activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), until three years from the date of this Order by prohibiting Homsley from serving in certain capacities in any audit, as described in Section IV hereto, and imposing a $15,000 civil money penalty on Homsley; and

(3) limiting Leslie's activities in connection with any "audit," as that term is defined in Section 110(1) of the Act, for a period of two years.

The Board is imposing these sanctions based on its findings that: (1) Homsley and the Firm violated PCAOB rules and standards[2] in connection with the Firm's audits of the financial

[1] Homsley may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

[2] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of audits discussed herein. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a

statements of Erickson Inc. ("Erickson" or the "Company") for the fiscal years ("FYs") ended December 31, 2015, 2014, and 2013 (together, the "Audits" and each an "Audit"); (2) Leslie violated PCAOB rules and standards in connection with the Firm's audits of the financial statements of Erickson for the FYs ended December 31, 2015 and 2014; and (3) the Firm violated PCAOB rules and standards by failing to design, implement, and maintain appropriate quality control policies and procedures related to the Firm's documentation of audit remediation in its hard copy working papers.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

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single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015).

[3] The findings herein are made pursuant to the Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of

A. Respondents

1. **Grant Thornton LLP** is a limited liability partnership organized under the laws of the state of Illinois and headquartered in Chicago, Illinois. The Firm has offices in multiple locations, including Portland, Oregon, and Seattle, Washington. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Grant Thornton LLP was Erickson's external auditor, including for the Audits. The Firm issued unqualified audit opinions on Erickson's consolidated financial statements for FYs 2013, 2014, and 2015.

2. **Gary C. Homsley** is a certified public accountant licensed by the Oregon Board of Accountancy (License No. 6311). At all relevant times, Homsley was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Until July 31, 2019, Homsley was a Partner of the Firm, resident in its Portland, Oregon, office. Homsley was the engagement partner on the Audits.

3. **Larry Dana Leslie** is a certified public accountant licensed by the Washington State Board of Accountancy (License No. 20946). At all relevant times, Leslie was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Until October 31, 2018, Leslie was a Partner of the Firm, resident in its Seattle, Washington, office. From 2009 through August 1, 2016, Leslie served as the Pacific Northwest Audit Practice Leader, or equivalent position. Leslie conducted the engagement quality reviews ("EQRs") of the Audits.

B. Issuer

4. Erickson, Inc., was, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Erickson provided aviation services, mainly in the logging, firefighting, construction, and defense sectors. Erickson filed a voluntary petition for relief under chapter 11 of the U.S. Bankruptcy Code on November 8, 2016. Erickson emerged from bankruptcy in April 2017 and is now under private ownership.

C. Summary

5. This matter concerns, among other things, the Firm's and Homsley's violations of PCAOB rules and standards in auditing Erickson's liabilities resulting from aircraft lease agreements and Erickson's ability to continue as a going concern. Specifically, the Firm and

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negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

Homsley failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence in connection with certain Erickson lease-related liabilities. These lease-related liabilities concerned Erickson's contractual obligations to maintain or return aircraft to conditions specified under the relevant aircraft lease agreements. The Firm and Homsley failed to evaluate sufficiently whether Erickson's financial statements correctly reported its lease-related liabilities. The Firm and Homsley also failed, in the FY2015 Audit, to evaluate adequately Erickson's ability to continue as a going concern. As a result of these failures, the Firm lacked an appropriate basis to issue an unqualified opinion in each Audit.[5]

6. This matter also concerns Leslie's failure to perform his role as EQR partner with due professional care. Specifically, Leslie violated Auditing Standard ("AS") No. 7, Engagement Quality Review ("AS 7") by, among other things, failing to evaluate appropriately the engagement teams' significant judgments with respect to planning, including consideration of the risk of certain Erickson lease-related liabilities and consideration of Erickson's ability to continue functioning as a going concern.[6] As a result of the inadequacy of his engagement quality review, Leslie lacked an appropriate basis for his concurring approval of the issuance of GT's unqualified opinion in the FY2014 Audit and FY2015 Audit.[7]

7. Finally, the Firm and Homsley violated the auditing standards on documentation by failing to ensure that portions of each Audit's working papers in connection with audit remediation bore correct dates. As a result, certain hard copy remediation work papers for the Audits (the "Remediation Work Papers"), when archived, reflected that those work papers had been completed earlier than they actually had been.[8]

8. The documentation violations involving the Remediation Work Papers resulted, at least in part, from the Firm's insufficient QC system related to audit documentation, which failed to provide reasonable assurance that the engagement teams would document their audit work in accordance with professional standards.[9]

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5 *See* AU § 508.07, *Reports on Audited Financial Statements*.

6 *See* AS 7 ¶ 10.a.

7 *See* AS 7 ¶ 12.

8 *See* AS No. 3, *Audit Documentation* ("AS 3").

9 *See* Quality Control Standard 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20").

D. Background

i. Erickson's Aircraft Leases

9. Erickson had 21 aircraft in its fleet as of December 31, 2012. On May 2, 2013, Erickson acquired Evergreen Helicopters, Inc. ("EHI") for a total purchase price of approximately $298 million (the "EHI Acquisition"), including 35 leased aircraft.

10. Erickson's aircraft leases contained provisions requiring Erickson to maintain the leased aircraft in a specified condition during the term of the lease, *i.e.*, a Return to Service Obligation ("RTS Obligation"), and/or to return the aircraft to the lessor in a specified condition at the end of the lease, *i.e.*, a Lease Return Obligation. These obligations could give rise to corresponding liabilities for Erickson. For example, should an aircraft be in a non-airworthy condition at the end of or during its lease, Erickson could be liable for the cost of returning the aircraft to an airworthy condition.[10]

11. Following the EHI Acquisition, Erickson recorded a liability relating to some of its newly acquired leases. This post-acquisition liability was initially $20.4 million and related to nine specific EHI aircraft (the "2013 EHI Liability"). Erickson subsequently amortized the 2013 EHI Liability. As of December 31, 2013, the remaining 2013 EHI Liability, included in Erickson's accrued and other current liabilities, totaled around $9.7 million. By the end of FY2014, Erickson had reduced the 2013 EHI Liability to zero. From the time of the EHI Acquisition through December 31, 2015, Erickson did not record any liabilities for RTS Obligations or Lease Return Obligations other than the 2013 EHI Liability. As of December 31, 2014 and 2015, Erickson had zero recorded liabilities for RTS Obligations and Lease Return Obligations.

12. On November 9, 2016, Erickson filed a Form 8-K reporting, among other things, that it had: (1) filed for bankruptcy under Chapter 11; (2) failed to make its November 2016 interest payments on its 2020 Senior Notes; and (3) concluded that its previously issued consolidated financial statements for the years ended December 31, 2015 and 2014 and for each of the quarterly and year-to-date periods ended in 2014 and 2015 and through June 30, 2016 should no longer be relied upon because of certain errors in the financial statements. Erickson reported that the errors resulted from not accruing an expense when various leased aircraft fell into non-airworthy condition, despite certain of the Company's aircraft lease agreements requiring that it maintain its leased aircraft in an airworthy condition at all times.

[10] Alternatively, Erickson could negotiate with the lessor to buy out the aircraft from its lease, which may have been economically beneficial for Erickson if the purchase price was lower than the repair-related cost.

Erickson reported that it had "discovered an estimated $13.8 million understatement of current liabilities and return-to-service expense as the net cumulative effect of these errors through June 30, 2016."[11] Erickson has now emerged from bankruptcy and is privately owned.

ii. The Engagement Teams

13. Prior to joining the Erickson engagement for the FY2012 Audit, Homsley had no experience auditing companies that operated aircraft or with the applicable GAAP for the aviation industry, *i.e.*, ASC Topic 908, Airlines. The engagement teams' members also lacked aviation industry audit experience outside the Erickson engagement. GT offered no aviation industry training to the engagement teams working on the Audits.

14. The Firm had audit quality concerns about Homsley before retaining him as engagement partner for the FY2015 Audit. Indeed, the Firm placed Homsley on a Partner Support Plan in September 2015, due to issues with Homsley's FY2013 and FY2014 Audits. The Firm and Homsley discussed reducing Homsley's client workload in connection with his transition to a different role at the Firm, but the Firm did not notify Homsley that it had placed him on the Partner Support Plan.

15. The Firm considered removing Homsley from all issuer audits before the FY2015 Audit, but, among other things, determined that doing so "could also negatively impact the workload of the partner the work was transferred to." The Firm decided to retain Homsley as the engagement partner for Erickson's FY2015 Audit, despite being aware of Homsley's audit quality issues. Likewise, the Firm chose to retain Leslie as EQR partner on the FY2015 Audit despite its awareness of audit quality issues relating to the FY2013 Audit and FY2014 Audit, on which Leslie had been the EQR partner.

E. The Firm and Homsley Violated PCAOB Standards in Auditing Erickson's Liabilities Relating to its Lease Agreements

i. Failure To Adequately Assess Risks

16. In connection with the preparation or issuance of any audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with

[11] Form 8-K filed by Erickson on November 9, 2016.

applicable auditing and related professional practice standards.[12] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[13]

17. PCAOB standards require auditors to perform risk assessment procedures that are sufficient to provide a reasonable basis for identifying and assessing the risks of material misstatement, whether due to error or fraud, and designing further audit procedures.[14] Auditors are required to obtain an understanding of the company and its environment to understand the events, conditions, and company activities that might reasonably be expected to have a significant impact on the risk of material misstatement.[15] Under those standards, auditors should obtain an understanding of the nature of the company, the selection and application of accounting principles, business risks, and company performance measures.[16]

18. The Firm and Homsley failed to ensure that the engagement teams obtained an adequate understanding of certain Erickson lease-related liabilities, as was required under AS 12.[17] AS 12 specifically provides that obtaining an understanding of a company includes understanding a company's industry, along with the company's objectives and strategies and those related business risks that might reasonably be expected to result in risks of material misstatement.[18] However, with the exception of the 2013 EHI Liability, the engagement teams failed to obtain an understanding of any of Erickson's individual lease terms that may have given rise to RTS Obligations or Lease Return Obligations.

19. During the FY2014 and FY2015 audits, the Firm and Homsley did not consider management's estimate of any aircraft lease liabilities in connection with RTS Obligations or Lease Return Obligations to be significant. Despite knowing that Erickson's fleet had expanded to include leased aircraft, GT's engagement teams did not identify a risk during the FY2014 and

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12 PCAOB Rule 3100, Compliance with Auditing and Related Professional Practice Standards; PCAOB Rule 3200T, Interim Auditing Standards; PCAOB Rule 3400T, Interim Quality Control Standards.

13 *See* AU § 508.07.

14 *See* AS No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"), ¶¶ 4, 59.

15 *See id.* ¶ 7.

16 *See id.* ¶¶ 7-17.

17 *See, e.g., id.* ¶ 7.

18 *Id.*

FY2015 audits that Erickson's liabilities for RTS Obligations or Lease Return Obligations could be materially understated,[19] whether caused by error or fraud.

20. The Firm and Homsley failed to evaluate appropriately, whether, and how, Erickson's aircraft leases affected the risks of material misstatement. The Firm and Homsley also failed to obtain a sufficient understanding of Erickson's selection and application of accounting principles about its leased aircraft. The Firm and Homsley failed to evaluate whether Erickson's selection and application of accounting principles was appropriate for its business and consistent with GAAP.

21. The Firm and Homsley never obtained an adequate understanding of how Erickson management accounted for RTS Obligations or Lease Return Obligations after the EHI Acquisition. Despite knowing that Erickson's aircraft leases might contain terms that could cause these types of material liabilities, the Firm and Homsley failed to take sufficient steps, including adequately reviewing the aircraft lease agreements, to understand Erickson's contractual obligations related to potential RTS Obligations and Lease Return Obligations. Further, Homsley did not instruct the engagement teams to document these potential liabilities included in the aircraft leases that they reviewed. Other than for the 2013 EHI Liability, the engagement teams failed to obtain an understanding of any individual lease terms that may have given rise to RTS Obligations or Lease Return Obligations.

ii. Failure To Obtain Sufficient Audit Evidence To Support The Lack Of Liabilities

22. PCAOB standards require, among other things, that an auditor plan and perform the audit with due professional care and to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[20]

23. The Firm and Homsley failed to obtain sufficient appropriate evidence to support Erickson's determinations concerning certain lease-related liabilities. GT's engagement teams did not plan or perform procedures in the FY2014 or FY2015 Audits designed to identify unrecorded liabilities related to RTS Obligations or Lease Return Obligations. During the FY2014 and FY2015 Audits, the Firm and Homsley failed to test whether Erickson's conclusions in this

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[19] The risk of understatement related to the completeness and valuation or allocation assertions for Erickson's reported liabilities and expense accounts. *See* AS No. 15, *Audit Evidence*, ("AS 15") ¶ 11.

[20] *See* AU §§ 230.01-.02, .07, *Due Professional Care in the Performance of Work*; AS 15 ¶ 4.

area were correct, despite knowing that at least nine of Erickson's leased aircraft had previously been subject to RTS Obligations and/or Lease Return Obligations.

24. First, the Firm and Homsley failed to evaluate sufficiently, during the FY2014 or FY2015 audits, when the last major maintenance period was for any leased aircraft or when any of the aircraft leases terminated and the potential relevance of such information for Lease Return Obligations. They failed to evaluate adequately any leases for purposes of considering the timing of any potential Lease Return Obligations despite that the FY2014 and FY2015 work papers documented the scheduled termination of various aircraft leases in March 2015, March 2016, and December 2016. Nor did the work papers adequately demonstrate the interaction between last major maintenance periods or lease terminations and potential liabilities related to Lease Return Obligations. The Firm and Homsley lacked a basis on which to determine whether Erickson's failure to accrue costs to satisfy certain obligations was appropriate or not.

25. Second, the Firm and Homsley knew, or should have known, that Erickson needed to consider accruing a liability when an event occurred that damaged or otherwise caused a leased aircraft to enter into a state of disrepair which grounded the aircraft, rendering it non-airworthy. The Firm and Homsley knew that as of December 31, 2014, Erickson had fifteen non-airworthy aircraft. Despite this knowledge, the Firm and Homsley took no steps to determine whether any of those fifteen non-airworthy aircraft were leased for purposes of evaluating potential RTS Obligations. The Firm and Homsley knew, or should have known, that Erickson also had non-airworthy aircraft in 2015. However, the Firm and Homsley failed to test Erickson's determination that it had no liabilities related to RTS Obligations. Although the relevant aircraft leases revealed the potential for RTS Obligations on the face of the agreements, neither the Firm nor Homsley instructed anyone on the engagement teams to review the leases and perform procedures to identify and assess the impact of potential RTS Obligations included in the aircraft leases. As a result, Homsley and the engagement teams lacked a sufficient basis on which to assess whether Erickson's failure to record certain lease-related liabilities was appropriate.

26. As a result of these deficiencies, the Firm and Homsley failed to obtain sufficient appropriate audit evidence to determine whether all of Erickson's lease-related liabilities were fairly stated, in all material respects, in the FY2014 Audit and FY2015 Audit.[21]

[21] *See* AS 15 ¶ 4; *see also* AU §§ 230.01-.02, .07.

F. The Firm and Homsley Failed to Adequately Evaluate Erickson's Ability to Continue as a Going Concern

27. PCAOB standards required the Firm and Homsley to evaluate, based on their knowledge of relevant conditions and events that existed at or occurred before the date of the Firm's audit report, whether there was substantial doubt about Erickson's ability to continue as a going concern for a reasonable period of time, not to exceed one year, beyond the date of the financial statements being audited.[22] Ordinarily, information that significantly contradicts a going concern assumption relates to the entity's inability to continue to meet its obligations as they become due without substantial disposition of assets outside the ordinary course of business, restructuring of debt, externally forced revisions of its operations, or similar actions.[23] An auditor may identify information about certain conditions or events that, when considered in the aggregate, indicate there could be substantial doubt about the entity's ability to continue as a going concern for a reasonable period of time.[24] Examples of such conditions or events include: negative trends; other indications of possible financial difficulties; internal matters (*e.g.*, labor difficulties, substantial dependence on the success of a particular project, etc.); and certain external matters (*e.g.*, loss of a principal customer or supplier, matters which might jeopardize an entity's ability to operate, etc.).[25]

28. The FY2015 Erickson audit report, issued on March 10, 2016, did not include a going concern explanatory paragraph concerning Erickson's ability to continue operating as a going concern throughout FY2016, *i.e.*, until December 31, 2016.

29. The Firm and Homsley violated PCAOB standards by failing to consider sufficiently conditions and events of which they were aware, or should have been aware, that, when considered in the aggregate, should have caused the engagement team to evaluate further whether there was substantial doubt about Erickson's ability to continue operating as a going concern.[26]

30. The Firm and Homsley failed to consider appropriately numerous red flags that ought to have caused them to evaluate more closely Erickson's ability to continue functioning as a going concern. For example, the Firm and Homsley failed to evaluate adequately Erickson's

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22 AU § 341.02, *The Auditor's Consideration of an Entity's Ability to Continue as a Going Concern*.

23 AU § 341.01.

24 AU § 341.06.

25 AU § 341.06.

26 *See* AU §§ 341.02-.04.

predicted cash flow in FY2016 and ability to meet its FY2016 debt payment obligations. Based on information available to the Firm and Homsley, Erickson lacked sufficient predicted cash flow in FY2016 to meet its debt payment obligations for its long-term debt, including payments required to be made in connection with its credit facility ("Line of Credit"). While Erickson's forecasted FY2016 principal and interest obligations totaled between $44-45 million, its projected FY2016 cash flows, excluding principal and interest payments on its debt ("Net Debt-free Cash Flows"), totaled only around $26 million. Therefore, the required FY2016 principal and interest payments exceeded projected Net Debt-free Cash Flows by around $18-19 million. This shortfall exceeded Erickson's combined cash on hand of $2.1 million and positive working capital of $8.5 million by approximately $8.4 million. While the $22.9 million available under Erickson's Line of Credit exceeded the $8.4 million shortfall, the audit team failed to analyze adequately Erickson's projections given the amount drawn down on the Line of Credit observed in the first month of 2016.

31. The Firm and Homsley failed to consider adequately the terms of Erickson's financial covenants and their impact on Erickson's Line of Credit borrowing capacity. Erickson's borrowing increased by around $10 million in January 2016. As of January 31, 2016, Erickson's borrowing availability was around $13 million without triggering a default, which affected Erickson's ability to make up the shortfall between its debt service obligations and projected cash flows, while using the Line of Credit as a method of funding operations. The Firm and Homsley failed to consider the limiting effect of the financial covenants on Erickson's borrowing capacity and the effective cap on Erickson's ability to borrow.

32. The Firm and Homsley also failed to consider adequately multiple negative trends affecting Erickson. For example, Erickson's revenue decreased 14 percent, from $346.6 million in FY2014 to $297.5 million in FY2015. Erickson also decreased its projected revenue. Management announced in Q1 2015 that their FY2015 revenue forecast was to be between $330 to $350 million, which they decreased to around $300 million in Q3 2015. Another negative trend was that Erickson reported a net loss totaling $86.7 million for FY2015, a 742 percent increase from the reported net loss totaling $10.3 million for FY2014. The FY2015 net loss included impairment losses of around $65 million, which had increased by 200 percent from the reported impairment losses of $21.3 for FY2014.

33. Homsley and the engagement team also failed to consider adequately other indications of possible financial difficulties. For example, in FY2015 Erickson was considered to have an accounting and governance risk that was rated "Very Aggressive," in a research analysis report, from an outside data research firm that provided GT with analyst services. GT provided this report to the engagement team during the FY 2015 Audit. The report also placed Erickson

in the first percentile, indicating the Company had a higher likelihood of experiencing financial distress than 99 percent of other companies reviewed.

34. The Firm and Homsley also failed to adequately consider whether the following factors in the aggregate indicated that there could be substantial doubt about Erickson's ability to continue as a going concern: (i) Erickson classified around 20 percent of its operating fleet (15 aircraft) as held for sale as of December 31, 2015; (ii) Erickson reduced employee headcount from December 31, 2013 to December 31, 2015 by around 400, or 33 percent; and (iii) Erickson received a determination from the U.S. Small Business Administration ("SBA") on November 25, 2015 that concluded Erickson was no longer considered to have a "small business size" status. The SBA's decision precluded Erickson from bidding on certain contracts as the prime contractor, resulting in lower margins and increased uncertainty over revenue for the affected contracts for Erickson. Ultimately, Erickson was not able to continue operating as a going concern until December 31, 2016; it filed for bankruptcy protection in November 2016.

35. As a result of these deficiencies, the Firm and Homsley failed to exercise due professional care and failed to obtain sufficient appropriate evidence concerning Erickson's ability to continue as a going concern.[27]

G. Homsley Failed to Supervise Appropriately the Engagement Teams

36. PCAOB standards hold the engagement partner responsible for the engagement and its performance.[28] Homsley was therefore responsible for the assignment of tasks to, and supervision of, members of the engagement teams.[29]

37. Homsley failed to determine appropriately the extent of supervision necessary for his engagement teams' members to perform their work and form appropriate conclusions related to Erickson's aircraft lease liabilities.[30] Homsley failed to evaluate appropriately his teams' knowledge, skill, and ability.[31] For example, Homsley failed to take adequately into

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27 AU §§ 230.01-.02, .07; AU §§ 341.01-.02, .05-.07; AS 15 ¶ 4.

28 *See* AS No. 10, *Supervision of the Audit Engagement* ("AS 10"), ¶ 3; AU § 230.06.

29 *See* AU § 230.06; *see also* AS 10 ¶¶ 3-4.

30 *See* AS 10 ¶ 6.

31 *See id.*

account his teams' lack of experience with aviation companies like Erickson, and, in particular, his teams' lack of auditing experience relating to aircraft leases.

38. PCAOB standards also required Homsley, in the absence of other engagement team members performing supervisory activities, to review the work of his engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[32] Homsley failed to perform these responsibilities appropriately, including with regard to the engagement teams' work concerning certain Erickson lease-related liabilities and, in FY2015, the evaluation of Erickson's ability to continue operating as a going concern.

39. Homsley failed to supervise appropriately the engagement teams' review of Erickson's leases, including certain Erickson lease-related liabilities. Homsley failed to instruct the engagement teams to review Erickson's aircraft leases to examine potential RTS Obligations or Lease Return Obligations that might lead to liabilities, despite knowledge of similar obligations in Erickson's aircraft lease agreements that GT had reviewed in connection with the 2013 EHI Liability. Homsley also failed to direct the engagement teams to analyze the terms of the leases to identify when Erickson would incur such lease-related liabilities. Homsley further failed to instruct the FY2015 engagement team to perform sufficient work to support its conclusion as to Erickson's ability to continue functioning as a going concern. Homsley neglected to supervise the engagement team's work to ensure it had performed sufficient work to support its conclusion as to Erickson's ability to keep functioning as a going concern.

40. The audit deficiencies discussed above stemmed from, among other things, Homsley's failure to supervise properly the work of his engagement teams' members.

H. Leslie Violated PCAOB Rules and Standards in Connection with his Engagement Quality Reviews for the FY2014 and FY2015 Audits

41. The EQR partner is responsible for evaluating the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[33] The EQR partner's responsibilities include evaluating the engagement team's significant judgments that relate to engagement planning, including with respect to financial reporting risks.[34] In connection with an audit, the

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[32] *See* AS 10 ¶ 5.

[33] *See* AS 7 ¶ 9.

[34] *See* AS 7 ¶ 10.a.

EQR partner should evaluate whether the documentation that he or she reviewed supports the conclusions reached by the engagement team with respect to the matters reviewed.[35] The EQR partner must perform his or her responsibilities with due professional care and skepticism.[36]

42. Leslie violated PCAOB rules and standards by failing to evaluate appropriately the engagement teams' significant judgments relating to engagement planning with respect to financial reporting risks and the Company's ability to continue as a going concern.[37] Leslie also failed to exercise due professional care in performing his engagement quality reviews and thus, failed to have an appropriate basis to provide his concurring approval of issuance.[38]

43. Leslie failed to evaluate sufficiently the engagement teams' significant judgments relating to engagement planning in the FY2014 Audit and FY2015 Audit. Specifically, he failed to evaluate adequately the engagement teams' judgments not to plan in either the FY2014 Audit or FY2015 Audit to test whether Erickson may have understated certain of its liabilities arising from aircraft leases as described above. Leslie's omission occurred despite his knowledge that Erickson had previously recorded the lease-related liability of $20.4 million following the EHI Acquisition.

44. During the FY2015 Audit, Leslie inquired whether Erickson might be understating its liabilities relating to its RTS Obligations. As a result, he raised questions with an audit manager about whether the team had tested Erickson's estimate of such lease-related liabilities by reviewing flight logs. Leslie requested that the audit manager look at the flight logs and obtain any additional support for Erickson's estimate of its lease-related liabilities which, at the time of the FY2015 Audit, was zero. Despite raising these concerns and questions, Leslie failed to evaluate adequately whether the engagement team's documentation was sufficient to assuage his concerns relating to the risk that Erickson may be understating its liabilities. Therefore, Leslie did not evaluate sufficiently the engagement team's response to the concern he raised, or whether the engagement documentation he reviewed when performing his required procedures supported the conclusions reached by the engagement team concerning the risk that Erickson's lease-related liabilities were understated as of December 31, 2015.[39]

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35 *See* AS 7 ¶ 11.

36 *See* AS 7 ¶ 12; AU §§ 230.07-.09.

37 *See* Rule 3100; AS 7 ¶¶ 9, 10.a.; *see also* AS 7 ¶ 11.

38 *See* AS 7 ¶ 12.

39 *See* AS 7 ¶¶ 9-10.a., 11.

45. Leslie also failed to evaluate appropriately the significant judgments made by the engagement team concerning Erickson's ability to continue as a going concern.[40] Leslie considered the engagement team's conclusion that a going concern explanatory paragraph was not required in the FY2015 Audit report to be a significant judgment made by the engagement team. However, Leslie failed to evaluate appropriately the engagement team's consideration of Erickson's ability to continue as a going concern. Leslie did not adequately evaluate whether the engagement documentation supported the significant judgment made by the engagement team with respect to going concern. Leslie was aware from review of the engagement team's going concern documentation and his conversations with Homsley of conditions and events that may have contradicted the engagement's team conclusion. Leslie also failed to give sufficient weight to contradictory evidence in work papers that he reviewed.[41] In addition, Leslie failed to ensure his going concern considerations were sufficiently documented in the audit work papers.[42]

46. As a result of the deficiencies mentioned above, Leslie violated AS 7 and provided his concurring approval of issuance of the FY2014 Audit and FY2015 Audit reports without performing his EQRs with due professional care.[43]

I. The Firm and Homsley Violated PCAOB Rules and Auditing Standards Regarding the Dating of Audit Work Papers

47. AS No. 3, *Audit Documentation*, ("AS 3") requires that audit documentation contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to determine the person who reviewed the work and the date of the review.[44] AS 3 also requires that any documentation added after the documentation completion date must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.[45] Homsley understood this requirement when he signed off on the Remediation Work Papers for the Audits.

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40 *See* AS 7 ¶¶ 9-.10.a.

41 *See* AS 7 ¶¶ 9, 11.

42 *See* AS 7 ¶ 19.

43 *See* AS 7 ¶ 12; AU § 230.01.

44 AS 3 ¶ 6.

45 AS 3 ¶ 16.

48. The Firm and Homsley completed the Remediation Work Papers because each of the Audits was found to have deficiencies. The Firm's internal inspection function determined that the FY2013 Audit and FY2015 Audit required remediation. The PCAOB's inspectors examined the FY2014 Audit and issued four comment forms on that audit. As a result, Homsley and the engagement team also performed remediation work relating to the FY2014 Audit.

49. Homsley bore ultimate responsibility for ensuring that audit remediation work papers were complete and accurate and were added to the hard copy work papers file. Homsley understood the importance that the Board and the Firm placed on timely remediation and understood that failing to complete the remediation timely could negatively impact his performance evaluation and compensation.

50. Homsley and the engagement teams failed to ensure that the Remediation Work Papers relating to the FY2013, FY2014, and FY2015 Audits bore correct dates. The FY2013 Audit remediation cover memorandum was dated September 16, 2014. While the engagement team drafted a version of the cover memorandum by that date, the engagement team did not complete the FY2013 Audit remediation by that date. The engagement team continued to work on the FY2013 remediation through at least November 9, 2014. Indeed, the FY2013 Audit remediation work papers had not been finalized or added to the FY2013 external file, and the remediation of the FY2013 Audit remained open, on the date that GT issued its FY2014 Erickson audit report.

51. Homsley and the engagement team also failed to ensure that the Remediation Work Papers for the FY2014 Audit bore correct dates. The FY2014 Audit remediation cover memorandum was dated September 18, 2015. While the engagement team drafted a version of the cover memorandum by that date, the engagement team had not completed all of the documented procedures as of September 18, 2015. Further, the FY2014 Audit remediation work papers reflect communications between Homsley and Erickson's management and audit committee chair that did not occur until after the date reflected in the FY2014 Audit remediation work papers.

52. In addition, the FY2015 Audit remediation work was also not completed by the date reflected on that remediation cover memo.

53. As a result of the foregoing, the Firm and Homsley violated PCAOB rules and audit documentation standards.

J. The Firm Failed to Comply with PCAOB Quality Control Standards Relating to Certain Audit Remediation Documentation

54. PCAOB rules and standards require that registered firms establish and maintain an adequate system of quality control.[46] PCAOB quality control standards require firms to design, implement, and monitor policies and procedures to "provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality."[47]

55. "A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and procedures established to provide the firm with reasonable assurance of complying with professional standards."[48] "The nature, extent, and formality of a firm's quality control policies and procedures should be appropriately comprehensive and suitably designed in relation to the firm's size, the number of its offices, the degree of authority allowed its personnel and its offices, the knowledge and experience of its personnel, the nature and complexity of the firm's practice, and appropriate cost-benefit considerations."[49]

56. A firm should also establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures are suitably designed and are being effectively applied.[50] In addition, PCAOB quality control standards require that a firm "should communicate its quality control policies and procedures to its personnel in a manner that provides reasonable assurance that those policies and procedures are understood and complied with."[51]

57. The Firm's quality control system failed to meet the requisite standards with respect to the dating of hard copy remediation work papers. During the period of the violations described above, the Firm failed adequately to design, implement, maintain and monitor an

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46 *See* Rule 3400T, *Interim Quality Control Standards*; QC § 20.

47 QC § 20.03; *see also* QC §§ 20.01-.02.

48 QC § 20.04.

49 *Id.*

50 *See* QC § 20.20; Quality Control Standard 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

51 *See* QC § 20.23.

adequate QC system to ensure that personnel dated all hard copy work papers in compliance with professional standards.

58. Specifically, the Firm's quality control system failed to ensure that Firm personnel, including Homsley, accurately dated the Remediation Work Papers. Likewise, the Firm's QC system enabled Homsley and the engagement teams to access and finalize the Remediation Work papers without any significant controls to ensure certain professional standards related to the dating of remediation work papers were followed. Specifically, the Firm failed to monitor appropriately the access to, and dating of, hard copy Remediation Work Papers. As a result, the Firm failed to ensure that the Remediation Work Papers bore correct dates in each of the Audits.[52]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Homsley is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[53]

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[52] The Firm has represented to the Board that, since the events described in this Order, it has issued revised internal quality control policies requiring engagement teams to document remediation procedures in the electronic work paper file, which requires electronic signoffs and allows the Firm's electronic audit program to automatically track the date remediation work papers are archived. Under the revised policies, engagement teams are also required to use a standard remediation cover memorandum, which instructs engagement teams to date the memorandum with the date it is added to the audit work papers (which, unless impracticable, should be the same date the remediation file is archived) as opposed to any other date. The revised policies also require a member of the Firm's National Office to determine whether the remediation work papers were appropriately archived.

[53] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Gary Homsley, CPA. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

B. Pursuant to PCAOB Rule 5302(b), Homsley may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order;

C. If Homsley is permitted to associate once again with a registered public accounting firm, pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of three years from the date of this Order, Homsley's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Homsley shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201, Supervision of the Audit Engagement; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, Engagement Quality Review; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, Part of the Audit Performed by Other Independent Auditors;

D. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two years from the date of this Order, Leslie's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Leslie shall not (1) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, Engagement Quality Review, or (2) serve, or supervise the work of another person serving, in any role that is equivalent to, but differently denominated from, engagement quality reviewer (such as "concurring partner"); and

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

1. Grant Thornton LLP, $750,000; and

2. Gary Homsley, $15,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay these civil money penalties within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. **Respondent Gary Homsley understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.**

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 5, 2020

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of Mimi Liu, CPA,

Respondent.

PCAOB Release No. 105-2020-021

December 3, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is suspending Mimi Liu, CPA ("Liu" or the "Respondent") from being an associated person of a registered public accounting firm for a period of one year from the date of this Order.

The Board is imposing this sanction on Liu on the basis of its findings that Liu violated PCAOB rules and standards in connection with the audits of the financial statements of Issuer A for the year ended December 31, 2016 and Issuer B for the year ended March 31, 2016 (collectively, the "Audits").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of

these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds[2] that:

A. Respondent

1. **Mimi Liu** is a certified public accountant licensed by the Nevada State Board of Accountancy (License No. CPA-5430). At all relevant times, Liu was a partner of AMC Auditing, LLC ("AMC" or the "Firm") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entity

2. **AMC Auditing, LLC** is a limited liability company organized under the laws of the State of Nevada and headquartered in Las Vegas, Nevada. AMC is licensed in the state of Nevada (Business ID NV20161240269). AMC is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

C. Issuers

3. Issuer A was, at all relevant times, a Marshall Islands corporation headquartered in Marjuro, Marshall Islands. Its public filings disclose that Issuer A was a development stage company focused on delivering targeted therapies, including chemotherapy drugs. Its common stock was registered, at all relevant times, under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act"). It was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[1] The findings herein are made pursuant to the Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

4. Issuer B was, at all relevant times, a Nevada corporation headquartered in Scottsdale, Arizona. Its public filings disclose that the company sold bottled water. Its common stock was registered, at all relevant times, under Section 12(g) of the Exchange Act. It was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

D. Summary

5. This matter concerns Liu's violations of PCAOB rules and standards in connection with the Audits. Liu served as the engagement quality review ("EQR") partner for the 2016 audit of Issuer A and as the engagement partner for the 2016 audit of Issuer B.[3]

6. Liu gave her concurring approval in connection with the issuance of AMC's 2016 audit report for Issuer A, which expressed an unqualified audit opinion on Issuer A's financial statements. The audit report stated that AMC's audit was conducted in accordance with PCAOB standards and that the company's financial statements were fairly presented in all material respects in conformity with U.S. Generally Accepted Accounting Principles ("GAAP"). As detailed below, while serving as EQR partner for the Firm's 2016 audit of Issuer A, Liu failed to: (a) properly evaluate significant judgments made by the engagement team; and (b) properly evaluate whether the audit documentation supported the engagement team's conclusions reached. As a consequence, Liu failed to perform her review of the Firm's 2016 audit of Issuer A with due professional care.

7. Liu authorized the issuance of AMC's 2016 audit report for Issuer B, which expressed an unqualified opinion on Issuer B's financial statements. The audit report stated that the audit was conducted in accordance with PCAOB standards, and that the company's financial statements were fairly presented in all material respects in conformity with GAAP. As detailed below, Liu failed to obtain sufficient appropriate audit evidence and failed to perform sufficient audit procedures to support the opinion expressed in the audit report, in violation of PCAOB rules and auditing standards.

[3] *See AMC Auditing, LLC and Alexandria Yi, CPA*, PCAOB Release No. 105-2020-020 (Dec. 3, 2020).

E. Respondent Violated PCAOB Rules and Standards in Connection with the 2016 Audit of Issuer A.

8. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[4] AS 1220, *Engagement Quality Review*, requires that an EQR be performed on all audit engagements conducted pursuant to PCAOB standards.[5] AS 1220 also provides that a firm may grant permission to an audit client to use the firm's audit report only after an EQR partner provides concurring approval of issuance of the report.[6] In conducting the engagement quality review, the EQR partner should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement.[7] The EQR partner should also evaluate whether the engagement documentation supports the conclusions reached by the engagement team with respect to the matters reviewed by the EQR partner.[8]

9. Prior to 2016, Issuer A had a history of recurring losses. In 2016, Issuer A reported an intangible asset, subject to amortization, related to a patent license agreement. The intangible asset represented approximately 37 percent of total assets. The company claimed to be using the patent license agreement in connection with developing a program to deliver chemotherapy drugs.

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[4] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for fiscal years ending before December 31, 2016); and PCAOB Rule 3200, *Auditing Standards* (applicable to audits for fiscal years ending on or after December 31, 2016). As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondent's conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

[5] *See* AS 1220.01.

[6] *Id.* at .13.

[7] *Id.* at .09.

[8] *Id.* at .11.

10. The engagement team did not perform an appropriate risk assessment relating to the intangible asset, and it did not perform sufficient procedures to identify and assess the risks of material misstatement related to the intangible asset.[9] The engagement team's risk assessment procedures were documented in work papers that Liu reviewed.

11. The engagement team also did not identify and assess risks related to the effect of certain conditions on the recoverability of the intangible asset or its valuation.[10] These conditions included the issuer's lack of revenue, recurring losses, negative cash flows from operating activities, and its accumulated deficit. In addition to reviewing the risk assessment work papers, Liu also reviewed the issuer's financial statements and the Firm's draft audit report, which identified these conditions.

12. The intangible assets section of AMC's work papers for this audit, which Liu reviewed, consisted of: (1) an amortization and depreciation worksheet; and (2) an impairment questionnaire filled out by company management. The engagement team did not perform audit procedures beyond recalculating the amortization and depreciation calculations on the worksheet and reviewing the issuer's impairment questionnaire responses. The impairment questionnaire contained questions asking management to identify events or changes in circumstances that indicated the potential need to test a long-lived asset for recoverability. For each item, management represented that the events or changes in circumstances were not applicable, even though certain items appeared to be applicable based on the facts known to the engagement team and Liu at the time of the audit. For example, one of the factors on the impairment questionnaire asked whether there was a "current-period operating or cash flow loss combined with a history of operating or cash flow losses or a projection or forecast that demonstrates continuing losses associated with the use of a long-lived asset (asset group)," and management responded "No." The engagement team and Liu, however, reviewed the issuer's financial statements, which revealed that the company had a current-year operating cash flow loss and operating cash flow losses for the last several years.

13. As stated above, Liu also reviewed AMC's draft audit report, which included an explanatory paragraph indicating that there was substantial doubt about the issuer's ability to continue as a going concern due to the following conditions: lack of revenue, recurring losses, negative cash flows from operating activities, and accumulated deficit. Despite knowing about this information, which contradicted management's representations in the completed questionnaire and raised serious questions about whether the intangible asset was properly

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9 *See* AS 2110.04, *Identifying and Assessing Risks of Material Misstatement*.

10 *See id.* at .07.

valued, Liu, serving as the EQR partner, provided concurring approval for the issuance of AMC's audit report, and the engagement partner authorized the issuance of that report.

14. Liu reviewed the engagement team's intangible asset work papers, and thus knew that the engagement team had determined not to perform procedures outside of recalculating the amortization and depreciation calculations and management inquiry. Liu also knew that certain management responses in the impairment questionnaire were contradicted by information in the issuer's financial statements and the Firm's own audit report. Finally, the work papers she reviewed did not evidence any consideration by the engagement team of contradictory audit evidence known to the team and Liu. As a result, Liu failed to conduct her review with due professional care and failed to properly evaluate the significant judgments made, and the related conclusions reached, by the engagement team.[11] Liu also failed to properly evaluate whether the audit documentation supported the engagement team's conclusions with respect to the intangible asset, in violation of PCAOB rules and auditing standards.[12]

F. Respondent Violated PCAOB Rules and Standards in Connection with the 2016 Audit of Issuer B.

15. An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[13] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[14]

16. Issuer B's 2016 financial statements were originally audited by a different firm. Following the Board's issuance of an order revoking the predecessor auditor's registration with the PCAOB, and suspending an engagement partner at the predecessor auditor, Issuer B was

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[11] *See* AS 1220.09; AS 1015.07, *Due Professional Care in the Performance of Work*.

[12] *See* AS 1220.11.

[13] *See* AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending before December 15, 2017).

[14] *See* AS 1015.01 and .07; AS 1105.04, *Audit Evidence*.

required to have its 2016 financial statements reaudited.[15] AMC performed the reaudit and Liu served as the engagement partner.

17. In 2016, Issuer B reported inventory that represented approximately 12 percent of total assets. The predecessor auditor's work papers, which were included in the AMC reaudit work papers, indicated that inventory was held at five locations. Liu did not perform sufficient appropriate procedures to test the existence of inventory, such as making or observing physical counts of the inventory and applying appropriate tests of intervening transactions, but instead relied on the predecessor auditor's performance, at the time of the original 2016 audit, of a year-end physical inventory observation and inventory test counts at two locations.[16] In 2016, inventory at those two locations represented approximately 42 percent of the issuer's inventory at year-end. In addition, Liu failed to perform any procedures to test the existence of inventory held at other locations and in transit, which represented approximately 58 percent of the issuer's inventory at year-end.[17] Despite this, Liu authorized the issuance of AMC's audit report containing an unqualified opinion.

18. In sum, because inventory observation procedures were not performed for most of the reported inventory, nor was sufficient evidence obtained or conclusions reached to evaluate Issuer B's representations about quantities and physical condition of inventory, Liu failed to obtain sufficient evidence for reported inventory during Issuer B's 2016 audit.[18]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanction agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Mimi Liu, CPA is suspended for a period of one year from the date of this Order from

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15 *See Seale and Beers CPAs, LLC, and Charlie B. Roy, CPA*, PCAOB Release No. 105-2017-038 (Sept. 14, 2017).

16 *See* AS 2510.12, *Auditing Inventories*.

17 *See id.*; AS 1105.04 and .22.

18 *See id*.

being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[19]

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 3, 2020

[19] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Liu. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of AMC Auditing, LLC and Alexandria Yi, CPA,

Respondents.

PCAOB Release No. 105-2020-020

December 3, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon AMC Auditing, LLC ("AMC" or the "Firm") and Alexandria Yi, CPA ("Yi") (collectively, "Respondents"). The Board is:

(1) revoking the registration of AMC, a registered public accounting firm;[1] and

(2) barring Yi from being associated with a registered public accounting firm.[2]

The Board is imposing these sanctions on the basis of its findings that: (a) Respondents violated PCAOB rules and standards in connection with the Firm's audits of the financial statements of Issuer A for the year ended December 31, 2016, and Issuer B for the years ended March 31, 2016 and March 31, 2017 (collectively, the "Audits"); and (b) the Firm violated PCAOB rules and quality control standards in connection with the Audits.

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[1] The Firm may reapply for registration after one year from the date of this Order.

[2] Yi may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order. If the Board later consents to Yi associating with a registered firm, the Board further restricts, for one year from the date of the granting of such consent, the roles that Yi may perform on "audits," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. **AMC Auditing, LLC** is a limited liability company organized under the laws of the State of Nevada and headquartered in Las Vegas, Nevada. The Firm is licensed in the state of Nevada (Business ID NV20161240269). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Alexandria Yi** is a certified public accountant licensed by the Nevada State Board of Accountancy (License No. CPA-5330). At all relevant times, Yi was a partner of AMC and an

[3] The findings herein are made pursuant to the Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuers

3. Issuer A was, at all relevant times, a Marshall Islands corporation headquartered in Marjuro, Marshall Islands. Its public filings disclose that Issuer A was a development stage company focused on delivering targeted therapies, including chemotherapy drugs. Its common stock was registered, at all relevant times, under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act"). It was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. Issuer B was, at all relevant times, a Nevada corporation headquartered in Scottsdale, Arizona. Its public filings disclose that the company sold bottled water. Its common stock was registered, at all relevant times, under Section 12(g) of the Exchange Act. It was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Audits. Yi served as the engagement partner for the 2016 audit of Issuer A, and as the engagement quality review ("EQR") partner for the 2016 and 2017 audits of Issuer B.[5]

6. In the 2016 audit report for Issuer A, the Firm expressed an unqualified opinion on Issuer A's financial statements. The audit report stated that the Firm's audit was conducted in accordance with PCAOB standards, and that the company's financial statements were fairly presented in all material respects in conformity with U.S. Generally Accepted Accounting Principles ("GAAP"). As detailed below, Respondents failed to obtain sufficient appropriate audit evidence and failed to perform sufficient audit procedures to support the opinion expressed in the audit report, in violation of PCAOB rules and auditing standards.

7. In the 2016 and 2017 audit reports for Issuer B, the Firm expressed unqualified opinions on Issuer B's financial statements. The audit reports stated that the Firm's audits were conducted in accordance with PCAOB standards, and that the company's financial statements were fairly presented in all material respects in conformity with GAAP. As detailed below, the

[5] *See Mimi Liu, CPA*, PCAOB Release No. 105-2020-021 (Dec. 3, 2020).

Firm failed to obtain sufficient appropriate audit evidence and failed to perform sufficient audit procedures to support the opinions expressed in the audit reports, in violation of PCAOB rules and auditing standards.

8. While serving as the EQR partner for the Firm's 2016 and 2017 audits of Issuer B, Yi provided her concurring approval for the issuance of the Firm's audit reports despite Yi failing to: (a) properly evaluate the significant judgments made, and the related conclusions reached, by the engagement teams; and (b) properly evaluate whether the audit documentation supported the engagement teams' conclusions. As a consequence, Yi failed to perform her review of the Firm's 2016 and 2017 audits of Issuer B with due professional care.

9. Finally, this matter concerns the Firm's violations of PCAOB rules and quality control standards. In connection with the Audits, the Firm failed to maintain a system of quality control sufficient to provide the Firm with reasonable assurance that engagement teams performed issuer audits in accordance with applicable professional standards and regulatory requirements.

D. Respondents Violated PCAOB Rules and Standards in Connection with the Audits.

10. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[7] Among

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[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for fiscal years ending before December 31, 2016); and PCAOB Rule 3200, *Auditing Standards* (applicable to audits for fiscal years ending on or after December 31, 2016). As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondents' conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

[7] *See* AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending before December 15, 2017).

other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate evidence to provide a reasonable basis for the auditor's opinion.[8]

11. Further, while management representations are part of the evidential matter the auditor obtains, they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit.[9] If management representations are contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representations made and, based on the circumstances, consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified.[10]

i. Respondents' 2016 Audit of Issuer A

12. Prior to 2016, Issuer A had a history of recurring losses. In 2016, Issuer A reported an intangible asset, subject to amortization, related to a patent license agreement. The intangible asset represented approximately 37 percent of total assets. The company claimed to be using the patent license agreement in connection with developing a program to deliver chemotherapy drugs.

13. Respondents failed to perform an appropriate risk assessment relating to the intangible asset, and failed to perform sufficient procedures to identify and assess the risks of material misstatement related to the intangible asset.[11] Respondents also failed to identify and document intangible assets as a significant account.

14. Respondents failed to identify and assess risks related to the effect of certain conditions on the recoverability of the intangible asset or its valuation.[12] These conditions,

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8 *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*.

9 *See* AS 2805.02, *Management Representations*.

10 *Id.* at .04.

11 *See* AS 2110.04, *Identifying and Assessing Risks of Material Misstatement*.

12 *See id.* at .07.

which were known to Respondents, included the issuer's lack of revenue, recurring losses, negative cash flows from operating activities, and its accumulated deficit.

15. The intangible assets section of AMC's work papers for this audit consisted of: (1) an amortization and depreciation worksheet; and (2) an impairment questionnaire filled out by company management. Respondents failed to perform audit procedures beyond recalculating the amortization and depreciation calculations on the worksheet and reviewing the issuer's impairment questionnaire responses. As explained below, the procedures performed failed to provide sufficient appropriate audit evidence about whether the asset was properly valued. [13]

16. Respondents also failed to take into account all relevant audit evidence, regardless of whether it appeared to corroborate or to contradict the assertions in the financial statements.[14] Management's representations in the impairment questionnaire were contradicted by other audit evidence. The impairment questionnaire contained questions asking management to identify events or changes in circumstances that indicated the potential need to test a long-lived asset for recoverability. For each item, management represented that the events or changes in circumstances were not applicable, even though certain items appeared to be applicable based on the facts known to Respondents at the time of the audit. For example, one of the factors on the impairment questionnaire asked whether there was a "current-period operating or cash flow loss combined with a history of operating or cash flow losses or a projection or forecast that demonstrates continuing losses associated with the use of a long-lived asset (asset group)," and management responded "No." Respondents knew, and the issuer's financial statements revealed, however, that the company had a current-year operating cash flow loss and operating cash flow losses for every year since 2013.[15] Respondents, however, failed to exercise professional skepticism by not investigating the circumstances and considering the reliability of the management representations made.[16]

17. In addition, the Firm's audit report included an explanatory paragraph indicating that there was substantial doubt about the issuer's ability to continue as a going concern due to the following conditions: lack of revenue, recurring losses, negative cash flows from operating activities, and accumulated deficit. Despite knowing about this information, which contradicted management's representations in the completed questionnaire and raised serious questions

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13 *See* AS 1015.07; AS 1105.04.

14 *See* AS 2810.03, *Evaluating Audit Results.*

15 *See* AS 1105.29; AS 2805.02 and .04; AS 2810.03.

16 *See* AS 1015.07.

about whether the intangible asset was properly valued, Yi authorized the issuance of the Firm's audit report without investigating the circumstances and considering the reliability of management's representations.[17]

18. Respondents failed to evaluate the intangible asset with due professional care and professional skepticism, and failed to resolve inconsistencies in the audit evidence suggesting that management's representations in the impairment questionnaire were inaccurate.[18] Instead, Respondents accepted management's representations and ignored the inconsistent audit evidence.[19] Respondents thus failed to obtain sufficient appropriate audit evidence and failed to perform sufficient procedures to assess the impairment and valuation of the intangible asset, in violation of PCAOB rules and auditing standards.

ii. AMC's 2016 and 2017 Audits of Issuer B

19. Issuer B's 2016 financial statements were originally audited by a different firm. Following the Board's issuance of an order revoking the predecessor auditor's registration with the PCAOB, and suspending an engagement partner at the predecessor auditor, Issuer B was required to have its 2016 financial statements reaudited. AMC performed the reaudit.[20]

20. In 2016, Issuer B reported inventory that represented approximately 12 percent of total assets. The predecessor auditor's work papers, which were included in the AMC reaudit work papers, indicated that inventory was held at five locations. The Firm did not perform sufficient appropriate procedures to test the existence of inventory, such as making or observing physical counts of the inventory and applying appropriate tests of intervening transactions, but instead relied on the predecessor auditor's performance, at the time of the original 2016 audit, of a year-end physical inventory observation and inventory test counts at two locations.[21] In 2016, inventory at those two locations represented approximately 42 percent of the issuer's inventory at year-end. In addition, the Firm failed to perform any

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17 *See id.*; AS 1105.29; AS 2805.02 and .04; AS 2810.03.

18 *See id.*

19 *See* AS 1105.29.

20 *See Seale and Beers CPAs, LLC, and Charlie B. Roy, CPA*, PCAOB Release No. 105-2017-038 (Sept. 14, 2017).

21 *See* AS 2510.12, *Auditing Inventories*.

procedures to test the existence of inventory held at other locations and in transit, which represented approximately 58 percent of the issuer's inventory at year-end.[22]

21. In 2017, Issuer B reported inventory that represented approximately 19 percent of total assets. At year-end, the issuer had inventory in six locations and inventory in-transit. The Firm performed an inventory observation at the same two locations selected the prior year, where approximately 25 percent of inventory was held in 2017. The Firm, however, failed to perform any procedures related to the existence of approximately 75 percent of inventory.

22. In sum, because inventory observation procedures were not performed for most of the reported inventory, nor was sufficient evidence obtained or conclusions reached to evaluate Issuer B's representations about quantities and physical condition of inventory, the Firm failed to obtain sufficient evidence for the reported inventory during Issuer B's 2016 audit and most of the reported inventory for the 2017 audit.[23]

iii. Yi's EQR of the 2016 and 2017 Audits of Issuer B

23. AS 1220 requires that an EQR be performed on all audit engagements conducted pursuant to PCAOB standards.[24] AS 1220 also provides that a firm may grant permission to an audit client to use the firm's audit report only after an EQR partner provides concurring approval of issuance of the report.[25] Further, the EQR partner should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement.[26] The EQR partner should also evaluate whether the engagement documentation supports the conclusions reached by the engagement team with respect to the matters reviewed by the EQR partner.[27]

24. Yi reviewed the engagement documentation that indicated the procedures performed for inventory testing in the 2016 and 2017 audits of Issuer B, and gave her concurring approval for the issuances of the 2016 and 2017 audit reports. During her EQR, Yi reviewed the issuer's financial statements, which reflected that inventory represented

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22 *See id.*; AS 1105.04 and .22.

23 *See* AS 1105.04 and .22.

24 *See* AS 1220.01, *Engagement Quality Review*.

25 *Id.* at .13.

26 *Id.* at .09.

27 *Id.* at .11.

approximately 12 percent of total assets in 2016 and 19 percent in 2017. Yi also reviewed the engagement teams' inventory work papers, and thus knew that the engagement team had determined in each audit to rely on the testing of the same two locations. In giving her concurring approval, Yi failed to properly evaluate this significant judgment made, and the related conclusions reached, by the engagement teams for these audits, and failed to properly evaluate whether the audit documentation supported the engagement teams' conclusions with respect to the existence of reported inventory during Issuer B's 2016 audit and most of the reported inventory for the 2017 audit, in violation of PCAOB rules and auditing standards.[28]

E. The Firm Violated PCAOB Quality Control Standards.

25. PCAOB rules and standards require that a registered firm establish and maintain a system of quality control for its accounting and auditing practice.[29] A firm should establish policies and procedures to provide it with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[30]

26. In connection with the Audits, AMC failed to establish and maintain policies and procedures that provided reasonable assurance Firm personnel complied with applicable professional standards and regulatory requirements, including exercising due professional care and obtaining sufficient appropriate evidence.[31] Instead, on multiple issuer audits, conducted by multiple engagement personnel over the course of multiple years, AMC and its professionals failed to comply with applicable professional standards and regulatory requirements. As a result, AMC violated PCAOB rules and quality control standards.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

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28 *See* AS 1015.07; AS 1220.09-.11.

29 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*; QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

30 QC § 20.17.

31 *See id.*

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of AMC Auditing, LLC is revoked;

B. After one year from the date of this Order, AMC Auditing, LLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Alexandria Yi, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[32]

D. Pursuant to PCAOB Rule 5302(b), Alexandria Yi, CPA may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order; and

E. If Alexandria Yi, CPA is permitted to associate once again with a registered public accounting firm, pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date the bar is terminated, her role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Alexandria Yi, CPA shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) assist the engagement partner under

[32] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Yi. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

AS 1201.04, *Supervision of the Audit Engagement*, in fulfilling his or her responsibilities under that auditing standard; (6) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*; or (7) serve, or supervise the work of another individual serving, as a professional practice director.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 3, 2020

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS

In the Matter of Tan Joon Wei,

Respondent.

PCAOB Release No. 105-2021-001

March 29, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is barring Tan Joon Wei ("Tan" or "Respondent") from being an associated person of a registered public accounting firm.[1] The Board is imposing this sanction on the basis of its findings that Tan failed to cooperate with a Board inspection and violated PCAOB audit documentation standards in connection with the audit of an issuer.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting

[1] Tan may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Tan Joon Wei**, age 32, is a member of the Institute of Singapore Chartered Accountants (member no. 830651). Until January 2020, and at all relevant times, Tan was a manager at KPMG LLP, a firm based in Singapore ("KPMG Singapore" or "Firm"). Tan participated as a member of the engagement team in the audit of Issuer A's 2018 financial statements. At all relevant times, Tan was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer A

2. Issuer A is based in Germany with American Depository Shares listed on the New York Stock Exchange. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

3. This matter concerns Tan's failure to cooperate with a Board inspection and violation of PCAOB audit documentation requirements. Tan was a manager on the Firm engagement team that performed an audit of the 2018 financial statements of a subsidiary of Issuer A ("Subsidiary"). The audit of those financial statements ("Subsidiary Audit") was performed as part of the 2018 audit of Issuer A conducted—and in support of an audit opinion issued—by KPMG AG Wirtschaftsprüfungsgesellschaft ("KPMG Germany").

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

4. Following the documentation completion date for the Issuer A and Subsidiary audits, Tan learned that the Subsidiary Audit had been selected for review as part of an upcoming PCAOB inspection of the Firm. Tan thereafter oversaw the modification of four work papers to add descriptions of audit procedures, including certain procedures conducted following KPMG Germany's issuance of its audit opinion on Issuer A's 2018 financial statements. Those modified work papers were then included in hard copy binders provided to PCAOB inspectors without any indication that modifications had been made, nor any information about when, why, or by whom they had been modified.

5. Tan also prepared on behalf of the Firm a Substantial Role and Referred Work Engagement Profile ("Engagement Profile"), a form that PCAOB inspectors asked the Firm to complete in advance of their fieldwork. Tan falsely stated therein that no changes had been made to the work papers for the Subsidiary Audit after the documentation completion date. During inspection fieldwork, Tan participated in meetings with the inspectors, but failed to disclose the work paper modifications or the false statement in the Engagement Profile.

6. Tan's actions and omissions violated his duty to cooperate with a Board inspection and the PCAOB's audit documentation standard.

D. Tan Violated PCAOB Rules and Standards

i. Duty to Cooperate with a Board Inspection and Audit Documentation Requirements

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[4]

8. The Board's audit documentation standard states in part: "Prior to the report release date, the auditor must have completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report. A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*) . . . . Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[5]

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[4] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards.*

[5] AS 1215.15-.16, *Audit Documentation* (emphasis in original).

9. PCAOB Rule 4006 states in part: "Every registered public accounting firm, and every associated person of a registered public accounting firm, shall cooperate with the Board in the performance of any Board inspection."[6] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information" to the Board's inspectors.[7]

ii. Tan Oversaw Improper Work Paper Modifications in Anticipation of a PCAOB Inspection

10. The documentation completion date for KPMG Germany's 2018 audit of Issuer A was April 6, 2019. The Firm assembled for retention the final sets of electronic and hard copy work papers for the Subsidiary Audit on March 5, 2019, and April 6, 2019, respectively.

11. By letter dated July 16, 2019, the PCAOB's Division of Registration and Inspections notified KPMG Singapore that the Firm had been selected for inspection, with fieldwork scheduled to begin in August. Tan learned of the scheduled inspection and, in early August, of the inspectors' selection of the Subsidiary Audit for review as part of that inspection.

12. Tan subsequently expressed concern to colleagues about the quality of work conducted in certain areas of the Subsidiary Audit and about the potential findings from the upcoming inspection. On August 4, 2019, for example, in reference to the anticipated review of the Subsidiary Audit, he wrote in a chat communication to a senior-in-charge assigned to the Subsidiary Audit: "I think [Issuer A] got picked for pcaob/ We are screwed." On the same day, he wrote to another colleague: "[Issuer A] only revenue work is good/ All else is crap....."

13. Over the next several days, Tan had additional communications with Firm audit staff regarding concerns related to the adequacy of the Subsidiary Audit generally and of the work in particular audit areas.

14. On August 7, 2019, the senior-in-charge wrote in a chat communication to Tan about certain deficiencies in work papers for the Subsidiary Audit. The senior-in-charge proposed: "we do hardcopy and file in? then no timestamp." Tan replied affirmatively to that suggestion. That same day, Tan asked another member of the Subsidiary Audit engagement team to check out the hard copy work paper files for the Subsidiary Audit from the Firm's Central Filing Room.

15. Between August 7, 2019, and the beginning of inspection fieldwork on August 19, 2019, other Firm audit staff worked with Tan to modify four work papers from the

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[6] PCAOB Rule 4006, *Duty to Cooperate with Inspectors*.

[7] *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), *petition for review denied*, *Kabani & Co., Inc. v. SEC*, 733 Fed App'x 918 (9th Cir. 2018).

Subsidiary Audit. They modified the electronic versions of those work papers by deleting, revising, and adding content; printing out the revised versions; and placing them in the hard copy work paper binders for the Subsidiary Audit. The modifications reflected the results of both procedures performed only after the issuance of KPMG Germany's report on the 2018 audit of Issuer A and procedures performed duiring the Subsidiary Audit but never documented. The modified work papers contained no indication they had been modified following the April 6, 2019 documentation completion date for the Subsidiary Audit, nor any information concerning who made the modifications or when or why they had been made.

16. Tan understood that the work paper binders would be provided to the Board's inspectors when they arrived to conduct their fieldwork.

17. On August 16, 2019, after the modified work papers had been printed and added to the hard copy work paper files, in a chat conversation with the senior-in-charge, Tan stated: "I damn scared they go and catch the hardcopy."

18. The hard copy binders, containing the four improperly altered work papers, were provided to the Board's inspectors when they arrived to conduct their fieldwork.

iii. Tan Prepared a Misleading Engagement Profile and Failed to Disclose the Modifications in Meetings with the Board's Inspectors

19. Tan prepared the Engagement Profile that KPMG Singapore provided to the Board's inspectors prior to the commencement of their fieldwork. The Engagement Profile contained the question: "Have there been any changes made to the audit documentation subsequent to the documentation completion date?" Tan added the response: "no."

20. During the first week of the inspection fieldwork, Tan participated in multiple meetings with inspection staff. Tan, however, disclosed neither the modification of the work papers nor the false statement in the Engagement Profile.

21. Later that week, the inspectors encountered indications that the work papers had been modified. They communicated their concerns to Firm management and engagement team personnel, and Tan learned of those concerns. Rather than disclose the modifications at that point, however, Tan falsely told Firm leadership and the engagement partner for the Subsidiary Audit that the modifications had been made in connection with the Firm's still ongoing audit of the Subsidiary's financial statements for purposes of local reporting requirements, rather than in anticipation of the PCAOB inspection. Tan did not clarify or correct that false information when the engagement partner communicated it to the Board's inspectors in Tan's presence.

22. Tan's actions and omissions violated his duty to cooperate with the Board's inspection of the Subsidiary Audit under PCAOB Rule 4006, as well as the audit documentation requirements of AS 1215.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Tan is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[8] and

B. After two years from the date of this Order, Tan may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2021

[8] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Tan. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of Morgan & Company LLP,

Respondent.

PCAOB Release No. 105-2021-002

March 30, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or PCAOB) is imposing sanctions upon Morgan & Company LLP ("Morgan," the "Firm," or "Respondent"). The Board is:

(1) censuring the Firm, a registered public accounting firm; and

(2) imposing a $25,000 civil money penalty on the Firm.

The Board is imposing these sanctions on the basis of its findings that Morgan violated PCAOB rules and standards in connection with the audits of an issuer.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of

these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Morgan & Company LLP**[2] is a limited liability partnership organized under the laws of British Columbia, Canada, and headquartered in Vancouver, Canada. The Firm was, until its practice merger on August 1, 2020, licensed by the Institute of Chartered Accountants of British Columbia (Lic. No. 664381). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Other Relevant Entity

2. **Firm B** is a partnership organized under the laws of Mexico and headquartered in Mexico City, Mexico. At all relevant times, the firm was a "public accounting firm" within the meaning of Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii).

C. Issuer

3. "Issuer A" was, at all relevant times, a Canadian corporation. Issuer A's public filings disclose that, at all relevant times, it was a mineral company engaged in the business of acquiring and exploring mineral properties. Its common stock was registered, at all relevant times, under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act"). Issuer A was required to file periodic reports with the Securities and Exchange Commission ("Commission"), and the financial statements contained in those reports were required to be audited pursuant to PCAOB standards. Issuer A was, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Effective August 1, 2020, the Firm merged its practice with Canadian PCAOB registrant Smythe LLP and also submitted a Form 1-WD to withdraw from PCAOB registration on that date. The Firm's withdrawal request is pending.

D. Summary

4. This matter concerns Morgan's violations of PCAOB rules and standards in connection with its audits of Issuer A.

5. During three consecutive audits of the consolidated financial statements of Issuer A for fiscal years ended August 31, 2015, 2016 and 2017, respectively (the "FY 2015 – FY 2017 Audits"), Morgan issued audit reports on Issuer A's financial statements as Issuer A's principal auditor. During this period, Morgan used the work of a Mexican public accounting firm not registered with the PCAOB ("Firm B") in opining on Issuer A's financial statements.

6. Firm B audited over 90% of Issuer A's assets and performed services that Morgan used or relied on in issuing its audit reports. Morgan knew from inquiries to Firm B that it was not PCAOB-registered. However, during the FY 2015 – FY 2017 Audits, Morgan failed to perform an adequate analysis regarding whether it could serve as Issuer A's principal auditor and use the work of Firm B.

7. During each audit, Morgan also failed to appropriately coordinate its activities with Firm B. Morgan asked Firm B to perform specified procedures to support its opinions, and instructed Firm B to perform the procedures in accordance with Canadian Auditing Standards (CAS), not PCAOB standards. Firm B personnel were not trained in CAS or PCAOB standards, and, in fact, performed its procedures in accordance with Mexican Auditing Standards (MAS). Morgan was not aware that Firm B applied MAS, and failed to determine whether Firm B's audit work was compliant with PCAOB standards.

8. As such, Morgan failed, as described in more detail below, to comply with PCAOB rules and standards during the FY 2015 – FY 2017 Audits.

E. Morgan Violated PCAOB Rules and Standards in Connection with the FY 2015 – FY 2017 Audits of Issuer A

9. For the FY 2015 – FY 2017 Audits, Morgan served as the principal auditor of Issuer A. In each independent auditor's report included with Issuer A's financial statements filed with the Commission on Form 20-F for FY 2015 – FY 2017, Morgan stated that it had conducted

its audits in accordance with CAS and PCAOB standards.[3] The audit reports did not make reference to another auditor.[4]

10. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6] In addition, AS 1015, *Due Professional Care in the Performance of Work*, requires "[d]ue professional care … to be exercised in the planning and performance of the audit and the preparation of the report."[7]

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[3] The Firm issued audit reports containing unqualified audit opinions on the financial statements of Issuer A dated December 23, 2015, December 28, 2016, and December 21, 2017, respectively. Each report contained an explanatory paragraph on the entity's ability to continue as a going concern, and was included in Forms 20-F filed with the Commission on January 15, 2016, January 18, 2017, and January 18, 2018, respectively.

[4] *See* AS 1205.04-.05.

[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for fiscal years ending before December 31, 2016); PCAOB Rule 3200, *Auditing Standards* (applicable to audits for fiscal years ending on or after December 31, 2016). As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondent's conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

[6] *See* AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending before December 15, 2017) ("The auditor's standard report states that the financial statements present fairly, in all material respects, an entity's financial position, results of operations, and cash flows in conformity with generally accepted accounting principles. This conclusion may be expressed only when the auditor has formed such an opinion on the basis of an audit performed in accordance with the standards of the PCAOB.").

[7] AS 1015.01.

11. AS 1205, *Part of the Audit Performed by Other Independent Auditors*, establishes requirements that apply when an auditor of an issuer's financial statements "use[s] the work and reports of other independent auditors who have audited the financial statements of one or more subsidiaries, divisions, branches, components, or investments included in [that issuer's] financial statements…."[8]

12. In circumstances where a significant part of the audit is performed by another auditor, a firm, in considering whether it can serve as principal auditor, must decide whether its own participation in the audit is sufficient to enable it to serve as the principal auditor and to report as such on the financial statements.[9]

13. In deciding this question, the auditor should consider, among other things, the materiality of the portion of the financial statements the firm audited in comparison with the portion audited by other auditors, the extent of the auditor's knowledge of the overall financial statements, and the importance of the components the firm audited in relation to the enterprise as a whole.[10]

14. Whether or not the principal auditor decides to make reference to the audit of the other auditor, it should make inquiries concerning the professional reputation and independence of the other auditor.[11] In addition, the principal auditor should adopt appropriate measures to assure the coordination of its activities with those of the other auditor in order to achieve a proper review of the matters affecting the consolidating or combining of accounts in the financial statements.[12]

15. A public accounting firm that prepares or issues any audit report with respect to any issuer, broker, or dealer or plays a substantial role in the preparation or furnishing of an audit report with respect to any issuer, broker, or dealer must be registered with the Board.[13] A public accounting firm plays a substantial role in the preparation or furnishing of an audit report and is thus required to register when it: (1) performs material services that a public accounting

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[8] AS 1205.01.

[9] *See* AS 1205.02.

[10] *See id*.

[11] *See* AS 1205.10.

[12] *See id.*

[13] PCAOB Rule 2100, *Registration Requirements for Public Accounting Firms*; *see also* Section 102(a) of the Act.

firm uses or relies on in issuing all or part of its audit report; or (2) performs the majority of the audit procedures with respect to a subsidiary or component of any issuer, broker, or dealer, the assets or revenues of which constitute 20% or more of the consolidated assets or revenues of such issuer, broker, or dealer, necessary for the principal auditor to issue an audit report.[14]

16. The term "material services" means "services, for which the engagement hours or fees constitute 20% or more of the total engagement hours or fees, respectively, provided by the principal auditor in connection with the issuance of all or part of its audit report." [15] The term "does not include non-audit services provided to non-audit clients."[16]

i. Morgan's Use of Firm B's Work in the FY 2015 – FY 2017 Audits

17. During each of the FY 2015 – FY 2017 Audits, Morgan knew Issuer A's Mexican subsidiary held a substantial portion—over 90%—of Issuer A's assets. Morgan used another independent auditor—a Mexican public accounting firm, Firm B—to audit the subsidiary. Morgan inquired as to Firm B's professional reputation and independence, and understood from its inquiries that Firm B was not registered with the PCAOB.

18. Morgan failed to comply with PCAOB rules and standards in its use of Firm B's work. For each of the FY 2015 – FY 2017 Audits, Morgan failed to perform any analysis to determine whether it could serve as Issuer A's principal auditor and use the work of Firm B.

19. Firm B in fact played a substantial role in the each of the FY 2015 – FY 2017 Audits—a level of participation requiring PCAOB registration.[17] Firm B performed the majority of the audit procedures with respect to the assets held by Issuer A's Mexican subsidiary, which constituted over 90% of the consolidated assets of Issuer A—substantially over the "20% or more" substantial role participation threshold.[18]

20. Firm's B's engagement hours and fees also amounted to "material services" that Morgan relied upon in issuing its reports, and constituted substantial role participation in the FY

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14 *See* PCAOB Rule 1001(p)(ii).

15 *See* Note 1 to Rule 1001(p)(ii).

16 *See id*.

17 *See* PCAOB Rule 2100.

18 *See* PCAOB Rule 1001(p)(ii).

2015 – FY 2017 audits.[19] In particular, the percentage of Firm B's hours out of the total audit hours ranged from 28% to 44%—each over the "material services" threshold of 20%. Firm B's fees, which varied from 21% to 24% of the total audit fees, were also over the 20% material services threshold.

21. Morgan failed to consider, in light of the materiality of the assets of the Mexican subsidiary that Firm B audited and the importance of the subsidiary in relation to the enterprise as a whole, whether Morgan's participation was sufficient to serve as a principal auditor.[20] Morgan also failed to perform any analysis as to whether it could use Firm B's audit work.

22. An adequate inquiry and analysis performed with due professional care concerning Firm B's professional reputation, based in part on the significance of the assets audited by Firm B, should have revealed that because Firm B was not registered with the PCAOB, Morgan should not have used its audit work.[21]

ii. Morgan Failed to Appropriately Coordinate its Activities with Firm B

23. During the FY 2015 – FY 2017 Audits, Morgan also failed to adopt appropriate measures to assure the coordination of its activities with Firm B in order to achieve a proper review of the matters affecting the consolidating or combining of accounts in Issuer A's financial statements.[22]

24. At the outset of each audit, Morgan provided Firm B with detailed instructions for performing more than 20 specified substantive audit procedures on the Mexican subsidiary, ranging from obtaining and preparing internal control process narratives and walkthroughs to identification of related parties and related balance confirmations. For each audit, Morgan directed Firm B to perform the specified procedures in accordance with CAS, not PCAOB standards. During the FY 2017 audit, for example, Morgan made no mention of PCAOB standards in its instructions to Firm B, and provided Firm B with copies of two CAS standards for reference.

25. Morgan never ascertained whether Firm B was familiar with PCAOB standards, and did not provide Firm B with any comparison or analysis of relevant CAS or PCAOB standards. In fact, Firm B personnel were trained in MAS, and applied MAS to the specified

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19 *See id*.

20 *See* AS 1205.02.

21 *See* AS 1015.01; AS 1205.02.

22 *See* AS 1205.10.

procedures, as they were not trained in auditing pursuant to CAS or PCAOB standards. Due to the lack of coordination between Morgan and Firm B, Morgan was not aware that Firm B personnel were applying MAS.

26. Morgan thus failed, during the FY 2015 – 2017 Audits, to perform adequate procedures to determine whether the work Firm B performed complied with the PCAOB standards referenced in its audit reports. In sum, Morgan failed to perform its work with due professional care and to assure the appropriate coordination of its activities with Firm B during the FY 2015 – FY 2017 Audits, in violation of PCAOB standards.[23]

iii. Morgan's Opinions Were Not Formed on the Basis of Audits Performed Pursuant to PCAOB Standards

27. Finally, because Morgan issued audit reports containing unqualified opinions on Issuer A's financial statements when the Firm had in fact failed during those audits to exercise due professional care and to adhere to PCAOB standards relating to the use of another auditor, as described above, Morgan also violated AS 3101 during the FY 2015 – FY 2017 Audits.[24]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Morgan & Company LLP is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty of $25,000 on Morgan & Company LLP. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting

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[23] *See* AS 1015.01; AS 1205.10.

[24] *See* AS 3101.07 (applicable to audits for fiscal years ending before December 15, 2017).

Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. By consenting to this Order, Respondent acknowledges that failure to pay the civil money penalty described above may alone be grounds to deny any reapplication for registration pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 30, 2021

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Order Making Findings and Imposing Sanctions

In the Matter of MJF & Associates, APC and Miguel J. Figueroa, CPA,

Respondents.

PCAOB Release No. 105-2021-003

April 22, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon MJF & Associates, APC ("MJF" or "Firm") and Miguel J. Figueroa, CPA ("Figueroa") (collectively, "Respondents"). The Board is:

(1) revoking the registration of MJF, a registered public accounting firm;[1]

(2) barring Figueroa from being associated with a registered public accounting firm;[2] and

(3) imposing a $10,000 civil money penalty jointly and severally upon Respondents.

The Board is imposing these sanctions on the basis of its findings that: (a) MJF violated PCAOB rules and quality control standards, as well as the Sarbanes-Oxley Act of 2002, as amended ("Act") by failing to take adequate steps to prevent a person subject to a Board-ordered bar from becoming an associated person of the Firm; and (b) Figueroa violated PCAOB rules and auditing standards by substantially contributing to MJF's violations and by violating the two-year cooling off period for engagement quality reviewers.

[1] MJF may reapply for registration after one year from the date of this Order.

[2] Figueroa may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

I.

The Board instituted non-public disciplinary proceedings against Respondents on December 19, 2019.[3] Pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.[4]

II.

On the basis of Respondents' Offers, the Board finds that:[5]

A. Respondents

1. **MJF & Associates, APC** is a professional corporation organized under the laws of the State of California and headquartered in Los Angeles. MJF is licensed by the California Board of Accountancy (Lic. No. 6236). At all relevant times, MJF was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Miguel J. Figueroa** is a certified public accountant licensed by the California Board of Accountancy (Lic. No. 87686) and the Florida Board of Accountancy (Lic. No. AC43301). At all relevant times, Figueroa was the managing partner and sole owner of MJF. Figueroa was,

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[3] Section 105(c)(2) of the Act provides that litigated disciplinary proceedings shall not be public, "unless otherwise ordered by the Board for good cause shown, with the consent of the parties." Although the Board found good cause for making the proceedings public, Respondents did not consent, as permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203.

[4] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Other Relevant Individual

3. Partner A joined MJF in February 2015 and remained with the Firm until July 2019. Pursuant to a Board order, Partner A was barred from associating with a registered public accounting firm for a period of over a year during the time Partner A was employed by MJF. During that bar period, therefore, MJF was prohibited from permitting Partner A to associate with the Firm, including by participating in the preparation or issuance of any audit report for MJF's issuer clients, without the consent of the Board or the Securities and Exchange Commission ("Commission").[6]

C. Issuers

4. Issuer A is a Nevada corporation with its principal offices located in China. Issuer A's business focused on mining and processing direct reduced iron feed stock for the Chinese steel industry until it shifted its focus to the provision of digital displays for exhibition booths and real estate in late 2018. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. Issuer B is a Nevada corporation with its principal offices in China. Issuer B's business focuses on developing waste energy recycling projects for industrial application. At all relevant times, Issuer B was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

6. Issuer C is a Nevada corporation with its principal offices in China. Issuer C's business focused on the sale in China of imported consumer products until the first quarter of 2017, when it pivoted to operating an upscale restaurant and catering business. At all relevant times, Issuer C was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

7. Issuer D is a Nevada corporation with its principal offices in China. Issuer D's business focuses on the design and manufacturing of heat pumps for commercial applications. At all relevant times, Issuer D was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[6] *See* Act § 105(c)(7)(A); PCAOB Rule 5301(b). No such consent was provided by the Board or Commission.

D. Summary

8. This matter concerns MJF's and Figueroa's failure to take adequate steps to ensure that MJF would not permit Partner A to associate with the Firm while barred. Figueroa, MJF's sole owner and managing partner, was aware of the PCAOB order barring the individual from associating with any registered public accounting firm ("Bar Order") and understood that it precluded Partner A from remaining in a position that allowed Partner A to participate in any activity of MJF connected to the preparation or issuance of issuer audit reports.

9. However, while Partner A was barred, MJF did not take adequate steps to prevent Partner A from participating in year-end 2017 audits of Issuers A, B, and C, as well as quarterly reviews of those issuers during 2017. By failing to implement sufficient measures to preclude Partner A's participation in issuer audits and reviews while barred, MJF violated provisions of the Act and PCAOB rules prohibiting a registered public accounting firm that knows an individual is barred from allowing that person to become or remain associated with the firm. The Firm also violated the Board's quality control standards. Figueroa violated PCAOB rules by directly and substantially contributing to MJF's violations.

10. In addition, Figueroa violated AS 1220 in three separate instances by serving as the engagement quality reviewer ("EQR") for Issuers B and D within two years of serving as the engagement partner in audits of Issuers B and D.[7]

E. MJF Violated the Act, PCAOB Rules, and Quality Control Standards

i. Registered Firms May Not Permit Barred Individuals to Associate and Must Have Adequate Systems of Quality Control

11. Under the Act and PCAOB rules, a registered public accounting firm that knows, or in the exercise of reasonable care should have known, an individual is barred from being an associated person of a registered public accounting firm may not permit that person to become or remain an associated person of the firm without the consent of the Board or Commission.[8] A person becomes (or remains) associated with a registered public accounting firm when, among other things, that person is an "accountant" who "in connection with the preparation or

[7] AS 1220, *Engagement Quality Review*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits.

[8] Act § 105(c)(7)(A); PCAOB Rule 5301(b), *Effect of Sanctions.*

issuance of any audit report . . . participates as agent or otherwise on behalf of such accounting firm in any activity of that firm."[9]

12. Additionally, PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[10] which provide that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[11] PCAOB quality control standards specify that "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[12]

13. PCAOB quality control standards also provide that policies and procedures for monitoring "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied,"[13] and that the firm's "system of quality control is effective."[14]

ii. MJF Failed to Take Adequate Steps to Not Permit Partner A to Associate with the Firm While Barred

14. Partner A informed Figueroa of the impending Bar Order prior to its issuance and Figueroa received a copy of the Bar Order after it was formally issued by the Board. Figueroa understood that the Bar Order meant Partner A could not participate in MJF's audits and reviews of issuer clients.

15. After the Board issued the Bar Order, however, MJF permitted Partner A to become or remain associated with the Firm by having Partner A remain in a position that allowed Partner A to engage in activities in connection with the preparation or issuance of issuer audit reports. Although MJF took certain steps to restrict Partner A's activity, the Firm

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9 Act § 2(a)(9); PCAOB Rule 1001(p)(i), *Definitions of Terms Employed in Rules*.

10 PCAOB Rule 3400T, *Interim Quality Control Standards*.

11 PCAOB Interim Quality Control Standard ("QC") § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

12 QC § 20.17.

13 QC § 20.20.

14 QC § 30.01, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

failed to develop sufficient policies or procedures designed to ensure that Partner A did not associate with the Firm while barred.[15]

16. MJF continued to employ Partner A while barred, and MJF decided that it would continue performing audit work for issuer clients, many of which Partner A had brought to the Firm when Partner A joined MJF.

17. In response to the Bar Order, Respondents removed Partner A from the engagement teams conducting audits and reviews for issuer clients and assigned Partner A to engagements for non-issuers. Figueroa and Partner A informed MJF's issuer clients that Partner A would not act as engagement partner.

18. Respondents also blocked Partner A's access to MJF's electronic audit software as well as its electronic portal for receiving and storing client documents. Figueroa informed MJF staff about the Bar Order and continued his practice of conducting general periodic inquiries of Firm staff to ask if anything significant had occurred that he should know about. Figueroa, however, did not specifically inquire about whether Partner A had continued to participate in activities related to issuer audits.

19. Despite their awareness that Partner A had relationships with many of MJF's issuer clients and had previously served as engagement partner on those clients' audits, Respondents took no additional steps designed to ensure Partner A's compliance with the Bar Order. For instance, MJF did not enact any policies or procedures in response to the Bar Order. Nor did MJF institute any steps designed to directly monitor whether the Firm was permitting Partner A to associate while barred.

iii. MJF Permitted Partner A to Associate with the Firm While Barred

20. As a result of the above conduct, MJF permitted Partner A, while subject to the Bar Order and employed by MJF, to participate in MJF's year-end 2017 audits of Issuers A, B, and C, as well as quarterly reviews of those issuers during 2017.

21. Partner A's participation included communications with MJF engagement team members and issuer client personnel. For example, Partner A provided specific comments on audit work papers for issuer audits, raised substantive accounting issues for the engagement teams to consider, offered his professional opinion on accounting issues, and commented on

[15] *See, e.g.*, *Pritchett, Siler & Hardy, P.C. and Douglas W. Child, CPA*, PCAOB Release No. 105-2019-014 (June 5, 2019); *Deloitte & Touche LLP*, PCAOB Release No. 105-2013-008 (Oct. 22, 2013).

specific language for issuer clients' public filings. Figueroa was not made aware of any of these communications.

22. Accordingly, MJF permitted Partner A to become an associated person of the Firm by engaging in activities on MJF's behalf in connection with the preparation or issuance of audit reports for MJF's issuer audit clients in violation of the Act and PCAOB rules.[16] Moreover, MJF's failure to implement adequate policies and procedures to ensure that the Firm would not permit Partner A's association while barred violated PCAOB quality control standards.[17]

F. Figueroa Violated PCAOB Rules and Auditing Standards

i. Figueroa Directly and Substantially Contributed to MJF's Violations

23. PCAOB Rule 3502 states that, "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[18]

24. Throughout the time MJF employed Partner A, Figueroa was MJF's sole owner and managing partner. He was responsible for MJF's response to the Bar Order, including whether to continue to employ Partner A, what restrictions to place on Partner A while barred, and how to monitor Partner A's compliance with the Bar Order. Figueroa was also responsible for implementing quality control policies and procedures at MJF.

25. All of MJF's conduct described above was either conduct of Figueroa's, or omissions to act for which Figueroa was responsible, that Figueroa knew, or was reckless in not knowing, would directly and substantially contribute to MJF's violations of the Act, PCAOB rules, and quality control standards described above. Figueroa thereby violated PCAOB Rule 3502.

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16 Act § 105(c)(7)(A); PCAOB Rule 5301(b).

17 QC §§ 20.01, 20.17, 20.20, 30.01.

18 PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

ii. Figueroa Violated Auditing Standards by Serving as EQR within Two Audits of Serving as Engagement Partner

26. AS 1220 requires that "[t]he person who served as the engagement partner during either of the two audits preceding the audit subject to the engagement quality review may not be the engagement quality reviewer."[19]

27. MJF audited Issuer B's financial statements as of and for the years ended December 31, 2015, and December 31, 2016. Figueroa served as the engagement partner for the year-end 2015 audit of Issuer B and EQR for the year-end 2016 audit of Issuer B.

28. MJF audited Issuer D's financial statements as of and for the years ended December 31, 2015, December 31, 2016, and December 31, 2017. Figueroa served as the engagement partner for the year-end 2015 audit of Issuer D and EQR for the year-end 2016 and 2017 audits of Issuer D.

29. Therefore, on three separate occasions, Figueroa served as EQR on an issuer audit after having served as engagement partner within the prior two audits of that issuer in violation of PCAOB auditing standards.

III.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of MJF & Associates, APC is revoked;

B. After one year from the date of this Order, MJF & Associates, APC may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Miguel J. Figueroa is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[20]

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[19] AS 1220.08.

[20] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Figueroa. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully

D. After one year from the date of this Order, Figueroa may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed jointly and severally upon MJF and Figueroa. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies MJF and Figueroa as Respondents in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***Respondents understand that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm, or any reapplication for registration pursuant to PCAOB Rule 2101.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 22, 2021

to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of RBSM LLP,

Respondent.

PCAOB Release No. 105-2021-004

August 9, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon RBSM LLP ("Respondent," "RBSM," or the "Firm"). The Board is:

(1) Censuring Respondent;

(2) Imposing a civil money penalty of $50,000 on Respondent; and

(3) Requiring Respondent to engage an independent consultant for a period of three years to review and make recommendations concerning RBSM's quality control policies and procedures.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and quality control standards by failing to take sufficient steps from 2015 through 2018 to ensure that its system of quality control provided reasonable assurance that its personnel complied with applicable professional standards and the Firm's standards of quality, despite auditing and quality control concerns repeatedly brought to the Firm's attention through several PCAOB inspections.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that[2]:

A. Respondent

1. **RBSM LLP** is a limited liability partnership organized under the laws of the state of Virginia with headquarters in McLean, Virginia. The Firm has offices in multiple locations, including in Larkspur, California; Henderson, Nevada; New York, New York; Beijing, China; and Mumbai and Pune, India. The Firm is licensed to practice public accounting by the state of Virginia (License No. 132879), among others. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns the Firm's failure to comply with PCAOB rules and quality control standards. The Firm failed to establish engagement performance and monitoring policies and procedures sufficient to provide it with reasonable assurance that its policies and procedures were suitably designed and effectively applied. During the period from 2014 through 2017, PCAOB inspectors repeatedly brought concerns to the Firm's attention related to significant deficiencies in various audit areas, and raised concerns that RBSM's system of quality control failed to provide reasonable assurance of complying with the related professional

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that the Firm's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

standards. Despite the Firm's awareness of these deficiencies and concerns, the Firm's internal monitoring procedures failed to provide reasonable assurance that its system of quality control was effective, and the Firm failed to make changes to improve its system of quality control, as indicated by the repeated significant deficiencies in the 2014 through 2017 inspections and a subsequent 2019 inspection.

C. The Firm Violated PCAOB Rules and Quality Control Standards

3. PCAOB rules require a registered public accounting firm to comply with PCAOB quality control standards.[3] These standards require that a registered firm have a system of quality control for its accounting and auditing practice.[4] "A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and procedures established to provide the firm with reasonable assurance of complying with professional standards."[5]

4. A firm's system of quality control should, among other things, include policies and procedures for engagement performance.[6] A firm should establish policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[7] Quality control policies and procedures for engagement performance encompass all phases of the design and execution of an engagement.[8] To the extent appropriate and as required by applicable professional standards, these policies and procedures should cover planning, performing, supervising, reviewing, documenting, and communicating

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[3] *See* PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards*, and 3400T, *Interim Quality Control Standards*. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards.

[4] *See* Quality Control Standard 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20"), .01.

[5] QC § 20.04.

[6] *See* QC § 20.07.

[7] QC § 20.17.

[8] QC § 20.18.

the results of each engagement.[9] These policies and procedures also should address engagement quality reviews.[10]

5. A firm should also establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures are suitably designed and are being effectively applied.[11] Monitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective. Procedures that provide the firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the firm's policies and procedures contribute to the monitoring element. Among other things, a firm's monitoring procedures may include inspection procedures, preissuance or postissuance review of selected engagements, determination of any corrective actions to be taken and improvements to be made in the quality control system, communication to appropriate firm personnel of any weaknesses identified, and follow-up to ensure that any necessary modifications are made to the quality control system on a timely basis.[12]

6. Inspection procedures, as a part of a firm's system of quality control, evaluate the adequacy of a firm's policies and procedures, its personnel's understanding of those policies and procedures, and the extent of the firm's compliance with its quality control policies and procedures.[13] Inspection procedures contribute to the monitoring function because findings are evaluated and changes in, or clarifications of, quality control policies and procedures are considered.[14]

7. To provide reasonable assurance that the firm's quality control system achieves its objectives, appropriate consideration should be given to the assignment of quality control responsibilities within the firm, the means by which quality control policies and procedures are communicated, and the extent to which the policies and procedures and compliance should be documented.[15]

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9 *Id.*

10 *Id.*

11 *See* QC § 20.20; Quality Control Standard 30, *Monitoring a CPA Firm's Accounting and Auditing Practice* ("QC § 30"), .02.

12 QC § 30.03. *See also* QC § 30.04 - .08.

13 QC § 30.04.

14 *Id*.

15 QC § 20.21.

8. PCAOB quality control standards further require that a firm prepare appropriate documentation to demonstrate compliance with its quality control policies and procedures, including monitoring, and that such documentation be retained for a period of time sufficient to enable those performing monitoring procedures and a peer review to evaluate the extent of the firm's compliance with its quality control policies and procedures.[16]

i. RBSM Received Notice of Significant Audit Deficiencies in the Firm's Audits through Repeat Notifications in Multiple PCAOB Inspections

9. During the time period from 2014 through 2019, the PCAOB inspection staff notified the Firm of repeated significant audit deficiencies that raised concerns about the Firm's engagement performance. The initial instances of these deficiencies provided the Firm with notice of engagement performance issues. Subsequent findings of deficiencies provided continuing notice and indicated the Firm's system of quality control had failed to adequately address the deficiencies noted in previous inspections.

10. In 2014, PCAOB inspection staff conducted an inspection of the Firm. In connection with the inspection, between July 2014 and February 2015, PCAOB inspection staff informed the Firm of its findings regarding significant audit deficiencies in RBSM issuer audits related to revenue testing, specifically audit sampling and substantive analytical reviews, and engagement quality reviews (EQR). With respect to the EQR deficiencies, certain work papers, including documentation of significant judgments related to engagement planning and the engagement completion document, that should have been reviewed by the engagement quality review partner prior to granting permission for the issuer to use the Firm's audit reports to satisfy the requirements of AS No. 7, *Engagement Quality Review*, were not completed by the engagement team until after the audit report release date.[17]

11. In 2015, PCAOB inspection staff conducted another inspection of the Firm. In connection with the inspection, between January 2016 and February 2016, PCAOB inspection staff informed the Firm of its findings regarding significant audit deficiencies in numerous RBSM issuer audits related again to revenue testing, specifically audit sampling, and EQRs. With respect to the EQR deficiencies, the inspection staff noted that, among other issues, documentation of the EQR did not contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to identify the documents reviewed by, or otherwise to understand the procedures performed by, the engagement quality review partner.[18] In addition, the inspection staff also identified audit deficiencies in fair value assumptions and using the work of specialists.

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16 QC § 20.25.

17 *See* AS No. 7 (now AS 1220) at ¶¶ 9-12.

18 *Id*. at ¶ 19.

12. In 2017, PCAOB inspection staff conducted an inspection of the Firm. In connection with the inspection, during 2017, PCAOB inspection staff informed the Firm of its findings regarding significant audit deficiencies in numerous RBSM issuer audits related to revenue testing, fair value assumptions, using the work of specialists, and EQRs. With respect to the EQR deficiencies, the inspection staff noted that, among other issues, documentation of the EQR did not contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to identify the documents reviewed by, or otherwise to understand the procedures performed by, the engagement quality review partners.[19]

13. In 2019, PCAOB inspection staff conducted an inspection of the Firm. In connection with the inspection, between October 2019 and January 2020, PCAOB inspection staff informed the Firm regarding significant audit deficiencies in numerous RBSM issuer audits related to revenue testing, fair value assumptions and using the work of specialists, and EQRs. With respect to the EQR deficiencies, PCAOB inspection staff identified one or more deficiencies in areas that the engagement quality review partners were required to evaluate, such as the engagement teams' assessment of, and audit responses to, areas of significant risk, including in some cases a fraud risk.[20]

ii. Despite the Repeat, Significant Audit Deficiencies, the Firm's Quality Control Policies and Procedures Failed to Provide Reasonable Assurance That They Were Suitably Designed and Being Effectively Applied from 2015 through 2018

14. From 2015 through 2018, the engagement performance element of the Firm's system of quality control failed to provide the Firm with reasonable assurance that the work performed by its engagement personnel met applicable professional standards, regulatory requirements, and the firm's standards of quality.[21] In addition, the Firm's monitoring procedures were limited to inspections ("Internal Inspections") that were deficient and failed to provide the Firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the Firm's policies and procedures that contribute to the monitoring element.[22]

15. During 2015, the Firm's written policy stated that an integral part of its monitoring process for its system of quality control would be annual Internal Inspections. During the period from 2016 through 2018, the Firm's updated written policy stated that its system of quality control would be monitored on an ongoing basis through "pre-issuance

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19 *Id.*

20 *Id.* at ¶ 10.

21 *See* QC § 20.17.

22 *See* QC § 30.03.

reviews of reports, financial statements and notes to financial statements, engagement quality control review, where applicable, and [Internal Inspections]."

16. While the Firm performed Internal Inspections annually during the period from 2015 through 2018, these procedures were ineffective. The Firm's quality control policies on monitoring stated that a team, not "directly involved in the administration, supervision, or performance of the QC procedures or engagements each will inspect," would be selected to perform inspection procedures. Nevertheless, during these years, the Firm's managing partner was solely responsible for and performed all Internal Inspections for the Firm, including audits in which he had served as the engagement quality review partner. This led to a higher risk that noncompliance with the Firm's quality control policies and procedures would not be detected.[23]

17. To address requirements that a firm's monitoring element provide it with reasonable assurance that its policies and procedures for each of the other elements of its system of quality control are suitably designed and were being effectively applied,[24] the Firm's policies indicated that inspection procedures were to be performed on all elements of the Firm's quality control system, at least annually. Notwithstanding the requirements of quality control standards and the Firm's policies, the Internal Inspections conducted by the managing partner of the Firm were limited to the engagement performance element of quality control.

18. In addition, the Firm's Internal Inspections failed to identify any deficiencies in the engagement performance for any audits reviewed, other than in the 2015 Internal Inspection report, which noted only two documentation deficiencies. In fact, a number of audits documented in the Firm's Internal Inspections as having no deficiencies were subsequently found in later PCAOB inspections to contain significant audit deficiencies.

19. Despite the Firm's awareness that PCAOB inspectors had found repeated engagement performance deficiencies in specific audits, the Firm's monitoring process did not consider and evaluate the adequacy of RBSM's policies and procedures in light of these findings.[25] The Firm failed to make changes to, or improve, its policies and procedures to

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[23] *See* QC § 30.11 ("An individual inspecting his or her own compliance with a quality control system may be inherently less effective than having such compliance inspected by another qualified individual. When one individual inspects his or her own compliance, the firm may have a higher risk that noncompliance with policies and procedures will not be detected.").

[24] QC § 20.20.

[25] *See* QC § 30.03, .05.

address the failures of its procedures to identify these deficiencies, such as engaging a qualified individual from outside the Firm to perform internal inspection procedures.[26]

20. Appropriate documentation to demonstrate compliance with a firm's quality control policies and procedures should be prepared by the firm.[27] However, the Internal Inspection reports prepared by the Firm were, for the most part, created in response to requests from PCAOB staff, and prepared after the completion dates of those Internal Inspections. As such, the Firm failed to prepare appropriate documentation to demonstrate its compliance with the monitoring element of its quality control policies and procedures during the period from 2015 through 2018.

21. Other than the deficient Internal Inspections described above, the Firm did not perform other effective monitoring procedures to obtain reasonable assurance that its system of quality control was effective. For example, from 2016 through 2018, the Firm failed to perform pre-issuance reviews, in contravention of its written policy.

22. In addition, the Firm's EQR procedures failed to identify and communicate circumstances necessitating changes to or the need to improve compliance with the Firm's policies and procedures.[28] In fact, the individuals performing the Firm's EQRs failed to comply with professional standards and regulatory requirements in their performance.

23. As a result, the Firm violated PCAOB rules and quality control standards by failing to have monitoring procedures, taken as a whole, that enabled the Firm to obtain reasonable assurance that its system of quality control was effective, such that the policies and procedures for each of the elements of its system of quality control were suitably designed and being effectively applied, including engagement performance.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), RBSM is hereby censured.

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[26] *See* QC § 30.11.

[27] QC § 20.25.

[28] QC § 30.03.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon RBSM. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. RBSM shall pay the civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies RBSM as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Sections 105(c)(4)(C) and (G) of the Act and PCAOB Rules 5300(a)(3), (8), and (9), the Board orders that:

1. Independent Consultant.

   a. RBSM shall retain and pay for an independent consultant not unacceptable to the PCAOB staff who has experience with, and is knowledgeable concerning, PCAOB quality control standards ("Independent Consultant"). Within sixty days after the entry of this Order, RBSM shall submit to the PCAOB staff a proposal setting forth the identity, qualifications, and proposed terms of retention of the Independent Consultant. RBSM may not retain as the Independent Consultant any individual or entity that has provided legal, auditing, or other services to, or has any affiliation with, RBSM during the prior year.

   b. To ensure the independence of the Independent Consultant, RBSM: (i) shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the PCAOB staff; and (ii) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

   c. RBSM will enter into an agreement with the Independent Consultant that provides that, for the period of the engagement and for a period of three

years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing, or other professional relationship with RBSM or any of their present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. The agreement also will provide that the Independent Consultant will require that any firm with which the Independent Consultant is affiliated or of which the Independent Consultant is a member, and any person engaged to assist the Independent Consultant in performance of the Independent Consultant's duties under this Order, shall not, without prior written consent of the PCAOB staff, enter into any employment, consultant, attorney-client, auditing, or other professional relationship with RBSM or any of their present or former affiliates, directors, officers, employees, or agents acting in their capacity as such, for the period of the engagement and for a period of three years after the engagement.

d. RBSM shall cooperate fully with the Independent Consultant and shall provide reasonable access to its personnel, information, and records as the Independent Consultant may reasonably request for the Independent Consultant's review, evaluation, and reports described in Paragraphs IV.C.2 and IV.C.3 below.

e. If RBSM, despite its best, good faith efforts, is unable to identify an Independent Consultant candidate that meets all of the above-listed criteria, RBSM may seek approval from the PCAOB staff of alternative candidates or alternative terms that RBSM believes to be otherwise suitable.

2. Areas Independent Consultant Is To Review. Within the periods specified below, the Independent Consultant will review and evaluate the following:

a. RBSM's quality control policies and procedures as they relate to "Engagement Performance," as that term is described in QC Section 20.17;

b. RBSM's quality control policies and procedures as they relate to "Monitoring," as that term is described in QC Section 20.20 and as further discussed in QC Section 30;

c. RBSM's quality control policies, procedures, and staff training as they relate to the performance of an "Engagement Quality Review" as that term is used in AS 1220, *Engagement Quality Review*, applicable to audits and reviews conducted pursuant to PCAOB standards; and

d. Whether RBSM is devoting appropriate resources to professional education and training of its personnel to ensure the adequate functioning of its system of quality control.

3. Independent Consultant Reports and Certifications.

a. Within five months of the Independent Consultant being retained, RBSM shall require the Independent Consultant to issue a detailed written report ("Report") to RBSM: (i) summarizing the Independent Consultant's review and evaluation of the areas identified in Paragraph IV.C.2 above, and (ii) making recommendations, where appropriate, reasonably designed to ensure that RBSM maintains a system of quality control sufficient to give the Firm reasonable assurance that its engagement teams perform issuer audits in compliance with applicable PCAOB auditing standards. RBSM shall require the Independent Consultant to provide a copy of the Report to the PCAOB staff when the Report is issued.

b. RBSM will adopt, as soon as practicable, all recommendations of the Independent Consultant in the Report; provided, however, that within thirty days of the issuance of the Report, RBSM may advise the Independent Consultant and the PCAOB staff in writing of any recommendation that it considers to be unnecessary, unduly burdensome, or impractical. RBSM need not adopt any such recommendation at that time, but instead may propose in writing to the Independent Consultant and the PCAOB staff an alternative proposal designed to achieve the same objective or purpose. RBSM and the Independent Consultant will engage in good faith negotiations in an effort to reach agreement on any recommendations objected to by RBSM.

c. In the event that the Independent Consultant and RBSM are unable to agree on an alternative proposal within forty-five days, RBSM either will abide by the determinations of the Independent Consultant or will seek approval from the PCAOB staff to engage, at RBSM's expense, a qualified third party acceptable to the PCAOB staff to promptly resolve the issue(s).

d. Within seventy-five days of the issuance of the Report and the resolution of any issues that are the subject of disagreement between RBSM and the Independent Consultant, RBSM will certify to the PCAOB staff in writing that it has adopted and has implemented or will implement all recommendations of the Independent Consultant ("Certification"). RBSM will provide a copy of the Certification to the PCAOB staff.

e. Within six months of the issuance of the Report, RBSM shall require the Independent Consultant to test whether RBSM has implemented the

Independent Consultant's recommendations and to assess the effectiveness of those implemented recommendations. Within eighteen months of the issuance of the Report, RBSM shall require the Independent Consultant to test and to assess the effectiveness of the implemented recommendations and to issue a detailed written report ("Interim Review") summarizing the results of the Independent Consultant's test and assessment of RBSM's system of quality control. The Independent Consultant's test and assessment of RBSM's system of quality control should determine whether RBSM is maintaining a system of quality control sufficient to give the Firm reasonable assurance that its engagement teams are performing issuer audits in compliance with applicable PCAOB auditing standards. RBSM shall require the Independent Consultant to provide a copy of the Interim Review to the PCAOB staff when the Interim Review is issued.

f. RBSM shall require the Independent Consultant to issue a detailed written final report no later than three years from the date of the Independent Consultant being retained summarizing the results of the Independent Consultant's test and assessment of RBSM's system of quality control during the entire period ("Final Report") and to provide a copy of the Final Report to the PCAOB staff. At this time, if the Independent Consultant determines that the undertakings discussed herein have been completed to the satisfaction of the Independent Consultant, RBSM shall require the Independent Consultant to certify in writing that the undertakings have been so completed ("Independent Consultant Certification") and to provide a copy of this certification to the PCAOB staff.

g. The Report, Interim Review, Final Report, Certification, and Independent Consultant Certification shall be submitted by the Firm to the Director of the Division of Enforcement and Investigations.

h. For good cause shown, the PCAOB staff may extend any of the procedural dates relating to these undertakings.

i. RBSM understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 9, 2021

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Morey, Nee, Buck & Oswald, LLC, John P. Morey, CPA, and Gerard B. Nee, CPA,

Respondents.

PCAOB Release No. 105-2021-005

August 10, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon Morey, Nee, Buck & Oswald, LLC (the "Firm"), John P. Morey, CPA ("Morey"), and Gerard B. Nee, CPA ("Nee") (collectively, "Respondents"). The Board is:

(1) Censuring the Respondents;

(2) Imposing a civil money penalty in the amount of $10,000 on the Firm; and

(3) Limiting Respondents' activities, for a period of two years from the date of this Order, by prohibiting them from performing audit services in audit engagements, including examination engagements, for clients that are brokers or dealers that are required to file a compliance report under Securities Exchange Act of 1934 ("Exchange Act") Rule 17a-5, 17 C.F.R. § 240.17a-5, of the U.S. Securities and Exchange Commission ("Commission"), including audit engagements for clients that are brokers or dealers that carry customer or broker or dealer accounts and receive or hold funds or securities for those persons.

The Board is imposing these sanctions on the basis of its findings that Respondents violated PCAOB rules and standards in connection with the Firm's 2017 and 2018 examination engagements for a broker-dealer ("Broker-Dealer A") registered with the Commission, and that the Firm and Morey violated PCAOB rules and standards in connection with their 2017 and 2018 audits of Broker-Dealer A.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports,

that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **Morey, Nee, Buck & Oswald, LLC** is a professional limited liability company headquartered in Bethlehem, Pennsylvania. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm served as Broker-Dealer A's independent auditor from November 2017 to October 2019.

2. **John P. Morey, CPA** is a certified public accountant licensed by the Pennsylvania State Board of Accountancy (license no. CA031172R). At all relevant times, Morey was an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Morey is the managing partner of the Firm and was the engagement partner on the Firm's audit and examination engagements for Broker-Dealer A.

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[1] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[2] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

3. **Gerard B. Nee, CPA** is a certified public accountant licensed by the New Jersey State Board of Accountancy (license no. 20CC01247800). At all relevant times, Nee was an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Nee is a partner in the Firm and served as the engagement quality reviewer on the Firm's audit and examination engagements for Broker-Dealer A.

B. Broker-Dealer

4. At all relevant times, Broker-Dealer A was a New York corporation headquartered in New York. At all relevant times, Broker-Dealer A's public filings disclosed that it was registered with the Commission as a broker-dealer, and was engaged in a single line of business as a self-clearing securities broker-dealer that provides a service to help customers become enrolled in dividend reinvestment plans of publicly traded companies. At all relevant times, Broker-Dealer A was a "broker" and "dealer," as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii). At all relevant times, Broker-Dealer A was a "carrying broker-dealer" (*i.e.*, a broker-dealer that maintains custody of customer funds and/or securities).

C. Summary

5. This matter concerns the Firm's and Morey's violations of PCAOB rules and Attestation Standard No. 1 ("AT No. 1"), *Examination Engagements Regarding Compliance Reports of Brokers and Dealers*, when performing their examinations of the statements made by Broker-Dealer A in its fiscal year end ("FYE") December 31, 2017 and FYE December 31, 2018 compliance reports (the "Examinations") prepared pursuant to Exchange Act Rule 17a-5, 17 C.F.R. § 240.17a-5 ("Rule 17a-5"). In particular, the Firm and Morey failed to identify and test Broker-Dealer A's key internal controls over compliance with Commission rules for safeguarding certain customer assets held by Broker-Dealer A.

6. This matter also concerns the Firm's and Morey's violations of PCAOB rules and standards in connection with their audits of the financial statements and accompanying supporting schedules of Broker-Dealer A for FYEs December 31, 2017 and December 31, 2018 (the "Audits"). Among other things, the Firm and Morey failed to obtain sufficient appropriate audit evidence to support the Firm's audit opinion on Broker-Dealer A's financial statements and supporting schedules.

7. Additionally, in connection with the above Examinations, Nee violated AS 1220, *Engagement Quality Review*, by providing his concurring approval of issuance without performing the required engagement quality reviews with due professional care.

D. The Firm and Morey Violated AT No. 1 in The Firm's Examinations of Broker-Dealer A's 2017 and 2018 Compliance Reports

i. Certain Commission Reporting Requirements for Broker-Dealer A

8. At all relevant times, Exchange Act Rule 15c3-3, 17 C.F.R. § 240.15c3-3 ("Rule 15c3-3"), also known as the "Customer Protection Rule," imposed various obligations on Broker-Dealer A to avoid, in the event of a broker-dealer failure, a delay in returning customer securities or worse, a shortfall in which customers are not made whole.[3] For example, paragraph (e) of Rule 15c3-3 (the "Reserve Requirements Rule") required Broker-Dealer A, among other things, to maintain with a bank or banks[4] a "Special Reserve Bank Account for the Exclusive Benefit of Customers" that was kept separate from its other accounts ("Customer Reserve Bank Account"), to deposit therein an amount calculated in accordance with that paragraph, and to make and maintain a record of each such computation. Paragraph (f) of Rule 15c3-3 required Broker-Dealer A, among other things, to have a written contract with any bank at which it maintained one or more Customer Reserve Bank Accounts that provides that the cash and/or qualified securities[5] in such Customer Reserve Bank Account(s) will at no time be used directly or indirectly as a security for a loan to the broker-dealer by the bank and will not be subject to any right, charge, security interest, lien, or claim of any kind in favor of the bank or any person claiming through the bank. And paragraph (d) of Rule 15c3-3 required Broker-Dealer A, with respect to customers'[6] fully-paid securities and excess margin securities,[7] regularly to determine: (i) whether such securities are in its possession and control, in accordance with paragraphs (b) and (c) of Rule 15c3-3 (*i.e.*, held in a "Good Control Location"), and (ii) the quantity of such securities.

9. At all relevant times, Rule 17a-5 required Broker-Dealer A, among other things, to file with the Commission[8] an annual report containing: (a) a financial report that includes

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[3] Division of Trading and Markets and Division of Enforcement of the U.S. Securities and Exchange Commission, *Customer Protection Rule Initiative*, modified June 23, 2016, at Section II, available at https://www.sec.gov/divisions/enforce/customer-protection-rule-initiative.shtml. Although some broker-dealers qualify for exemption from the Customer Protection Rule under paragraph (k) of Rule 15c3-3, Broker-Dealer A, at all relevant times, did not qualify for such an exemption.

[4] "Bank" is defined in Rule 15c3-3(a)(7).

[5] The term "qualified security" is defined in Rule 15c3-3(a)(6).

[6] The term "customer" is defined in Rule 15c3-3(a)(1).

[7] The terms "fully paid securities" and "excess margin securities" are defined, respectively, in Rule 15c3-3(a)(3), (5).

[8] *See* Rule 17a-5(d)(6).

financial statements and supporting schedules,[9] and, in the case of a broker-dealer (including Broker-Dealer A) not claiming exemption under paragraph (k) of Rule 15c3-3,[10] (b) a compliance report concerning the effectiveness of the broker-dealer's internal control over compliance ("ICOC")[11] with, among other things, the Customer Protection Rule;[12] and (c) a report by a PCAOB-registered firm based on an examination of the broker-dealer's financial and compliance reports that meets certain specified requirements.[13] Rule 17a-5 also required that the auditor's examinations of each of Broker-Dealer A's financial report and compliance report be performed in accordance with PCAOB standards.[14]

10. Rule 17a-5 also required, at all relevant times, Broker-Dealer A's compliance report to contain certain statements ("assertions") about its compliance with, among other things, the Customer Protection Rule, including that: (a) the broker-dealer's ICOC was effective during the most recent fiscal year; (b) the broker-dealer's ICOC was effective as of the end of

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[9] *See* Rule 17a-5(d)(1)(i)(A). The financial report, including the required supporting schedules, must be in a format that is consistent with the statements contained in Commission Form X-17A-5. *See* Rule 17a-5(d)(2).

[10] The Commission has stated that there may be circumstances in which a broker-dealer has not held customer securities or funds during the past year, but does not fit into one of the exemptive provisions set forth in paragraph (k) of Rule 15c3-3, and should file an "exemption report" under Rule 17a-5(d)(1)(i)(B)(*2*) in lieu of a "compliance report" under Rule 17a-5(d)(1)(i)(B)(*1*). *See* U.S. Securities and Exchange Commission, *Broker-Dealer Reports*, Exchange Act Release No. 70073 (July 30, 2013), at n. 74, *available at* https://www.sec.gov/rules/final/2013/34-70073.pdf. *See also* Division of Trading and Markets of the U.S. Securities and Exchange Commission, *Frequently Asked Questions Concerning the July 30, 2013 Amendments to the Broker-Dealer Financial Reporting Rule* (updated July 1, 2020), at Question and Answer 8 (describing the views of the staff of the Division of Trading and Markets regarding the eligibility of certain broker-dealers to file exemption reports in accordance with the circumstances described in footnote 74 of the 2013 *Broker-Dealer Reports* release), available at https://www.sec.gov/divisions/marketreg/amendments-to-broker-dealer-reporting-rule-faq.htm. Those circumstances are not applicable here.

[11] The term "internal control over compliance" is defined in Rule 17a-5(d)(3)(ii) as follows: "The term *Internal Control Over Compliance* means internal controls that have the objective of providing the broker or dealer with reasonable assurance that non-compliance with [Exchange Act Rules 15c3-1, 15c3-3, 17a-13], or any rule of the designated examining authority of the broker or dealer that requires account statements to be sent to the customers of the broker or dealer (an 'Account Statement Rule') will be prevented or detected on a timely basis."

[12] *See* Rule 17a-5(d)(1)(i)(B)(*1*), (d)(3).

[13] *See* Rule 17a-5(d)(1)(i)(C), (g), (i).

[14] *See* Rule 17a-5(g).

the most recent fiscal year; and (c) the broker-dealer was in compliance with, among other things, the Reserve Requirements Rule as of the end of the most recent fiscal year.[15]

ii. Relevant Provisions of PCAOB Rules and Standards

11. In connection with the preparation or issuance of an audit report, including an examination report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards, including attestation standards.[16]

12. AT No. 1 provides that, in performing an examination of the assertions made by a broker or dealer in a compliance report (an "examination engagement"), the auditor's objective is to express an opinion regarding whether the assertions made by the broker or dealer in its compliance report are fairly stated, in all material respects.[17] AT No. 1 also provides that, to express such an opinion, the auditor must plan and perform the examination engagement to obtain appropriate evidence that is sufficient to obtain reasonable assurance about whether, among other things: (1) one or more material weaknesses[18] existed during the most recent fiscal year specified in the broker's or dealer's assertion; (2) one or more material weaknesses existed as of the end of the most recent fiscal year specified in the broker's or dealer's assertion; and (3) one or more instances of non-compliance with the Reserve Requirements Rule existed as of the end of the most recent fiscal year specified in the broker's or dealer's assertion.[19] As noted in AT No. 1, the auditor's examination should include an evaluation of the effectiveness of ICOC with the Customer Protection Rule during, and as of the end of, the most recent fiscal year.[20]

13. AT No. 1 also provides that the auditor must exercise due professional care, which includes application of professional skepticism, in planning and performing the examination and preparation of the report, and that the engagement partner is responsible for proper planning and supervision of work for the engagement.[21]

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15 *See* Rule 17a-5(d)(3)(i)(A)(*2*) – *(4)*.

16 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

17 *See* ¶ 3 of AT No. 1.

18 The term "material weakness" is defined in AT No. 1, Appendix A ¶ A4.

19 *See* ¶ 4 of AT No. 1.

20 *See id.* ¶ 4, Note.

21 *See id.* ¶¶ 6(d), 7.

14. Additionally, when planning the examination engagement, the auditor should obtain an understanding of the broker-dealer's processes regarding compliance with, among other things, the Customer Protection Rule, which includes evaluating the design of controls that are relevant to the examination and determining whether they have been implemented.[22] When performing the examination engagement, the auditor must test the controls that are important to the auditor's conclusion about whether the broker or dealer has maintained effective ICOC for, among other things, the Customer Protection Rule during the fiscal year and at fiscal year-end.[23] The auditor must obtain evidence that the controls over compliance selected for testing are designed effectively and operated effectively during the fiscal year and at fiscal year-end.[24]

15. AT No. 1 further requires the auditor to conduct tests that are sufficient to support the auditor's conclusions regarding whether the broker or dealer was in compliance with the Reserve Requirements Rule at fiscal year-end; the auditor does this by, among other things, testing the accuracy and completeness of the information that the broker or dealer used to determine its compliance with that rule at fiscal year-end.[25]

16. As provided in AT No. 1, the auditor should evaluate whether he or she has obtained sufficient appropriate evidence to support the conclusions to be presented in the examination report, taking into account the risks associated with controls and non-compliance, the results of the examination procedures performed, and the appropriateness (*i.e.*, the relevance and reliability) of the evidence obtained.[26] If the auditor is unable to obtain sufficient appropriate evidence about an assertion, the auditor should express a disclaimer of opinion.[27]

17. As described below, the Firm and Morey failed to comply with applicable PCAOB rules and standards in connection with their examinations of the assertions made by Broker-Dealer A in its compliance reports for FYEs December 31, 2017, and December 31, 2018.

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[22] *See id*. ¶ 9(b), Notes.

[23] *See id.* ¶ 11.

[24] *See id.* The auditor should test the design effectiveness of the selected controls by determining whether they can effectively prevent or detect instances of non-compliance with, among other things, the Customer Protection Rule on a timely basis. *See id.* ¶ 14. Additionally, the auditor should test the operating effectiveness of the selected controls by determining whether each selected control is operating as designed. *See id.* ¶ 16.

[25] *See id.* ¶ 21.

[26] *See id.* ¶ 27.

[27] *See id.* ¶ 29.

iii. The Firm's Examinations of Broker-Dealer A's 2017 and 2018 Compliance Reports

18. Broker-Dealer A filed its Forms X-17A-5 Part III for Fiscal Year ("FY") 2017 and FY 2018 with the Commission on February 22, 2018 and on February 27, 2019, respectively. In connection with those filings, Broker-Dealer A filed its related compliance reports – the FY 2017 compliance report was dated February 21, 2018, and the FY 2018 compliance report was dated February 21, 2019 (collectively, the "Compliance Reports"). The Compliance Reports' assertions included that Broker-Dealer A's ICOC with the Customer Protection Rule was effective during the period from January 1, 2017 to December 31, 2017 and as of December 31, 2017, and also from January 1, 2018 to December 31, 2018 and as of December 31, 2018, respectively.

19. Morey authorized the Firm's issuance of its examination reports for FY 2017 and FY 2018 concerning Broker-Dealer A's related Compliance Reports (collectively, the "Examination Reports"), and Nee, as the engagement quality reviewer, provided concurring approval of issuance of those Examination Reports. The Firm's examination report for FY 2017 was dated February 21, 2018, and the Firm's examination report for FY 2018 was dated February 26, 2019. The Examination Reports expressed the Firm's unqualified opinions that Broker-Dealer A's assertions in the respective Compliance Reports were fairly stated, in all material respects, and the Examination Reports stated, among other things, that the respective examinations were conducted in accordance with PCAOB standards.

20. With respect to both the 2017 and 2018 Examinations, the Firm and Morey failed to plan and perform adequate procedures to obtain appropriate evidence that was sufficient to obtain reasonable assurance about whether there were material weaknesses in Broker-Dealer A's ICOC, as required by AT No. 1.[28] In particular, the Firm and Morey failed to perform any procedures to obtain an understanding of Broker-Dealer A's ICOC, even though the Firm and Morey had no pre-existing knowledge of Broker-Dealer A until the start of the 2017 audit and examination engagements.[29] In addition, the Firm and Morey failed to perform any procedures to test controls that were important to the Firm's conclusion about whether Broker-Dealer A maintained effective ICOC, and obtain evidence that those controls were designed effectively and operating effectively.[30]

21. More specifically, the Firm and Morey failed to perform any procedures to identify, understand, or test the design effectiveness and operating effectiveness of any ICOC with the rules requiring Broker-Dealer A to: (1) properly calculate the minimum amount of funds it must hold in its Customer Reserve Bank Accounts, in compliance with the Reserve

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28 *See id.* ¶ 4, Appendix A ¶ A4.

29 *See id.* ¶ 9(b), Note.

30 *See id.* ¶¶ 9(b), 11.

Requirements Rule; (2) obtain written evidence that its Customer Reserve Bank Accounts were compliant with the "no-lien" requirement, in compliance with Rule 15c3-3(f); (3) determine the quantity of customers' fully-paid securities and excess margin securities held by Broker-Dealer A, in compliance with Rule 15c3-3(d); and (4) maintain those customer securities in an appropriate Good Control Location, in compliance with Rule 15c3-3(b) – (d).

22. The Firm and Morey also violated AT No. 1 by failing to perform certain required tests to determine whether Broker-Dealer A was in compliance with the Reserve Requirements Rule at year-end 2017 and 2018.[31] Specifically, the Firm and Morey tested Broker-Dealer A's compliance with the Reserve Requirements Rule at year-end by comparing information produced by Broker-Dealer A to a schedule it used to calculate the amount required to be reserved in the Customer Reserve Bank Accounts, but the auditors failed to test the accuracy and completeness of the information in the schedules that Broker-Dealer A had used to compute whether its Customer Reserve Bank Accounts held sufficient reserves in compliance with the Reserve Requirements Rule at the end of the respective fiscal years.[32]

23. As a result of the above deficiencies, the Firm and Morey failed to obtain appropriate audit evidence sufficient to provide reasonable assurance about whether there were material weaknesses in Broker-Dealer A's ICOC, as required by AT No. 1.[33]

E. The Firm and Morey Violated PCAOB Rules and Standards in The Firm's Audits of Broker-Dealer A's 2017 and 2018 Supporting Schedules

24. Rule 17a-5 required that Broker-Dealer A file certain supplemental information in supporting schedules accompanying its 2017 and 2018 financial statements, and that those schedules be audited by a PCAOB-registered firm.[34]

25. In connection with the preparation or issuance of an audit report on such supplemental information, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[35] Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism in performing the audit.[36]

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31 *See id.* ¶ 21.

32 *See id.* ¶ 21(b).

33 *See id.* ¶¶ 3 – 6.

34 *See* Rule 17a-5(d)(1)(i)(A), (d)(1)(i)(C), (d)(2), (g).

35 *See* PCAOB Rule 3100; PCAOB Rule 3200.

36 *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*.

26. PCAOB standards also require that, when the auditor is engaged to perform audit procedures and report on supplemental information accompanying audited financial statements, the auditor should perform audit procedures to obtain appropriate audit evidence that is sufficient to support the auditor's opinion regarding whether the supplemental information is fairly stated, in all material respects, in relation to the financial statements as a whole.[37] In doing so, the auditor should, among other things, obtain an understanding of the criteria that management used to prepare the supplemental information, including relevant regulatory requirements.[38] The auditor also should perform procedures to test the completeness and accuracy of the information presented in the supplemental information to the extent it was not tested as part of the audit of financial statements, and should evaluate whether the supplemental information complies with relevant regulatory requirements or other applicable criteria, if any.[39] Additionally, when an auditor uses information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to, among other things, test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information.[40]

27. According to PCAOB standards, if an auditor is unable to obtain sufficient appropriate audit evidence to support an opinion on the supplemental information, the auditor should disclaim an opinion on the supplemental information.[41]

28. As described below, the Firm and Morey failed to comply with PCAOB rules and standards in connection with the audit procedures they performed on the supplemental information in supporting schedules accompanying Broker-Dealer A's 2017 and 2018 financial statements.

29. Broker-Dealer A filed its Forms X-17A-5 Part III for FY 2017 and FY 2018 with the Commission on February 22, 2018, and on February 27, 2019, respectively. Included in those filings were the Firm's audit reports for FY 2017 and FY 2018 dated February 21, 2018, and February 26, 2019, respectively (collectively, the "Audit Reports"). Morey authorized the Firm's issuance of the Audit Reports, which expressed an unqualified opinion on Broker-Dealer A's related financial statements and supporting schedules, and stated, among other things, that the Firm's audits were conducted in accordance with PCAOB standards. Nee, as the engagement

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[37] *See* AS 2701.02 – .03, *Auditing Supplemental Information Accompanying Audited Financial Statements*.

[38] *See id.* at .04(a).

[39] *See id.* at .04(e) – (f).

[40] *See* AS 1105.10, *Audit Evidence*.

[41] *See* AS 2701.15.

quality reviewer, provided concurring approval of issuance of the Audit Reports. The Audit Reports also stated that the supplemental information in the accompanying supporting schedules was subjected to audit procedures in connection with the Firm's audits of Broker-Dealer A's related financial statements. In particular, the Firm represented that it had "perform[ed] procedures to test the completeness and accuracy of the information presented in the supplemental information."[42]

30. For both 2017 and 2018, Broker-Dealer A's supporting schedules reported on its compliance with the Reserve Requirements Rule and Rule 15c3-3(f), relating to obtaining documentation of compliance with the Reserve Requirements Rule. Broker-Dealer A's supporting schedules also reported on its compliance with the Commission rule requiring it to, among other things, maintain customers' fully paid securities and excess margin securities in an appropriate Good Control Location in compliance with Rule 15c3-3(b) – (d).

31. In these supporting schedules for 2017 and 2018, Broker-Dealer A reported that its minimum required reserve under the Reserve Requirements Rule was $68,868 and $66,848, respectively, and that the "Amount on deposit in 'Reserve Bank Accounts' over amount required" was $630,249 and $634,292, respectively. Broker-Dealer A's supplemental information also represented that, as of the report date, all customers' fully paid securities and excess margin securities entrusted to Broker-Dealer A were held in a Good Control Location in compliance with the Customer Protection Rule.

32. But, in both years, the engagement teams' procedures concerning these supporting schedules relied solely on information produced by Broker-Dealer A without testing that information for completeness or testing Broker-Dealer A's controls over the completeness of that information. And with respect to the supplemental information concerning the quantity of customers' fully paid securities and excess margin securities that Broker-Dealer A held in custody accounts, the Firm and Morey also failed to test the accuracy of the client-produced information that the engagement team used as audit evidence. Additionally, the Firm and Morey failed to obtain documentation establishing that Broker-Dealer A's Customer Reserve Bank Accounts were in compliance with the "no-lien" requirement of the Customer Protection Rule.[43]

33. Consequently, the Firm and Morey violated PCAOB standards in both the FY 2017 and FY 2018 audits by failing to obtain sufficient appropriate audit evidence that the

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[42] According to PCAOB standards, "The auditor should take into account relevant evidence from . . . the attestation engagement[] . . . in planning and performing audit procedures related to the supplemental information and in evaluating the results of the audit procedures to form the opinion on the supplemental information." AS 2701.03(c) Note.

[43] *See* Rule 15c3-3(f).

supplemental information in the FY 2017 and FY 2018 supporting schedules was fairly stated, in all material respects, in relation to the financial statements as a whole.[44]

F. Nee Violated PCAOB Rules and Standards in Connection with the Engagement Quality Reviews for the Examinations

34. As noted above, PCAOB Rules provide that associated persons of registered public accounting firms shall comply with all applicable auditing and related professional practice standards.[45]

35. AS 1220, *Engagement Quality Review*, requires that an engagement quality review be performed on all audits and certain attestation engagements conducted pursuant to PCAOB standards, like the Examinations.[46] AS 1220 also provides that the engagement quality reviewer for an engagement performed pursuant to PCAOB attestation standards should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the attestation engagement.[47] In an attestation engagement performed pursuant to AT No. 1, a firm may grant permission to an audit client to use the firm's engagement report only after an engagement quality reviewer provides concurring approval of issuance of the report.[48]

36. Moreover, under AS 1220, the engagement quality reviewer may provide concurring approval of issuance of the report for an engagement performed pursuant to PCAOB attestation standards only if, after performing with due professional care the review required by AS 1220, he or she is not aware of a significant engagement deficiency.[49] AS 1220 states that a significant engagement deficiency in an attestation engagement exists when, among other things, "the engagement team failed to perform attestation procedures necessary in the circumstances of the engagement."[50]

37. In connection with the Examinations, Nee failed to appropriately evaluate the conclusions reached by the engagement team with respect to significant areas of the Examinations, including the testing of Broker-Dealer A's ICOC and the testing of Broker-Dealer

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44 *See* AS 2701.02 – .04.

45 *See* PCAOB Rule 3100.

46 *See* AS 1220.01.

47 *See id*. at .18A.

48 *See id.* at .18C.

49 *See id.* at .18B.

50 *Id.* at .18B Note.

A's compliance with the Reserve Requirements Rule at fiscal year-end. Specifically, the Firm's engagement teams did not perform any procedures concerning Broker-Dealer A's assertions in its Compliance Reports that its ICOC with the Customer Protection Rule was effective during, and at the end of, the most recent fiscal year, even though such procedures were critical to the core objectives of the Firm's Examinations of the Compliance Reports. Additionally, the engagement teams failed to perform required procedures to test the accuracy and completeness of information in the schedules that Broker-Dealer A used to assert in its Compliance Reports that, at FYE December 31, 2017 and FYE December 31, 2018, respectively, its Customer Reserve Bank Accounts held sufficient reserves in compliance with the Reserve Requirements Rule.[51] Nee knew the engagement teams had concluded that these assertions in the Compliance Reports were fairly stated, in all material respects, yet he saw no evidence in his reviews that the teams had performed the above necessary procedures related to those assertions.

38. As a result, Nee was aware of a significant engagement deficiency in each of the Examinations: the engagement teams' failures to perform attestation procedures necessary in the circumstances of the engagements.[52] Nevertheless, Nee provided his concurring approvals of issuance of the Examination Reports. Accordingly, Nee failed to perform the engagement quality reviews with due professional care, in violation of AS 1220.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Morey, Nee, Buck & Oswald, LLC, John P. Morey, CPA, and Gerard B. Nee, CPA, are hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay the civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal money order, certified check, bank cashier's check or bank money

[51] *See* ¶ 21(b) of AT No. 1.

[52] *See* AS 1220.18B, Note.

order; (c) made payable to the Public Company Accounting Oversight Board, (d) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (e) submitted under a cover letter which identifies Morey, Nee, Buck & Oswald, LLC as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

C. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two years from the date of this Order, the Firm, John Morey, and Gerard Nee shall not perform audit services in audit engagements, including examination engagements, for clients that are brokers or dealers that are required to file a compliance report under Securities Exchange Act of 1934 Rule 17a-5, 17 C.F.R. § 240.17a-5, of the U.S. Securities and Exchange Commission, including audit engagements for clients that are brokers or dealers that carry customer or broker or dealer accounts and receive or hold funds or securities for those persons.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 10, 2021

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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of Haskell & White LLP,

Respondent.

PCAOB Release No. 105-2021-006
(Corrected Copy)

August 13, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or PCAOB) is imposing sanctions upon Haskell & White LLP ("H&W," "the Firm," or "Respondent"), a registered public accounting firm. The Board is:

(1) censuring the Firm;

(2) imposing a civil money penalty in the amount of $20,000 on the Firm;

(3) requiring the Firm to establish quality control policies and procedures, or revise and/or supplement existing policies and procedures, including monitoring procedures, for the purpose of providing the Firm with reasonable assurance of compliance with the documentation requirements of AS 1215, *Audit Documentation*, applicable to audits and quarterly reviews, including with respect to the timely assembly for retention of audit documentation ("archiving"); and

(4) requiring the Firm to provide additional professional education and training to its associated persons related to AS 1215.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and standards by repeatedly failing to: (1) timely archive audit documentation in connection with audits, in violation of AS 1215; (2) effectively implement policies and procedures to provide it with reasonable assurance that its engagement personnel were timely archiving audit documentation in compliance with AS 1215, in violation of the PCAOB's quality control standards; and (3) timely make changes or improve compliance with the Firm's policies and procedures in order to enable the Firm to obtain reasonable assurance that its system of quality control was effective, upon becoming aware of repeated failures by engagement personnel to archive audit documentation in compliance with AS 1215.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Haskell & White LLP is a limited liability partnership headquartered in Irvine, California. The Firm is licensed in the states of California (License No. PAR 5257), Oregon (License No. 2742), Washington (License No. 6316), and Nevada (License No. PART-0816). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns the Firm's repeated violations of PCAOB rules and standards by failing to archive a complete and final set of audit documentation by the relevant documentation completion date.[2] The Firm serves as an external auditor for certain issuers that

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The

file Forms 10-K with the U.S. Securities and Exchange Commission. The PCAOB standard concerning audit documentation, AS 1215, provides that "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[3] Beginning in 2016 through 2019, in connection with at least six issuer audits and four quarterly reviews (the "Audits"), the Firm failed to archive a complete and final set of audit documentation by the relevant documentation completion dates, in violation of AS 1215.

3. From 2016 through 2019, the Firm also violated PCAOB quality control standards by failing to effectively implement policies and procedures to provide it with reasonable assurance that its engagement teams would timely archive audit documentation for the Audits.[4]

4. Despite the Firm's annual internal inspections from 2016 through 2019 identifying late archiving of audit documentation as a significant, ongoing problem, the Firm failed to timely make changes or improve compliance with the Firm's policies and procedures in order to enable the Firm to obtain reasonable assurance that its system of quality control was effective. That failure constituted a further violation of PCAOB quality control standards.[5]

C. The Firm Violated PCAOB Standards in Connection with its Repeated Failures to Timely Archive Audit Documentation Beginning in 2016

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards.[6] PCAOB standards provide, among other things, that the auditor must prepare audit documentation in connection with

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reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondent's conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

[3] AS 1215.15. Audit documentation is the written record of the basis for the auditor's conclusions that provides the support for the auditor's representations, whether those representations are contained in the auditor's report or otherwise. AS 1215.02. Audit documentation also may be referred to as *work papers* or *working papers*. *Id.*

[4] *See* QC § 20.17, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[5] *See* QC §§ 20.20, 30.02-.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for fiscal years ending before December 31, 2016); and PCAOB Rule 3200, *Auditing Standards* (applicable to audits for fiscal years ending on or after December 31, 2016).

each engagement conducted pursuant to the standards of the PCAOB.[7] The auditor must document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[8] This documentation requirement applies to the work of all those who participate in the engagement.[9] As noted above, "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date)*."[10]

6. Beginning no later than 2016, the Firm's engagement teams failed to timely archive audit and quarterly review documentation for the Audits. For example, on a number of occasions, the audit documentation was not finalized for over 500 days after the documentation completion date.

7. As a result of the above-described conduct, the Firm violated AS 1215.

D. The Firm Violated PCAOB Quality Control Standards by Failing to Effectively Implement Policies and Procedures and to Timely Make Changes or Improve Compliance In Order to Provide Reasonable Assurance Related to Timely Archiving of Audit Work Papers

8. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[11] PCAOB quality control standards, in turn, require that a registered firm "shall have a system of quality control for its accounting and auditing practice."[12]

9. Pursuant to PCAOB quality control standards, firms should establish policies and procedures to provide reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[13] To the extent appropriate and as required by applicable professional

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7 AS 1215.04.

8 AS 1215.06.

9 *Id.*

10 AS 1215.15.

11 PCAOB Rule 3400T, *Interim Quality Control Standards*.

12 QC § 20.01.

13 QC § 20.17.

standards, these policies and procedures should cover planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement.[14]

10. PCAOB quality control standards provide that one required element of a quality control system is monitoring.[15] Monitoring involves an ongoing consideration and evaluation of the: (a) relevance and adequacy of the firm's policies and procedures; (b) appropriateness of the firm's guidance materials and any practice aids; (c) effectiveness of professional development activities; and (d) compliance with the firm's policies and procedures.[16] Monitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective.[17]

11. A firm's monitoring procedures may include internal inspection procedures,[18] which contribute to the monitoring function because findings are evaluated and changes in or clarifications of quality control policies and procedures are considered.[19] The adequacy of and compliance with a firm's quality control system are evaluated by performing such inspection procedures as: (a) discussions with the firm's personnel; (b) summarization of the findings from the inspection procedures, at least annually, and consideration of the systemic causes of findings that indicate improvements are needed; (c) determination of any corrective actions to be taken or improvements to be made with respect to the specific engagements reviewed or the firm's quality control policies and procedures; and (d) consideration of inspection findings by appropriate firm management personnel who should also determine that any actions necessary, including necessary modifications to the quality control system, are taken on a timely basis.[20]

12. Review of work papers after the issuance of the audit report may constitute inspection procedures provided: (a) the review is sufficiently comprehensive to enable the firm to assess compliance with all applicable professional standards and the firm's quality control policies and procedures; (b) findings of such reviews that may indicate the need to improve compliance with or modify the firm's quality control policies and procedures are periodically summarized, documented, and communicated to the firm's management personnel having the

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14 QC § 20.18.

15 QC § 20.07.

16 QC § 30.02; *see also* QC § 20.20.

17 QC § 30.03.

18 *Id.*

19 QC § 30.04.

20 QC § 30.06.

responsibility and authority to make changes in those policies and procedures; (c) the firm's management personnel consider on a timely basis the systemic causes of findings that indicate improvements are needed and determine appropriate actions to be taken; and (d) the firm implements on a timely basis such planned actions, communicates changes to personnel who might be affected, and follows up to determine that the planned actions were taken.[21]

13. At all relevant times, the Firm's quality control personnel performed annual internal inspections of the Firm's audit practice. The annual internal inspections were intended to provide reasonable assurance that the Firm's policies and procedures were suitably designed and being effectively applied.

14. As part of its annual internal inspections, the Firm's quality control personnel evaluated, among other things, whether audit engagement teams archived audit work papers in accordance with the Firm's policies and the requirements of AS 1215 regarding the archiving of audit documentation. The Firm's annual internal inspections included, but were not limited to, reviews of the Audits.

15. During its annual internal inspections from 2016 through 2019, the Firm identified numerous instances where engagement teams did not timely archive audit work papers. After each of those annual internal inspections, the Firm's Quality Control Partner-in-Charge and the Audit Department Partner-in-Charge conducted department-wide trainings with all department members that referenced the importance of archiving. The internal inspection findings were also reported to and discussed each year with the Firm's entire audit department, all department managers, and all principals and partners, including the Managing Partner of the Firm.

16. Notwithstanding the repeated identification of failures to archive work papers on a timely basis and the communication of those problems to the Firm's Managing Partner, the Firm's archiving problems persisted.

17. As a result of the above-described conduct, the Firm violated PCAOB standards by failing to effectively implement policies and procedures to provide it with reasonable assurance that its engagement personnel were timely archiving audit documentation.[22] For example, during the relevant time period, Firm personnel were not required to and did not consistently input report release dates into the Firm's audit software, which significantly limited the Firm's visibility into timely archiving audit documentation.

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[21] QC § 30.08.

[22] *See* QC § 20.17.

18. Despite identifying late archiving of audit work papers as a significant problem each year from 2016 to 2019, the Firm's steps to address the failures were inadequate.

19. Thus, the Firm failed to adequately monitor compliance with its quality control policies and procedures regarding archiving of audit work papers and to timely make changes or improve compliance with the Firm's policies and procedures in order to enable the Firm to obtain reasonable assurance that its system of quality control was effective.[23]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation in this matter. Specifically, the Firm voluntarily modified and implemented enhancements to its quality control policies and procedures in relevant areas, including hiring a third-party consultant to improve the Firm's internal inspection and archiving processes; requiring personnel to input the report release date into the Firm's audit software, which allows the Firm to create reports identifying documentation completion dates and related milestones; and incorporating failures to timely finalize audit documentation into Firm personnel's performance evaluations. The Board took these remedial or corrective actions into account in ordering the sanctions.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Haskell & White LLP is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $20,000 upon Haskell & White LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Haskell & White LLP shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W.,

[23] *See* QC § 20.20; QC §§ 30.02-.03.

Washington D.C. 20006; and (c) submitted under a cover letter which identifies Haskell & White LLP as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

C. Pursuant to Sections 105(c)(4)(F) and (G) of the Act and PCAOB Rules 5300(a)(6) and (9), the Firm is required:

1. within ninety (90) days of the entry of this Order, to establish quality control policies and procedures, or revise and/or supplement existing policies and procedures, including monitoring procedures, for the purpose of providing the Firm with reasonable assurance that the work performed by engagement personnel complies with documentation requirements applicable to audits and quarterly reviews, including with respect to the archiving of audit documentation pursuant to AS 1215;

2. within ninety (90) days from the entry of this Order, to ensure that all professionals involved in any audit, as that term is defined in Section 110(1) of the Act, have received four (4) hours of additional training[24] concerning compliance with AS 1215, including archiving of audit documentation in accordance with AS 1215; and

3. within one hundred twenty (120) days from the entry of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, the Firm's compliance with paragraphs C.1 and C.2 above.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 13, 2021

[24] This training is in addition to any training the Firm has provided prior to the date of this Order.

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Order Instituting Disciplinary Proceedings, Making Findings And Imposing Sanctions

In the Matter of Tamba S. Mayah, CPA, and Tamba Seibu Mayah, CPA,

Respondents.

PCAOB Release No. 105-2021-007

September 13, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions on Tamba S. Mayah, CPA (the "Firm") and Tamba Seibu Mayah, CPA ("Mayah") (collectively, "Respondents"). The Board is:

(1) censuring Respondents;

(2) limiting the Firm's activities for a period of two years from the date of this Order, by prohibiting it from issuing an audit report for any clients that are issuers, or broker-dealers;

(3) limiting Mayah's activities for a period of two years from the date of this Order, in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"); and

(4) requiring Mayah to complete fifty hours of continuing professional education ("CPE") directly related to the audits of issuers or broker-dealers under PCAOB standards, in addition to any CPE required in connection with any professional license.

The Board is imposing these sanctions on the basis of its findings that Respondents violated PCAOB rules and standards in connection with their 2018 and 2019 audit and review engagements for a broker-dealer audit client ("Broker-Dealer A") registered with the Commission.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act, and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **Tamba S. Mayah, CPA** is a sole proprietorship headquartered in New Carrollton, Maryland. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm served as Broker-Dealer A's independent auditor for the fiscal years ending December 31, 2018 ("FY 2018"), and December 31, 2019 ("FY 2019").

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[1] The findings herein are made pursuant to Respondents' Offers and are not binding on any other persons or entities in this or any other proceeding.

[2] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

2. **Tamba Seibu Mayah, CPA** is a certified public accountant licensed by the Maryland Board of Public Accountancy (license no. 24191). Mayah was, at all relevant times, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Mayah is the sole owner and only employee of the Firm, and was the engagement partner on the Firm's FY 2018 and FY 2019 audit and review engagements for Broker-Dealer A.

B. Broker-Dealer

3. Broker-Dealer A was, at all relevant times, a Commonwealth of Virginia corporation headquartered in Falls Church, Virginia. Broker-Dealer A's public filings disclose that it is registered with the Commission as an introducing broker and dealer in securities primarily consisting of stocks, bonds, and mutual funds. Broker-Dealer A also claimed an exemption pursuant to paragraph (k)(2)(ii) of Rule 15c3-3, 17 C.F.R. § 240.15c3-3(k)(2)(ii), *Customer Protection-Reserves and Custody of Securities* ("Rule 15c3-3"), under the Securities Exchange Act of 1934 ("Exchange Act"). At all relevant times, Broker-Dealer A was a "broker" and "dealer" as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii).

C. Summary

4. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Firm's FY 2018 and FY 2019 audits of the financial statements and accompanying supplemental information of Broker-Dealer A (the "Audits"). Among other things, Respondents failed to obtain sufficient appropriate audit evidence and exercise due professional care and professional skepticism to support the Firm's audit opinions on the financial statements and accompanying supplemental information of Broker-Dealer A.

5. This matter also concerns Respondents' violation of Attestation Standard No. 2 ("AT No. 2"), *Review Engagements Regarding Exemption Reports of Brokers and Dealers*, in performing their reviews of the statements of Broker-Dealer A in the FY 2018 and FY 2019 exemption reports (the "Reviews") prepared pursuant to paragraph (d)(1)(B)(2) of Exchange Act Rule 17a-5, 17 C.F.R. § 240.17a-5 ("Rule 17a-5").

6. In connection with the above Audits and Reviews, the Firm also violated AS 1220, *Engagement Quality Review*, by improperly permitting the issuance of engagement reports without obtaining an engagement quality review and concurring approval of issuance. Mayah violated PCAOB rules by substantially contributing to the Firm's violation of AS 1220.

D. Respondents Violated PCAOB Rules and Standards in Their Audits

i. Commission Reporting Requirements and PCAOB Rules and Standards Related to the Audits

7. Rule 17a-5 generally requires a broker-dealer, among other things, to file annually with the U.S. Securities and Exchange Commission ("Commission"): (a) a financial report containing certain financial statements and supporting schedules (*i.e.*, supplemental information);[3] and (b) a report prepared by a PCAOB-registered firm based on an examination of a broker-dealer.[4]

8. In connection with the preparation or issuance of audit reports, PCAOB rules require a registered public accounting firm and its associated persons to comply with the Board's auditing and related professional practice standards.[5]

9. An auditor is in a position to express an unqualified opinion on the financial statements and supplemental information when the auditor has conducted an audit in accordance with the PCAOB standards and concludes that (a) the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework, and (b) the supplemental information is fairly stated, in all material respects, in relation to the financial statements as a whole.[6] Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism, and to obtain sufficient appropriate audit evidence to provide a reasonable basis for an opinion regarding the financial statements and supplemental information that accompanies the audited financial statements.[7]

10. PCAOB standards further require that the auditor properly plan the audit, which includes performing risk assessment procedures sufficient to provide a reasonable basis for

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[3] *See* Rule 17a-5(d)(1)(i)(A) and (d)(2). *See also* SEC Form X-17A-5, 17 C.F.R. § 249.617 ("Form X-17A-5").

[4] *See* Rule 17a-5(d)(1)(i)(C), (f)(1), and (g)(1).

[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; *see also* PCAOB Rule 3200*, Auditing Standards*.

[6] *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*; AS 2701.02, *Auditing Supplemental Information Accompanying Audited Financial Statements*.

[7] *See* AS 1015, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*; AS 2701.02-03.

identifying and assessing the risks of material misstatement, whether due to error or fraud.[8] The auditor should identify and assess the risks of material misstatement at the financial statement level and the assertion level, and design and implement overall responses to address the assessed risks of material misstatement.[9]

11. When the auditor is engaged to perform audit procedures and report on supplemental information accompanying audited financial statements, the auditor should, among other things, obtain an understanding of the criteria that management used to prepare the supplemental information, including relevant regulatory requirements.[10] The auditor also should perform procedures to test the completeness and accuracy of the information presented in the supplemental information to the extent it was not tested as part of the audit of financial statements, and should evaluate whether the supplemental information, including its form and content, complies with relevant regulatory requirements or other applicable criteria, if any.[11]

12. As described below, Respondents failed to comply with applicable PCAOB rules and standards in connection with the Audits of Broker-Dealer A.

ii. Violations Related to the Audits of Broker-Dealer A's Financial Statements

13. Mayah was the engagement partner for the Firm's Audits of Broker-Dealer A. Mayah also authorized the Firm's issuance of audit reports containing unqualified opinions on Broker-Dealer A's FY 2018 and FY 2019 financial statements included in Form X-17A-5 Part III, filed with the Commission on March 4, 2019, and March 3, 2020, respectively. The Firm's audit reports on Broker-Dealer A's FY 2018 and FY 2019 financial statements both stated, among other things, that the Firm's audit of Broker-Dealer A's financial statements was conducted in accordance with PCAOB standards.

14. Respondents failed to comply with applicable PCAOB standards in connection with the Firm's audits of Broker-Dealer A's FY 2018 and FY 2019 financial statements. Specifically, Mayah failed to establish an overall audit strategy for the engagement or to develop an audit plan.[12] Respondents also failed to perform any risk assessment procedures to identify and assess the risks of material misstatement and to design and implement overall

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[8] *See* AS 2101.04-.05, *Audit Planning*; AS 2110.04, *Identifying and Assessing Risks of Material Misstatement.*

[9] *See* AS 2110.59; AS 2301.05, *The Auditor's Responses to the Risks of Material Misstatement*.

[10] *See* AS 2701.04(a).

[11] *See id.* at .04(e) – (f).

[12] *See* 2101.05.

responses to address the assessed risks of material misstatement.[13] Further, Respondents failed to obtain sufficient appropriate audit evidence concerning each relevant assertion of each significant account and disclosure in Broker-Dealer A's financial statements.[14] Other than obtaining representations from management, Respondents failed to perform any audit procedures concerning Broker-Dealer A's reported assets, liabilities, revenues and expenses.

15. As a result of the above deficiencies, Respondents failed to comply with PCAOB rules and standards in connection with the audits of Broker-Dealer A's financial statements for FY 2018 and FY 2019.

iii. Violations Related to Audits of Broker-Dealer A's Supplemental information

16. Broker-Dealer A's Form X-17A-5 included supplemental information accompanying its FY 2018 and FY 2019 financial statements, relating to (i) computation of aggregate indebtedness and net capital ("Net Capital") pursuant to 17 C.F.R. § 240.15c3-1;[15] and (ii) reconciliation of the computation of aggregate indebtedness and net capital with that of the registrant [Broker-Dealer A] as filed in Part IIA of Form X-17A-5 ("Reconciliation Report").[16]

17. Respondents failed to obtain sufficient audit evidence appropriate to support the Firm's opinion on Broker-Dealer A's supplemental information for both FY 2018 and FY 2019 as required by PCAOB standards.[17] Specifically, other than obtaining Broker-Dealer A's Net Capital calculations and agreeing them to regulatory reports prepared by management, Respondents failed to perform the required audit procedures under AS 2701 on Broker-Dealer A's Net Capital and Reconciliation Report included in the supplemental information.[18]

18. Consequently, Respondents violated PCAOB standards by failing to obtain sufficient appropriate evidence that the supplemental information accompanying Broker-Dealer A's FY 2018 and FY 2019 financial statements was fairly stated, in all material respects, in relation to the financial statements as a whole.[19]

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13 *See* AS 2110.04; AS 2301.05.

14 *See* AS 1105.04; 2301.08.

15 *See* Rule 17a-5(d)(2)(ii).

16 *See id*. at (d)(2)(iii).

17 *See* AS 2701.03.

18 *See id.* at .04.

19 *See id.* at .03-.04.

E. The Firm and Mayah Violated AT No. 2 in Their Reviews of Broker-Dealer A's 2017 and 2018 Exemption Reports

i. Commission Reporting Requirements and PCAOB Rules and Standards Related to the Reviews

19. Rule 17a-5 requires a broker or dealer that claims it was exempt from Rule 15c3-3 throughout the most recent fiscal year to prepare an exemption report.[20] This report must contain the following statements made to the best knowledge and belief of the broker-dealer: (1) a statement that identifies the provisions in paragraph (k) of Rule 15c3-3 under which the broker or dealer claimed an exemption from Rule 15c3-3; (2) state that the broker-dealer met the identified exemption provisions throughout the most recent fiscal year without exception or that it met the identified exemption provisions throughout the most recent fiscal year except as described in the exemption report; and (3) if applicable, a statement that identifies each exception during the most recent fiscal year in meeting the identified exemption provisions in paragraph (k) of Rule 15c3-3 and that briefly describes the nature of each exception and the approximate date(s) on which the exception existed.[21]

20. Rule 17a-5(g) further requires that an independent public accountant registered with the PCAOB prepare a report based on a review of the statements made by the broker or dealer in the exemption report, in accordance with PCAOB standards.[22] PCAOB Rule 3100 requires a registered public accounting firm and its associated persons to comply with all applicable auditing and related professional practice standards.

21. AT No. 2 establishes requirements that apply when an auditor is engaged to perform a review of the statements (also referred to as "assertions") made by a broker or dealer in an exemption report ("Review Engagement").[23] When performing the review, the auditor must plan and perform the Review Engagement to obtain appropriate evidence that is sufficient to obtain moderate assurance about whether one or more conditions exist that would cause one or more of the broker-dealer's assertions not to be fairly stated, in all material respects.[24] The Review Engagement should be coordinated with the audit of the financial statements and the audit procedures performed on the supplemental information of the

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20 *See* Rule 17a-5(d)(1)(i)(B)(*2*).

21 *See* Rule 17a-5(d)(4).

22 *See* Rule 17A-5(d)(1)(i)(C) and (g)(2)(ii).

23 *See* AT No. 2. ¶ 1.

24 *See id.* at ¶ 4.

broker-dealer.[25] Prior to issuing a review report, the auditor is required to obtain written representations from management of the broker-dealer.[26]

22. As described below, Respondents failed to comply with applicable PCAOB standards in connection with their Reviews of the statements made by Broker-Dealer A in its exemption reports for FY 2018 and FY 2019.

ii. Violations Related to the Exemption Report Reviews

23. Broker-Dealer A filed exemption reports with its Forms X-17A-5 for FY 2018 and FY 2019. Both reports stated that Broker-Dealer A: (i) was exempt under paragraph (k)(2)(ii) of Rule 15c3-3; and (ii) met the identified exemption provisions in paragraph (k) of Rule 15c3-3 throughout the most recent fiscal year without exception.

24. The Firm reviewed the statements made by Broker-Dealer A in its FY 2018 and FY 2019 exemption reports and issued review reports, dated February 28, 2019, and January 15, 2020, respectively (collectively, the "Review Reports").

25. Mayah was responsible for the Reviews and the performance of procedures related to those Reviews.[27] He also authorized the Firm's issuance of the Review Reports.

26. Among other things, the Review Reports stated that the Firm was not aware of any material modifications that should be made in the statements made by Broker-Dealer A in its FY 2018 and FY 2019 exemption reports for them to be fairly stated, in all material respects.

27. Respondents failed to plan and perform the Reviews, however, to obtain appropriate evidence that was sufficient to obtain moderate assurance about whether one or more conditions existed that would cause one or more of Broker-Dealer A's statements in the FY 2018 and FY 2019 exemption reports not to be fairly stated, in all material respects.[28] Specifically, other than reading those exemption reports and testing whether customer funds were promptly transmitted to the clearing broker, Respondents failed to plan and perform the procedures required under AT No. 2, including inquiries, to opine that the Firm was not aware

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[25] *See id.* at ¶ 7.

[26] *See id.* at ¶¶ 13, 14.

[27] *See id.* at ¶ 6.

[28] *See id.* at ¶ 4.

of any material modifications that should be made to the statements in the FY 2018 and FY 2019 exemption reports for them to be fairly stated, in all material respects.[29]

28. Additionally, Respondents failed to obtain written representations from Broker-Dealer A's management as required by AT No. 2.[30] The failure to obtain written representations from management constituted a limitation on the scope of those engagements.[31]

29. As a result of the above deficiencies, Respondents lacked a sufficient basis for their opinions in the Review Reports. Consequently, Respondents violated AT No. 2.[32]

F. The Firm Violated PCAOB Rules and Standards Relating to Engagement Quality Review

30. As noted above, PCAOB rules further provide that a registered public accounting firm and its associated persons shall comply with all applicable auditing and related professional practice standards.

31. AS 1220 requires that an engagement quality review be performed on all audits and certain attestation engagements, including a review engagement under AT No. 2, conducted pursuant to PCAOB standards.[33] In addition, a firm may grant permission to a client to use an engagement report only after an engagement quality reviewer provides concurring approval of issuance.[34]

32. The Firm failed to obtain engagement quality reviews for the Audits and Reviews of Broker-Dealer A, and improperly permitted the issuance of its engagement reports without concurring approval of issuance. As a result, the Firm repeatedly violated AS 1220.[35]

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29 *See id.* at ¶¶ 4, 8b, 10.

30 *See id.* at ¶ 13.

31 *See id.* at ¶¶ 14, 20.

32 *See id.* at ¶¶ 3, 4.

33 *See* AS 1220.01.

34 *See* AS 1220.13, .18C.

35 *Id.*

G. Mayah Contributed to the Firm's Violations of PCAOB Rules and Standards Relating to Engagement Quality Review

33. PCAOB Rule 3502 states that, "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[36]

34. Mayah was the sole owner of the Firm and the engagement partner for the Audits and Reviews. For each audit engagement and review, Mayah was responsible for ensuring that the Firm complied with PCAOB rules and standards. Mayah knew that he was directly and substantially contributing to the Firm's violations of AS 1220, as described above. As a result, Mayah violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Tamba S. Mayah, CPA and Tamba Seibu Mayah, CPA, are hereby censured;

B. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two years from the date of this Order, the Firm shall not issue an audit report for any clients that are: (i) an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii); or (ii) a "broker" or "dealer", as those terms are defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii), respectively;

C. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two years from the date of this Order, Mayah's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Mayah shall not (1) serve, or supervise the work of

[36] *See* PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor" or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*; and

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Mayah is required to complete, within two years of the date of the Order, fifty hours of professional education and training directly related to the audits of issuers or broker-dealers under PCAOB standards (such hours shall be in addition to, and shall not be counted in, continuing professional education Mayah is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 13, 2021

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of KPMG,

Respondent.

PCAOB Release No. 105-2021-008

September 13, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon KPMG ("KPMG Australia," the "Firm," or "Respondent"). The Board is:

(1) censuring the Firm;

(2) imposing a $450,000 civil money penalty on the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that KPMG Australia violated PCAOB rules and quality control standards over several years in connection with the Firm's internal training program.

In ordering these sanctions, the Board took into account the Firm's extraordinary cooperation in this matter, including self-reporting, substantial assistance, and personnel and policy actions, as described in more detail below.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG** is an unincorporated partnership in Australia, and headquartered in Sydney, New South Wales, Australia. It is a member firm of the KPMG International Limited global network of firms ("KPMG Global"). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm served as the auditor for one issuer audit client. Additionally, at all relevant times, the Firm performed audit work that other PCAOB-registered firms, including member firms of KPMG Global, used or relied on in issuing audit reports for their issuer clients.

B. Summary

2. From at least 2016 until early 2020, KPMG Australia violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and monitoring training tests, including tests designed to help the Firm's audit professionals satisfy the requirements for maintaining their accounting licenses. Those quality control failures prevented the Firm from identifying that more than 1,100 Firm personnel, including more than 250 of its auditors, were involved in improper answer sharing—either by providing or receiving answers—in connection with tests for mandatory training courses covering topics that included professional independence, auditing, and accounting.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

3. After discovering the training-related misconduct in February 2020, KPMG Australia reported the matter to the PCAOB within 15 days and began implementing remedial policies and procedures.

C. KPMG Australia Violated PCAOB Rules and Standards

i. Applicable PCAOB Rules and Quality Control Standards

4. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[2] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[3]

5. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[4] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[5] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[6]

6. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[7] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[8] Under

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[2] *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

[3] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[4] QC § 20.09.

[5] QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

[6] QC § 20.13.c; QC § 40.02.c.

[7] QC § 20.08.

[8] *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[9]

ii. Training Requirements for KPMG Australia Personnel

7. As part of KPMG Australia's personnel management system, the Firm administers a training program for all of its professionals. The Firm has designed its training program to serve multiple purposes, including to provide Firm personnel with technical instruction, to further their professional development, and to satisfy some of the continuing professional education requirements imposed by the accountancy boards that license the Firm's auditors. The Firm's training requirements vary by each professional's position, role, and industry practice area, and are intended to be relevant to, among other things, the independence of its personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. The Firm's internal training often includes a testing component.

8. Since at least 2016, the Firm has utilized an online platform to offer training to its personnel. The platform enables the Firm to deliver, track, and record completion of mandatory training and testing. The platform records the dates and times when personnel access and complete mandatory training and testing. For training courses with a testing component, the Firm does not credit personnel with completing the training until they satisfactorily pass the related test.

9. Since at least 2016, the Firm has required all personnel to take certain online courses, including courses on "Independence." These courses include a testing component at the end. During the same period, the Firm has also administered a number of online courses related to auditing, including "Audit Foundations," "Spotlight" (bi-annual training for the Firm's audit personnel covering accounting and auditing standards), and "US GAAP and GAAS training." The particular courses the Firm's auditors must take vary based on their experience levels. These audit-related courses include a testing component and are mandatory for audit personnel.

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[9] *See* QC § 20. 20.c-.d; QC § 30.02.c-.d.

iii. Failures by KPMG Australia to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

10. Between 2016 and 2020, KPMG Australia had in place certain quality control policies and procedures intended to address integrity and personnel management, including the training aspect of personnel management. For example, with respect to integrity, the Firm's Code of Conduct generally advised personnel that the Firm does not "tolerate behavior . . . that is . . . unethical." The Firm also stated in its audit training policy document that "employees should ensure that the results of the online assessments . . . reflect their own capabilities and not those of their peers." Further, in connection with annual Independence Training, the Firm informed personnel that they should complete the training test without the assistance of others. In administering all other training courses, however, the Firm failed to communicate this expectation. During the same time period, the Firm also employed certain monitoring procedures related to internal training, but those procedures were limited to tracking completion of courses and related tests. The monitoring procedures were not designed to detect other compliance issues, such as answer sharing.

11. As described below, these policies and procedures were inadequate to prevent or detect the extensive answer sharing on training tests that occurred among Firm personnel over multiple years.

iv. Widespread Sharing of Answers to Training Tests at KPMG Australia

12. From at least 2016 to early 2020, more than 1,100 KPMG Australia personnel were involved in improper answer sharing when taking training tests. Firm personnel primarily shared answers using email, by attaching documents containing answers to training test questions. In addition, individuals also shared answers using text messages or instant message services, by providing the answers in hard copy documents, by saving the answers to test questions on a shared server, or orally when taking tests in the presence of others.

13. Instances of improper answer sharing occurred in connection with tests that were a part of the Firm's mandatory training, including the Independence Training, Audit Foundations, Spotlight, and U.S. GAAP and GAAS courses.

14. Improper sharing of training test answers occurred at all levels of the Firm. After Firm leadership learned of the practice and conducted an internal investigation, the Firm sanctioned 1,131 individuals, or approximately 12% of Firm personnel, for their involvement in answer sharing. The Firm's investigation revealed that the misconduct was widespread within the Firm's audit practice, including among those who performed work on audits governed by

PCAOB standards. With respect to audit training tests, at least 277 personnel engaged in answer sharing.

15. As illustrated by the misconduct described above, from 2016 to early 2020, KPMG Australia failed to establish policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) Firm personnel performed all professional responsibilities with integrity; (2) work was assigned to personnel having the degree of technical training and proficiency required in the circumstances; and (3) personnel participated in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies. Accordingly, the Firm violated PCAOB quality control policies related to integrity and personnel management.[10]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation in this matter.[11] First, the Firm voluntarily self-reported the matter to PCAOB staff within fifteen days of learning about the misconduct. Second, the Firm provided substantial assistance to the PCAOB's investigation by conducting, and providing to the PCAOB the results of, a thorough internal investigation, including evidence relating to each of the Firm's interviews of the 1,172 individuals it suspected of engaging in improper answer sharing. The Firm also held regular update calls with PCAOB staff and provided a root cause analysis of the underlying misconduct, as well as a detailed written report of the results of its internal investigation. Third, the Firm promptly instituted remedial measures, including retaining an independent consultant to undertake a systemic review of the Firm's culture, conduct, and ethics; and requiring personnel to re-take certain training and testing. The Firm also took disciplinary action against 1,131 personnel, ranging from requiring individuals to retire to issuing verbal cautions. Absent the Firm's extraordinary cooperation, the civil money penalty imposed would have been significantly larger, and the Board may have imposed additional sanctions.

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[10] *See* QC § 20.09, .13.b-.c, .20; QC § 30.02; and QC § 40.02.b-.c.

[11] *See Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations,* PCAOB Rel. No. 2013-003 (Apr. 24, 2013).

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), KPMG is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty of $450,000 on KPMG. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. KPMG shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, certified check, bank cashier's check, or bank money order (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (c) submitted under a cover letter which identifies KPMG as the Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), KPMG is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (a) personnel perform all professional responsibilities with integrity; (b) work is assigned to personnel having the degree of technical training and proficiency required in the circumstances; (c) personnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies; and (d) the above-described policies and procedures are suitably designed and are being effectively applied.

2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1.

above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. KPMG shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 13, 2021

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Sarah C. Martin, CPA,

Respondent.

PCAOB Release No. 105-2021-009

September 17, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is barring Sarah C. Martin, CPA ("Martin" or "Respondent") from being an associated person of a registered public accounting firm[1] and imposing a civil money penalty in the amount of $10,000 on Martin. The Board is imposing these sanctions on the basis of its findings that Martin violated PCAOB rules and standards in connection with the 2017 integrated audit of an issuer's financial statements and internal control over financial reporting ("ICFR") and her subsequent failure to cooperate with the Board's inspection of that audit.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the

[1] Martin may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Sarah C. Martin** was, at all relevant times, a certified public accountant licensed by the Virginia Board of Accountancy (license no. 26944). Martin's CPA license is currently on inactive status. Martin was, at all relevant times, a partner in PricewaterhouseCoopers LLP's ("PwC") Richmond, Virginia office and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). She served as the engagement partner for PwC's integrated audit of the Issuer's 2017 financial statements and ICFR.

B. The Issuer

2. The **Issuer** was, at all relevant times, a Virginia corporation and an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

3. This matter concerns Martin's violations of PCAOB rules and standards in connection with the integrated audit of the Issuer's financial statements and ICFR as of and for the year ended December 31, 2017, and during the PCAOB's subsequent inspection of that audit.

4. During the 2017 audit, Martin failed to perform sufficient audit procedures to test the design and operating effectiveness of certain of the Issuer's controls. As a result,

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

Martin failed to identify numerous control deficiencies that PwC later determined, following a PCAOB inspection, to be material weaknesses in ICFR.

5. Specifically, Martin's failure to perform sufficient audit procedures caused her not to identify 15 material weaknesses. Following PwC's post-inspection ICFR supplemental procedures, the Issuer and PwC combined these 15 individual material weaknesses into two aggregated material weaknesses that existed as of December 31, 2017: one with respect to the accuracy and occurrence of revenue, and a second with respect to the review of cash flow forecasts. The Issuer filed a Form 8-K disclosing that PwC's unqualified 2017 ICFR opinion should no longer be relied upon.

6. In addition, during the PCAOB's inspection of the 2017 Issuer audit, Martin participated in meetings during which PwC personnel provided the PCAOB inspectors with a sensitivity analysis performed during the inspection that PwC personnel claimed had informed the engagement team's work during the audit. Martin knew or should have known that the sensitivity analysis had been created during the inspection and had not informed the team's work during the audit. However, Martin failed to disclose this information to the PCAOB inspectors, in violation of PCAOB rules.

D. Martin Violated PCAOB Rules and Standards During the 2017 Audit of the Issuer's ICFR

7. Martin served as the engagement partner for PwC's 2017 audit of the Issuer. On February 21, 2018, PwC issued unqualified audit opinions on the Issuer's financial statements and ICFR as of and for the year ended December 31, 2017. The Issuer filed PwC's audit report with the Securities and Exchange Commission ("Commission") as part of its 2017 Form 10-K.

8. During the 2017 audit of the Issuer's ICFR, Martin reviewed audit documentation identifying the likely sources of potential misstatement ("LSPMs") for each relevant area of the audit, as well as all of the related walkthrough work papers where the controls that were intended to address those LSPMs were identified and described. Martin also reviewed many, but not all, of the relevant detailed control testing work papers.

9. Based on her review, Martin knew or should have known that the Issuer's controls failed to address the LSPMs she had identified with respect to the accuracy and occurrence of revenue in two of the Issuer's divisions ("Division 1" and "Division 2," respectively) and the review of cash flow forecasts.

10. The PCAOB inspection of the 2017 Issuer audit resulted in the issuance of four comment forms criticizing PwC's ICFR testing. As part of its remediation of the inspection

comments, PwC performed supplemental procedures and identified nine material weaknesses in controls related to the Division 1 revenue cycle and five material weaknesses in controls related to the Division 2 revenue cycle. The Issuer and PwC aggregated these individual material weaknesses into a single aggregated material weakness in controls over the accuracy and occurrence of revenue.

11. During its post-inspection ICFR supplemental procedures, PwC also identified two deficiencies in controls related to cash flow forecasts used in valuing certain of the Issuer's assets. The Issuer and PwC aggregated these deficiencies into a single material weakness in controls over the review of cash flow forecasts.

12. On November 1, 2018, the Issuer filed a Form 8-K stating that it and PwC had re-evaluated the company's ICFR as of December 31, 2017, and identified material weaknesses in the two areas discussed above, and that PwC's 2017 ICFR opinion should no longer be relied upon.

i. Relevant PCAOB Rules and Standards

13. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[4]

14. Section 404 of the Act requires company management to assess and report on the effectiveness of ICFR. The Act also, in certain circumstances, requires a company's independent auditor to attest and report on management's assessment of the effectiveness of ICFR. Effective ICFR provides reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes.[5] However, a company's ICFR cannot be considered effective if one or more material weaknesses in internal control exist.[6]

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[4] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; *see also* PCAOB Rule 3200, *Auditing Standards*.

[5] AS 2201.02, *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements*.

[6] *Id*.

15. PCAOB standards provide that an auditor performing an ICFR audit should test those controls that are important to the auditor's conclusion about whether the company's controls sufficiently address the assessed risk of misstatement for each relevant assertion.[7]

16. "The auditor should test the design effectiveness of controls by determining whether the company's controls, if they are operated as prescribed by persons possessing the necessary authority and competence to perform the control effectively, satisfy the company's control objectives and can effectively prevent or detect errors or fraud that could result in material misstatements in the financial statements."[8] The auditor also should test the operating effectiveness of controls "by determining whether the control is operating as designed and whether the person performing the control possesses the necessary authority and competence to perform the control effectively."[9]

17. When determining whether a control deficiency rises to the level of a material weakness, the auditor should evaluate the effect of compensating controls.[10] "To have a mitigating effect, the compensating control should operate at a level of precision that would prevent or detect a misstatement that could be material."[11]

ii. Controls Over Division 1 and Division 2 Revenue

18. Division 1 and Division 2 contributed 31% and 24%, respectively, of the Issuer's 2017 revenue.

19. During the 2017 audit, Martin and the engagement team identified LSPMs for Division 1 revenue, which included: (1) inaccurate or incomplete entry of sales orders; (2) recognition of revenue for goods or services that were not ordered by customers; and (3) a failure to recognize revenue at the appropriate price.

20. Martin failed to ensure that the engagement team adequately tested whether the Issuer's controls were, in fact, appropriately designed to address these LSPM risks.[12] For example, Martin failed to ensure that the engagement team identified or tested any controls

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7 AS 2201.39.

8 AS 2201.42.

9 AS 2201.44.

10 AS 2201.68.

11 *Id*.

12 *See* AS 2201.42.

over whether the sales order quantities manually recorded in the company's software system were consistent with customer purchase orders.

21. Similarly, while Martin and the engagement team identified two controls that were intended to address the accuracy of prices used to record revenue, neither of these controls tested sales orders in a price range from which the Issuer derived 98% of its Division 1 revenue.

22. For Division 2 revenue, the LSPMs that Martin and the engagement team identified included: (1) inaccurate or incomplete entry of sales orders; (2) recognition of revenue for goods or services that were not ordered by customers; (3) a failure to properly segregate duties; (4) inaccurate recording of cash receipts; and (5) a failure to record cash receipts in the correct period.

23. Once again, while Martin and the engagement team identified several controls that purported to address these LSPM risks, they failed to adequately test whether the Issuer's controls were, in fact, appropriately designed to do so.[13] For example, Martin and the engagement team identified a design deficiency relating to the accuracy of sales order entries and the potential recognition of revenue for goods and services not ordered by customers. In response, Martin and the engagement team identified certain compensating controls upon which they relied to conclude that the deficiency was not a material weakness. However, these compensating controls did not adequately mitigate the risk from the identified control deficiency.[14]

24. One of the controls that PwC identified as compensating was the automatic generation of sequential sales order numbers by the Issuer's software system when a purchase order was manually entered. Martin and the engagement team noted that the control prevented duplicate sales orders, but they did not evaluate the control's failure to address whether the manually-entered order quantities were accurate. The remaining compensating controls identified by Martin and the engagement team likewise failed to adequately address this risk.

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13 *See id*.

14 *See* AS 2201.68.

25. Accordingly, Martin failed to ensure that the engagement team adequately tested whether the Issuer's controls were designed in a manner that appropriately addressed the LSPMs identified with respect to Division 1 and Division 2 revenue.[15]

iii. Controls Over Cash Flow Forecasts

26. The Issuer reported a significant investment in a private company representing 7% of the Issuer's total assets as of December 31, 2017 ("Investment"). The Issuer accounted for the Investment using the fair value method, which relied on cash flow forecasts, and recorded a net gain on the Investment of 63% of the Issuer's net income during 2017.

27. In addition, the Issuer recorded a significant acquisition ("Acquisition") during 2017 for which it recorded customer relationship and trade name intangible assets totaling 4% of total assets. The Issuer used revenue projections in valuing these intangible assets.

28. During the 2017 audit, Martin and the engagement team identified the significant judgment used in management's cash flow projections and inaccurate revenue growth rate assumptions as LSPMs with respect to the valuation of the Investment and the acquired intangible assets, respectively.

29. Martin and the engagement team determined that these LSPMs were addressed by two controls involving the corporate controller's review of cash flow projections, including revenue projections, for reasonableness.

30. However, in testing these two controls, Martin and the engagement team failed to evaluate the specific review procedures the corporate controller performed to assess the reasonableness of projected cash flows and revenue growth assumptions. Martin and the engagement team failed to evaluate whether and how the controller would follow up on items relating to management's use of significant judgment or the accuracy of revenue growth rate assumptions. Accordingly, Martin failed to ensure that the engagement team adequately tested whether the controls were designed and operating in a manner that appropriately addressed the LSPMs.[16]

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15 *See* AS 2201.42.

16 *See* AS 2201.42, .44.

E. Martin Failed to Cooperate With a Board Inspection

i. Duty to Cooperate With a Board Inspection

31. PCAOB rules require that registered public accounting firms and their associated persons "shall cooperate with the Board in the performance of any Board inspection."[17] This cooperation requirement includes an obligation not to provide misleading documents or information in connection with, or otherwise to interfere with, the Board's inspection processes.[18] An auditor provides misleading information if he or she fails to disclose that documentation presented to inspectors as having existed at the time of the audit was, in fact, subsequently altered or created.[19]

ii. Martin Failed to Disclose that a Sensitivity Analysis Provided to the PCAOB Inspectors Had Not Existed at the Time of the Audit

32. Because PwC issued its audit report on February 21, 2018, the 45 day period for PwC to complete its documentation for the 2017 audit of the Issuer ended on April 7, 2018.[20]

33. The Board selected the 2017 audit of the Issuer for inspection. The Board's Division of Registration and Inspections ("DRI") performed field work for the inspection during the week of May 21, 2018.

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17 PCAOB Rule 4006, *Duty to Cooperate with Inspectors*.

18 S*ee*, *e.g.*, *Kabani & Co.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017) (sustaining Board finding that respondents failed to cooperate with inspection where improper work paper alterations "interfered with the PCAOB's ability to fulfill its regulatory function of ensuring that auditors comply with their professional responsibilities"); *Dale Arnold Hotz, CPA, Jyothi Nuthulaganti Manohar, CPA, and Michael Jared Fadner, CPA*, PCAOB Rel. No. 105-2012-008, ¶ 7 (Nov. 13, 2012) (Rule 4006 "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes." (internal quotation omitted)).

19 *See*, *e.g.*, *Elliot D. Kim, CPA*, PCAOB Rel. No. 105-2018-010 (May 23, 2018) (respondent failed to cooperate with inspection when he remained silent during discussion with inspectors of document that he had improperly altered); *José Fernandez Alves*, PCAOB Rel. No. 105-2016-039 (Dec. 5, 2016) (respondent failed to cooperate when he failed to disclose during meeting with inspectors that he had learned that certain documents had been improperly altered); *Renata Coelho de Sousa Castelli*, PCAOB Rel. No. 105-2016-040 (Dec. 5, 2016) (same).

20 *See* AS 1215.15, *Audit Documentation* ("A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*).").

34. The engagement team's testing of the Issuer's accounting for the Acquisition, and in particular the team's testing of the customer relationship intangible asset, was an area of interest of the PCAOB inspection.

35. On May 21, 2018, a PwC audit staff member requested that PwC's Transaction Services Group perform a sensitivity analysis—"a valuation of customer relationships assuming a static growth rate of 4% in revenue"—in response to questions during the inspection. Martin was then copied on emails concerning the preparation of the analysis.

36. The next day, a member of PwC's Transaction Services Group sent the newly-created sensitivity analysis to Martin and other PwC personnel. Martin forwarded the sensitivity analysis to a PwC audit staff member, along with a note stating that it was "[o]ne more piece of support for the [Acquisition] file for tomorrow."

37. Also on May 22, 2018, Martin and other PwC personnel participated in a meeting with the PCAOB inspectors. PwC's notes of this meeting record that PwC personnel told the inspectors that a sensitivity analysis had "informed our work" with respect to the customer relationship intangible asset.

38. During the May 22 meeting, neither Martin nor any other PwC personnel disclosed that the specific sensitivity analysis shown to the inspectors had not existed during the 2017 audit, and so could not have informed their work at the time of the audit.

39. On May 24, 2018, Martin and other PwC personnel participated in another meeting with the inspectors to discuss the engagement team's testing of the Acquisition. PwC personnel provided the inspectors with a hard copy of the sensitivity analysis. Martin and her team did not provide the inspectors with an electronic copy of the sensitivity analysis; nor did they disclose that the sensitivity analysis had been created during the inspection week, and not during the 2017 audit.

40. At the end of the day on May 24, Martin and one other PwC representative attended an additional meeting with a PCAOB inspector. PwC's notes from this meeting, which were located in a spreadsheet tab labeled "High priority," indicate that the inspector requested "anyting [sic] that can show the sensitivy [sic] was done at the time of the audit." The notes do not reflect a response.

41. Martin knew or should have known that the inspector's comment reflected her understanding that PwC purported to have performed the sensitivity analysis at the time of the 2017 audit. Nonetheless, Martin did not disclose that the sensitivity analysis had, in fact, been created during the inspection, and not during the time of the 2017 audit of the Issuer.

42. Martin's acts and omissions as described above violated her duty under Rule 4006 to cooperate with the Board's inspection of the 2017 audit of the Issuer.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Sarah C. Martin, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[21]

B. Pursuant to PCAOB Rule 5302(b), Sarah C. Martin may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order; and

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $10,000 on Sarah C. Martin. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay the civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Sarah C. Martin as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this

[21] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Martin. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***Respondent Sarah C. Martin understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 17, 2021

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Alison G. Yablonowitz, CPA, and Shawn C. Rogers, CPA,

Respondents.

PCAOB Release No. 105-2021-010

September 22, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) suspending Alison G. Yablonowitz, CPA, from being associated with a registered public accounting firm for one year, imposing on her a $25,000 civil money penalty, and requiring her to complete 20 additional hours of continuing professional education (CPE) within one year of the date of this Order; and

(2) censuring Shawn C. Rogers, CPA, imposing on him a $10,000 civil money penalty, and requiring him to complete 20 additional hours of CPE within one year of the date of this Order.

The Board is imposing these sanctions on the basis of its findings that Yablonowitz and Rogers (collectively, "Respondents") violated PCAOB rules and auditing standards by failing to perform adequate procedures and obtain sufficient evidence concerning certain significant unusual transactions.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **Alison G. Yablonowitz** is a certified public accountant licensed by the New Jersey State Board of Accountancy (license number 20CC03376200) and registered with the New York State Education Department (license number 081347). At all relevant times, she was a partner of Ernst & Young LLP ("EY") in its Iselin, New Jersey office. Yablonowitz is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

2. **Shawn C. Rogers** is a certified public accountant licensed by the New Jersey State Board of Accountancy (license number 20CC02392800) and registered with the New York State Education Department (license number 092690). Rogers is, and at all relevant times was, a partner of EY in its Iselin, New Jersey office and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities

3. **Ernst & Young LLP** is a public accounting firm organized as a Delaware limited liability partnership and headquartered in New York, New York. EY is licensed in multiple

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[1] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Yablonowitz's conduct described in this Order meets the conditions set out in Section 105(c)(5)(B) of the Act, 15 U.S.C. § 7215(c)(5)(B), which provides that certain sanctions may be imposed in the event of repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

jurisdictions, including New Jersey (license number 20CB00262400). EY at all relevant times was registered with the Board pursuant to Section 102 of the Act and PCAOB Rules.

4. **Synchronoss Technologies, Inc.** ("Synchronoss" or "Company") is a Delaware corporation headquartered in New Jersey. Its public filings disclose that, during the relevant period, Synchronoss was a software company that provided technologies and services including cloud solutions and software-based activation for mobile carriers, enterprises, retailers, and original equipment manufacturers. At all relevant times, its common stock was registered under Section 12(b) of the Securities Exchange Act of 1934. At all relevant times, Synchronoss was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Respondents' failures to comply with PCAOB rules and auditing standards in connection with EY's audits of Synchronoss's financial statements as of and for the years ended December 31, 2014 ("2014 Audit"), December 31, 2015 ("2015 Audit"), and December 31, 2016 ("2016 Audit").

6. Synchronoss reported progressively increasing net revenues from approximately $349 million for the year ended December 31, 2013 to $622 million[3] for the year ended December 31, 2016—an increase of more than 78%.

7. Yablonowitz served as the engagement partner on the 2014 and 2015 Audits, and her violations took place in connection with audit procedures to test the accounting for three software license transactions. Rogers served as the engagement partner on the 2016 Audit, and his violations took place in connection with audit procedures to test the accounting for two software license transactions.

Audit Year	Engagement Partner	Transaction Counterparty	License Fee
2014	Yablonowitz	(1) Counterparty A	$6 million
2015	Yablonowitz	(2) Counterparty B (3) Counterparty C	$10 million $23 million
2016	Rogers	(4) Counterparty D (5) Counterparty E	$10 million $9.2 million

[3] This amount includes net revenues that Synchronoss reflected as income from discontinued operations, net of tax, in its Consolidated Statement of Income for the year ended December 31, 2016.

8. In each of the transactions, Synchronoss licensed software technology to an entity—in exchange for a license fee—around the same time it was negotiating a strategic transaction (i.e., an acquisition, business venture, or divestiture) with that same entity or one or more of its affiliates. In each instance, Synchronoss incorrectly accounted for the license transaction as separate from the strategic transaction and improperly recognized the license payment as revenue.

9. With respect to these transactions, Respondents failed to adequately evaluate (a) Synchronoss's accounting treatment of the license transaction as separate from the related strategic transaction and (b) the factors specified in the PCAOB's fraud consideration standard with respect to significant unusual transactions. Moreover, Respondents failed to adequately resolve inconsistencies in audit evidence and investigate instances in which evidence contradicted management representations, and instead relied on uncorroborated management representations. In doing so, Respondents failed, among other things, to exercise due care and professional skepticism, and to obtain sufficient appropriate audit evidence to support EY's audit opinions for the 2014-2016 Audits.

10. In July 2018, after an audit committee-led investigation into accounting issues that revealed information previously withheld from EY engagement teams, Synchronoss filed a Form 10-K restating its financial statements for the years ended December 31, 2015 and 2016, as well as selected financial data for the year ended December 31, 2014, and other periods. EY conducted an audit of those restated financial statements. Rogers authorized the issuance of EY's audit report. Synchronoss's restatement reversed revenue from all five software license transactions at issue.

D. Respondents Violated PCAOB Rules and Standards

11. In connection with the preparation or issuance of an audit report, PCAOB rules require that the associated persons of a registered public accounting firm comply with the Board's auditing and related professional practice standards.[4] An auditor may express an

[4] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards* (applicable to audits for the fiscal years ending on or after December 31, 2016); PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for the fiscal years ending before December 31, 2016). As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules,* PCAOB Release No. 2015-002 (March 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondents' conduct occurred both

unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[5]

12. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit.[6] Due professional care requires that the auditor exercise professional skepticism—an attitude that includes a questioning mind and a critical assessment of audit evidence—throughout the audit process.[7] Professional skepticism requires "an ongoing questioning of whether the information and evidence obtained suggests that a material misstatement due to fraud has occurred."[8]

13. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report, including obtaining reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud.[9] The higher the risk of material misstatement, the more evidence the auditor should obtain, and the more persuasive that evidence should be.[10]

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before and after the reorganization, the reorganized standards, where applicable, are cited herein for purposes of clarity.

[5] *See* AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending before December 15, 2017) ("The auditor's standard report states that the financial statements present fairly, in all material respects, an entity's financial position, results of operations, and cash flows in conformity with generally accepted accounting principles. This conclusion may be expressed only when the auditor has formed such an opinion on the basis of an audit performed in accordance with the standards of the PCAOB.").

[6] AS 1015.02, *Due Professional Care in the Performance of Work*.

[7] *See* AS 1015.07, .08; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 2401.13, *Consideration of Fraud in a Financial Statement Audit*.

[8] AS 2401.13.

[9] AS 1001.02, *Responsibilities and Functions of the Independent Auditor*; AS 1105.04, *Audit Evidence*; AS 2401.01; AS 2810.33, *Evaluating Audit Results*.

[10] AS 1105.05; *see also* AS 2301.09 ("In designing the audit procedures to be performed, the auditor should: a. Obtain more persuasive audit evidence the higher the auditor's assessment of risk . . . ."); *id.* at .37 ("As the assessed risk of material misstatement increases, the evidence from substantive procedures that the auditor should obtain also increases.").

14. Audit evidence "consists of both information that supports and corroborates management's assertions regarding the financial statements" and "information that contradicts such assertions."[11] While an auditor may use inquiry to obtain information, "[i]nquiry alone does not provide sufficient appropriate evidence to support a conclusion about a relevant assertion."[12] Management representations "are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[13] The auditor "should obtain corroboration for management's explanations regarding significant unusual or unexpected transactions."[14]

15. If audit evidence obtained from one source is inconsistent with audit evidence obtained from another source, "the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit."[15] Moreover, if "a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances," "consider the reliability of the representation made," and "consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified."[16] In addition, if management's responses to the auditor's inquiries appear to be "inconsistent with other audit evidence, imprecise, or not at a sufficient level of detail to be useful, the auditor should perform procedures to address the matter."[17]

16. Auditors who have identified significant unusual transactions are required to comply with certain provisions in the PCAOB's auditing standard governing the auditor's consideration of fraud. During the 2014 Audit, that standard was AU § 316, *Consideration of Fraud in a Financial Statement Audit*. Paragraphs 66 and 67 of AU § 316 required an auditor to (a) understand the business rationale for such a transaction, (b) understand whether that

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[11] AS 1105.02.

[12] AS 2301.39; *see also* AS 1105.17, Note ("Inquiry of company personnel, by itself, does not provide sufficient audit evidence to reduce audit risk to an appropriately low level for a relevant assertion . . . .").

[13] AS 2805.02, *Management Representations*.

[14] AS 2810.08. PCAOB standards describe significant unusual transactions as "[s]ignificant transactions that are outside the normal course of business for the company or that otherwise appear to be unusual due to their timing, size, or nature." AS 2401.66.

[15] AS 1105.29.

[16] AS 2805.04.

[17] AS 2810.08.

rationale or lack thereof suggested the transaction may have been entered into to engage in fraudulent financial reporting, and (c) consider certain factors including (i) whether the form of the transaction was overly complex and (ii) whether management was placing more emphasis on the need for a particular accounting treatment than on the transaction's underlying economics.[18]

17. By the time of the 2015 Audit, the PCAOB's fraud consideration standard—AU § 316—had been amended. By the time of the 2016 Audit, that amended standard had also been reorganized as AS 2401, *Consideration of Fraud in a Financial Statement Audit*. Paragraphs 66A, 67, and 67A of amended AU § 316 and AS 2401 require an auditor to (a) evaluate the business purpose of a significant unusual transaction, (b) evaluate whether that business purpose (or lack thereof) indicates the transaction may have been entered into to engage in fraudulent financial reporting, (c) take into account the potential misstatements that could result from significant unusual transactions in designing and performing further audit procedures, and (d) evaluate certain factors. Those factors include whether the form of the transaction is overly complex; whether the transaction involves other parties that do not appear to have the financial capability to support the transaction without assistance from the company; whether the transaction is part of a larger series of connected, linked, or otherwise interdependent arrangements that lack commercial or economic substance individually or in the aggregate; whether the transaction enables the company to achieve certain financial targets; and whether management is placing more emphasis on the need for a particular accounting treatment than on the underlying economic substance of the transaction (e.g., accounting-motivated structured transaction).[19]

18. An auditor at the time of the 2015-2016 Audits was also required to "evaluate whether significant unusual transactions that the auditor has identified have been properly accounted for and disclosed in the financial statements."[20]

19. PCAOB standards require an auditor to consider whether the substance of transactions or events differs materially from their form,[21] and to evaluate the results of the

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[18] AU § 316.66, .67 (effective for audits of fiscal years beginning before December 15, 2014).

[19] AU § 316.66A, .67, .67A (effective for audits of fiscal years beginning on or after December 15, 2014); AS 2401.66A, .67, .67A (reorganized, effective for audits of fiscal years beginning on or after December 15, 2014).

[20] AU § 316.67A; AS 2401.67A.

[21] AS 2815.06, *The Meaning of "Present Fairly in Conformity with Generally Accepted Accounting Principles*."

audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[22] PCAOB standards also require an auditor to evaluate whether the financial statements are presented fairly, in all material respects, in conformity with GAAP.[23]

i. Yablonowitz Violated PCAOB Rules and Standards in the 2014 Audit with Respect to Counterparty A Transactions

a. Background

20. Synchronoss sued Counterparty A, an affiliate of Counterparty A, and Counterparty A's parent company in 2011, alleging that these entities were infringing certain Synchronoss software patents. In late January 2014, while the infringement lawsuit was pending, Synchronoss signed a letter of intent to acquire Counterparty A.

21. By the end of March 2014, and while the acquisition discussions were ongoing, Synchronoss and Counterparty A substantially completed negotiations to settle the infringement lawsuit through a software licensing arrangement. That negotiation culminated in the execution of two software license agreements. In the first, entered into by Synchronoss, Counterparty A and its parent, and a Counterparty A affiliate on March 28, 2014 ("First Counterparty A License Agreement"), Synchronoss dismissed its patent infringement lawsuit and granted Counterparty A a perpetual license to use the software at issue in exchange for $3 million. Synchronoss recorded the $3 million fee as revenue on March 31, 2014, the last day of Q1 2014.

22. Three weeks later, on April 18, 2014, Synchronoss and Counterparty A, along with its parent and its affiliates, entered into a second software license agreement ("Second Counterparty A License Agreement" and, collectively with the First Counterparty A License Agreement, "Counterparty A License Agreements") by which Synchronoss granted Counterparty A's parent and affiliates a license for a second $3 million fee—but due only if within 135 days Counterparty A's stock or assets were acquired by another company, referred to as a "change in control." If there was no such change in control, Counterparty A's parent would not have to pay the second $3 million but would keep the software license.

23. Two weeks later, on May 3, 2014, Synchronoss and Counterparty A along with Counterparty A's parent entered into a third agreement, whereby Synchronoss acquired all of Counterparty A's stock for approximately $26.6 million ("Share Purchase Agreement"). That

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[22] *See* AS 2810.33-.35.

[23] AS 2810.30; AS 2815.01.

acquisition closed on July 11, 2014. As a result of the acquisition and upon receipt of the second license fee, Synchronoss recorded $3 million in revenue during Q3 2014.

24. Yablonowitz and the 2014 Audit engagement team identified the acquisition of Counterparty A as a significant unusual transaction.

25. In addition, Yablonowitz and the 2014 Audit engagement team identified revenue recognition and purchase accounting as "areas of audit emphasis." EY defined "areas of audit emphasis" as "those processes, accounts, contracts or transactions where we believe there is the greatest risk of material misstatement to the consolidated financial statements, whether due to error or fraud." Under PCAOB auditing standards, that increased risk required Yablonowitz to obtain greater and more persuasive audit evidence to support her conclusions.[24]

b. Yablonowitz Failed to Adequately Perform Procedures Concerning Counterparty A Transactions

26. GAAP includes ASC 805, *Business Combinations*. ASC 805 provides guidance to determine what is part of a business combination and requires the acquirer to identify any amounts that are not part of what the acquirer and acquiree exchanged in the business combination. ASC 805-10-25-20 ("25-20") states:

> The acquirer and the acquiree may have a preexisting relationship or other arrangement before negotiations for the business combination began, or they may enter into an arrangement during the negotiations that is separate from the business combination. In either situation, the acquirer shall identify any amounts that are not part of what the acquirer and the acquiree (or its former owners) exchanged in the business combinations, that is, amounts that are not part of the exchange for the acquiree. The acquirer shall recognize as part of applying the acquisition method only the consideration transferred for the acquiree and the assets acquired, and liabilities assumed in the exchange for the acquiree.

[24] *See* AS 1105.05 ("Sufficiency is the measure of the quantity of audit evidence. The quantity of audit evidence needed is affected by the following: Risk of material misstatement (in the audit of financial statements) . . . . As the risk increases, the amount of evidence that the auditor should obtain also increases."); AS 2301.09.a ("In designing the audit procedures to be performed, the auditor should: . . . Obtain more persuasive audit evidence the higher the auditor's assessment of risk . . . ."); *id.* at .37 ("As the assessed risk of material misstatement increases, the evidence from substantive procedures that the auditor should obtain also increases.").

> Separate transactions shall be accounted for in accordance with the relevant generally accepted accounting principles (GAAP).

27. Yablonowitz understood that the Counterparty A License Agreements and business combination were entered into around the same time, and that Synchronoss had to consider, and she had to evaluate, whether those license agreements were separate transactions from the acquisition within the meaning of 25-20. If they were not separate transactions under GAAP, then the license fees could not be appropriately recorded as revenue and, instead, the $6 million in payments would need to be deducted from the cost to acquire Counterparty A.

28. In addition, to determine whether the Counterparty A transactions were "separate," Synchronoss had to consider the criteria set out in ASC 805's implementation guidance, specifically ASC 805-10-55-18 ("55-18"). 55-18 sets out three factors for determining "whether a transaction is part of the exchange for the acquiree or whether the transaction is separate from the business combination." Those factors are: the reasons for the transaction, who initiated the transaction, and the timing of the transaction.[25] Yablonowitz neither received nor reviewed any documentation of Synchronoss's consideration of 25-20 or 55-18 related to the Counterparty A transactions during the 2014 Audit.

29. Further, Synchronoss routinely documented its selection and application of accounting principles—such as the provisions in ASC 805—in accounting memoranda prepared by its Finance personnel. For the First Counterparty A License Agreement, the engagement team obtained, and Yablonowitz reviewed, a draft of such an accounting memorandum. However, that memorandum did not refer to 25-20 or 55-18, and contained no analysis of why Synchronoss had concluded the first license agreement was separate from the acquisition under 25-20. Nor was there any documentation that management considered the factors in 55-18.

30. Discussing the Second Counterparty A License Agreement, Yablonowitz observed in an email to her audit manager, "I don't think it's that straight forward [sic] given they acquired [Counterparty A], subsidiary of [Counterparty A's parent] at the same time. One could challenge whether it should be reduction in purchase price." Despite her observation, neither Yablonowitz nor others on the engagement team obtained an accounting memorandum, draft or otherwise, from Synchronoss in connection with the second license agreement.

31. Moreover, the 2014 Audit work papers do not reflect that Yablonowitz or the engagement team evaluated under 25-20 and 55-18 Synchronoss's treatment of the

[25] *See* ASC 805-10-55-18.a, .b, .c.

Counterparty A License Agreements as separate. For example, though the second factor in 55-18 is "who initiated the transaction," Yablonowitz did not know during the 2014 Audit, and failed to take steps to find out, which party (a) approached the other about settling the patent litigation between Synchronoss and Counterparty A or (b) raised with the other, or with any intermediary banker or broker, the possibility of an acquisition.

32. Yablonowitz also failed to perform an adequate evaluation of separateness during the 2014 Audit even though she was aware of evidence suggesting the Counterparty A License Agreements were not separate transactions from the acquisition of Counterparty A under 25-20 and 55-18 and indicating the need to exercise heightened professional skepticism in evaluating whether they were. For example, Yablonowitz was aware that the minutes of a January 2014 Synchronoss board meeting reflected that management told the board that Synchronoss would enter into the Counterparty A License Agreements "as part of" the acquisition, and that the 135-day change-in-control provision directly linked the Second Counterparty A License Agreement to the acquisition and was not "usual" for Synchronoss.

33. Moreover, the identification of the Counterparty A acquisition as a significant unusual transaction required Yablonowitz, among other things, to obtain an understanding of whether the business rationale for the acquisition or lack of rationale suggested the transaction may have been entered into to engage in fraudulent financial reporting[26] and to consider the factors specified in paragraph 67 of the PCAOB's fraud consideration standard with respect to significant unusual transactions ("SUT factors").[27]

34. However, there is no documentation, in the 2014 Audit work papers or elsewhere, indicating that Yablonowitz performed that evaluation or obtained evidence for the purpose of performing that evaluation.

35. In particular, Yablonowitz failed to adequately: (a) gain an understanding of the business rationale for entering into the Counterparty A acquisition separately from the Counterparty A License Agreements; (b) gain an understanding of whether the rationale for the Counterparty A acquisition suggested the Share Purchase Agreement was entered into separately from the license agreements in order to engage in fraudulent financial reporting; (c) consider whether the form of the Counterparty A acquisition as one of multiple transactions between Synchronoss and Counterparty A and its parent was "overly complex"; and (d) consider whether, by entering into the license agreements separate from the acquisition,

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[26] AU § 316.66.

[27] AU § 316.*67*; *see supra* ¶ 16.

management was placing more emphasis on the need for revenue treatment than on the underlying economics of the transaction.

36. Furthermore, though the evidence described above in paragraph 32 contradicted a representation by Synchronoss's chief financial officer (CFO) to Yablonowitz that the Counterparty A License Agreements and the acquisition were not negotiated together, Yablonowitz failed to adequately investigate the circumstances of those contradictions[28] or otherwise perform procedures to resolve those inconsistencies.[29]

ii. Yablonowitz Violated PCAOB Rules and Standards in the 2015 Audit with Respect to Counterparty B Transactions

a. Background

37. Synchronoss sued Counterparty B in October 2014, alleging that Counterparty B was infringing certain of its software patents. At some point in 2014, Counterparty B approached Synchronoss to discuss a potential acquisition of Counterparty B's cloud business.

38. In November 2014, Counterparty B's chief executive officer ("CEO") met with Synchronoss's CEO to discuss both the settlement of the lawsuit and the sale of Counterparty B's cloud business to Synchronoss. Minutes of a December 2014 board meeting reviewed by Yablonowitz state that the two CEOs met "to discuss the patent litigation, the potential acquisition and a strategic partnership to cross-sell and market each other's products" and that the "Board agreed that the Company should continue negotiations with" Counterparty B.

39. On February 4, 2015, Synchronoss entered into an asset purchase agreement with Counterparty B to acquire its cloud assets for $60 million. The acquisition closed on February 23, 2015. That same day, Synchronoss entered into another agreement with Counterparty B to dismiss its patent infringement lawsuit and grant Counterparty B a perpetual license ("Counterparty B License Agreement") to use the patented software at issue in exchange for a $10 million license fee. Synchronoss accounted for the software license agreement with Counterparty B separately from the acquisition and recorded the $10 million license fee as revenue in Q1 2015.

40. In addition to identifying both the license agreement and acquisition agreement with Counterparty B (collectively, "Counterparty B Transactions") as significant unusual

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[28] AS 2805.04.

[29] AS 1105.29.

transactions, Yablonowitz and the 2015 Audit engagement team identified revenue recognition and business combinations, as well as significant unusual transactions in general, as areas of audit emphasis that presented the greatest risk of material misstatement to the financial statements. Yablonowitz and the engagement team thus were required to obtain greater and more persuasive audit evidence to support their conclusions.[30]

b. Yablonowitz Failed to Adequately Perform Procedures Concerning Counterparty B Transactions

41. Yablonowitz understood that the Counterparty B License Agreement and business combination were entered into around the same time, and that Synchronoss had to consider, and she had to evaluate, whether the license agreement was a separate transaction from the acquisition within the meaning of 25-20. If it was not a separate transaction, the $10 million payment would need to be deducted from the cost to acquire Counterparty B's cloud business.

42. In addition, Yablonowitz understood that, to determine whether the Counterparty B Transactions were "separate," Synchronoss had to consider the criteria set out in the implementation guidance at 55-18. Yet Synchronoss's accounting memoranda reviewed by Yablonowitz for the Counterparty B Transactions contained no reference to 55-18 nor any analysis of why Synchronoss had concluded the license agreement with Counterparty B was separate from the acquisition. The accounting memoranda stated that the "settlement was not a negotiating factor" during the acquisition discussions, but that assertion constituted neither sufficient appropriate audit evidence nor an analysis of the factors in 55-18.

43. Yablonowitz also failed to perform an adequate evaluation of the Counterparty B License Agreement during the 2015 Audit even though she was aware of evidence suggesting the license agreement with Counterparty B was not a separate transaction from the acquisition under 25-20 and 55-18 and indicating the need to exercise heightened professional skepticism in evaluating whether it was. For example, among other things, Yablonowitz was aware that management had communicated to the engagement team that the Counterparty B Transactions were negotiated in connection with each other.

44. Moreover, identification of the Counterparty B Transactions as significant unusual transactions required Yablonowitz, among other things, to evaluate whether the business purpose or lack of business purpose indicated that the transactions may have been

[30] *See* AS 1105.05; AS 2301.09, .37.

entered into to engage in fraudulent financial reporting[31] and to evaluate the SUT factors[32] presented by the transactions.[33] However, there is no documentation in EY's work papers reflecting an adequate evaluation.

45. Furthermore, though the evidence described above in paragraph 43 was inconsistent with and contradicted management's statements in accounting memoranda that the purchase consideration was "unrelated to the license agreement settlement" and that the "settlement agreement was separate and distinct from the asset purchase agreement," Yablonowitz failed to adequately investigate the circumstances of those contradictions[34] or otherwise perform procedures to resolve those inconsistencies.[35]

iii. Yablonowitz Violated PCAOB Rules and Standards in the 2015 Audit with Respect to Counterparty C Transactions

a. Background

46. On December 31, 2015, Synchronoss executed two agreements and recognized $20 million of revenue on the last day of its fiscal year. One agreement provided for the formation of a business venture ("Business Venture") in which Synchronoss and two companies affiliated with each other (collectively, "Counterparty C") were investors ("BV Transaction"). The purpose of the Business Venture was to develop and market a new version of Counterparty C's then-existing software platform.

47. Pursuant to the BV Transaction, Synchronoss contributed $48 million of cash to the Business Venture in exchange for a two-thirds ownership interest in it. Counterparty C contributed to the Business Venture its ownership of its software platform and related assets (altogether valued at $72 million), in exchange for an immediate payout of $48 million of cash from the Business Venture and a one-third ownership interest in it. As a result of the BV Transaction (1) the Business Venture owned Counterparty C's software platform, including the related software; (2) Counterparty C had the $48 million of cash that Synchronoss initially contributed to the Business Venture; and (3) Counterparty C no longer had the right to use the software platform or the related software.

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31 *See* AU § 316.67.

32 *See supra* ¶ 17.

33 *See* AU § 316.67.

34 *See* AS 2805.04.

35 *See* AS 1105.29.

48. However, Counterparty C needed to continue using the software. Consequently, on the same day that the BV Transaction was entered into, December 31, 2015, the Business Venture and an affiliate of Counterparty C entered into a license agreement ("Counterparty C License Agreement") by which the Business Venture granted Counterparty C and its affiliates a license to use the software for a $23 million fee and agreed to provide maintenance services for $1 million.

49. Synchronoss concluded that the Business Venture's financial statements should be consolidated with Synchronoss's consolidated financial statements. Thus, Synchronoss consolidated the Business Venture's 2015 financial statements (which included only one day of operations) into its 2015 financial statements, accounted for the license agreement relating to Counterparty C separately from the BV Transaction, and recorded approximately $20 million of the license fee as revenue on December 31, 2015, deferring revenue recognition for the remaining fee, approximately $4 million, to later periods.

50. Yablonowitz and the engagement team identified the BV Transaction and the license agreement (collectively, "Counterparty C Transactions") as significant unusual transactions in the 2015 Audit. Yablonowitz and her team also identified significant unusual transactions, revenue recognition, business combinations, and investments in other affiliates as areas of audit emphasis with increased risk, and thus were required to obtain greater and more persuasive audit evidence to support their conclusions.[36]

b. Yablonowitz Failed to Adequately Perform Procedures Concerning Counterparty C Transactions

51. The Company's draft accounting memorandum for the license agreement obtained by the engagement team and reviewed by Yablonowitz was incorrect in two respects. First, it incorrectly concluded that 25-20 did not apply. Second, it incorrectly stated that, in order for Synchronoss to account for the license fee separately from the BV Transaction under ASC 805, Synchronoss needed to "show that the consideration exchanged for the license was at fair value and was not a bargain purchase resulting in a substantial benefit for either party." Although Yablonowitz knew that 25-20 and 55-18 should have been considered by Synchronoss in its accounting for the license agreement and BV Transaction and that assessing fair value alone was not a proper basis for determining that the license agreement was a separate

[36] *See* AS 1105.05; AS 2301.09, .37; *see also* AS 2310.27, *The Confirmation Process* ("[T]here may be circumstances (such as for significant, unusual year-end transactions that have a material effect on the financial statements . . .) in which the auditor should exercise a heightened degree of professional skepticism . . . .").

transaction, Yablonowitz did not inquire about or challenge these statements nor request that the memorandum be revised or supplemented.

52. Moreover, notwithstanding that Yablonowitz had to evaluate Synchronoss's treatment of the license agreement as separate under 25-20 and 55-18, EY's work papers do not reference such an evaluation.

53. Yablonowitz failed to perform an adequate evaluation of the Counterparty C License Agreement during the 2015 Audit even though she was aware of evidence suggesting the license agreement was not a separate transaction from the BV Transaction under 25-20 and 55-18 and indicating the need to exercise heightened professional skepticism in evaluating whether it was. For example, Yablonowitz understood that the Counterparty C Transactions involved round trip transfers of cash and software rights, and that Counterparty C needed to retain a right to continue using the software for its business. Moreover, Yablonowitz was aware that the Counterparty C Transactions were originally structured without a license agreement—that is, as an acquisition by Synchronoss with Counterparty C retaining software rights.

54. Instead of performing an adequate evaluation, Yablonowitz relied on management representations, including a statement in Synchronoss's draft revenue recognition memorandum that "[t]his license agreement was not a negotiating factor in the [B]V agreement and has a stand-alone value" and a verbal representation by the CFO that the license agreement was being "separately negotiated" from the BV Transaction. Those assertions, however, did not constitute sufficient appropriate audit evidence.

55. Moreover, Yablonowitz understood that the identification of the Counterparty C Transactions as significant unusual transactions required her, among other things, to evaluate whether the business purpose or lack of business purpose indicated that the transactions may have been entered into to engage in fraudulent financial reporting[37] and to evaluate the SUT factors[38] presented by the transactions.[39]

56. However, there is no documentation reflecting such an evaluation even though Yablonowitz was aware of evidence indicating that the license agreement was not a separate transaction, and did not have separate economic substance, from the BV Transaction, and

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37 AU § 316.67.

38 *See supra* ¶ 17.

39 *See* AU § 316.67.

might have been entered into separately in order to allow Synchronoss to improperly record revenue and potentially engage in fraudulent financial reporting.

iv. Rogers Violated PCAOB Rules and Standards in the 2016 Audit with Respect to Counterparty D Transactions

a. Background

57. In February 2016, shortly after Rogers had taken on responsibilities as engagement partner for the 2016 Audit, he received an email from Synchronoss's controller concerning a potential acquisition of and license agreement with Counterparty D and attaching a draft of that license agreement. The draft agreement released software patent infringement claims Synchronoss purportedly had against Counterparty D and granted a perpetual license to use the patented software to Counterparty D.

58. On March 1, 2016, Synchronoss entered into an agreement to acquire for approximately $125 million all of the stock of Counterparty D from its parent company.

59. On the same day, March 1, 2016, Synchronoss entered into a license agreement with both Counterparty D and its affiliate ("Counterparty D License Agreement") to release software patent infringement claims Synchronoss purportedly had against Counterparty D and to grant, for a $10 million license fee, a perpetual license to use the patented software at issue to Counterparty D and its affiliate.

60. Synchronoss accounted for the license agreement separately from the acquisition of Counterparty D and recorded the $10 million as revenue during Q1 2016.

61. Rogers and the 2016 Audit engagement team identified the Counterparty D acquisition and the license agreement with Counterparty D (collectively, "Counterparty D Transactions") as significant unusual transactions. Rogers and the team also identified revenue recognition and business combinations as areas of audit emphasis and thus were required to obtain greater and more persuasive evidence.[40]

b. Rogers Failed to Adequately Perform Procedures Concerning Counterparty D Transactions

62. Rogers understood that the Counterparty D License Agreement and business combination were entered into around the same time, and that Synchronoss had to consider, and he had to evaluate, whether the license agreement with Counterparty D was a separate

[40] *See* AS 1105.05; AS 2301.09, .37.

transaction under 25-20. Rogers also understood that if it was not a separate transaction under GAAP, then the license fee could not be appropriately recorded as revenue and instead the $10 million payment would need to be deducted from the cost to acquire Counterparty D from its parent company.

63. To determine whether the Counterparty D License Agreement was "separate" under 25-20, Synchronoss had to consider the implementation guidance under 55-18 to assert that the $10 million license fee was properly recorded as revenue, and Rogers had to evaluate whether Synchronoss had properly implemented 55-18 to the license agreement.

64. The engagement team obtained from Synchronoss, and Rogers reviewed, two accounting memoranda for the Counterparty D Transactions. Neither specifically mentioned 55-18 nor contained an analysis of why Synchronoss had concluded the license agreement was separate from the acquisition. Rogers failed to obtain an understanding of why the Company accounting memoranda omitted discussion of the factors in 55-18 or to request that the Company accounting memoranda be revised or supplemented.

65. Moreover, the 2016 Audit work papers do not reflect an analysis of 25-20 or 55-18. Rogers failed to perform an adequate evaluation of separateness during the 2016 Audit even though he was aware of evidence suggesting the license agreement was not a separate transaction from the acquisition of Counterparty D under 25-20 and 55-18 and indicating the need to exercise heightened professional skepticism in evaluating whether it was. For example, Synchronoss's controller communicated to Rogers that the Company intended to sue Counterparty D for patent infringement if the acquisition fell through. In addition, Rogers reviewed the engagement team's purchase accounting memorandum for the Counterparty D acquisition, which concluded that Synchronoss was able to pay a higher price for Counterparty D than any other potential buyer because, unlike any other buyer, Synchronoss would not be impacted by the intellectual property infringement of its own patents.

66. In evaluating separateness, Rogers and the engagement team relied on statements in the Company's accounting memoranda that the "settlement was not a negotiating factor" in the acquisition of Counterparty D and that "[n]one of the two transactional amounts were negotiated together and the acquisition was not contingent on entering into the license agreement." They also relied on oral representations from the CFO and the Company's general counsel that the license agreement and Counterparty D acquisition were negotiated separately and not on a net basis. That reliance on written and oral representations was insufficient to properly evaluate separateness.

67. In addition, Rogers failed to obtain sufficient evidence that Synchronoss and Counterparty D had a preexisting relationship—that is, "a relationship that existed before they

contemplated the business combination."[41] Rogers understood that Synchronoss first contemplated the business combination when it was initially contacted by an investment banker about a potential acquisition of Counterparty D. But Rogers also knew that Synchronoss had never filed a patent infringement lawsuit against Counterparty D. Rogers never otherwise obtained an understanding of what facts Synchronoss was relying on to determine that a "relationship" had existed before the investment banker's contact, nor came to any conclusion himself of what, in the absence of a lawsuit, that "relationship" was.

68. Though Rogers had conversations with the Company's CFO and general counsel about Synchronoss's potential patent infringement claims, he failed to obtain evidence that Synchronoss communicated potential claims to Counterparty D before the investment banker contact. Moreover, he failed to corroborate the representations made during those conversations.

69. Furthermore, though Rogers knew the identification of the Counterparty D Transactions as significant unusual transactions required him to perform the procedures specified in AS 2401.66A and .67, the 2016 Audit work papers do not reflect an evaluation of SUT factors[42] beyond the conclusory statement: "There are no indications that the transaction was entered into to engage in fraud."

70. Rogers failed to adequately perform that evaluation even though he was aware of evidence indicating that the license agreement was not a separate transaction, and did not have separate economic substance, from the acquisition of Counterparty D, and might have been entered into separately in order to allow Synchronoss to improperly record revenue and potentially engage in fraudulent financial reporting.

71. Moreover, though the evidence described above in paragraph 65 was inconsistent with the management representation that the license agreement and Counterparty D acquisition were negotiated separately, Rogers failed to investigate the circumstances of those contradictions[43] or otherwise perform procedures to resolve those inconsistencies.[44]

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41 ASC 805-10-55-20.

42 *See supra* ¶ 17.

43 *See* AS 2805.04.

44 *See* AS 1105.29.

v. Rogers Violated PCAOB Rules and Standards in the 2016 Audit with Respect to Counterparty E Transactions

a. Background

72. On December 16, 2016, Synchronoss sold to Counterparty E a 70% ownership interest in the business process outsourcing ("BPO") segment of its carrier activation business for $146 million ("BPO Sale"). The BPO Sale was documented in an operating agreement ("Operating Agreement").

73. In order to help finance the BPO Sale, Synchronoss loaned Counterparty E $83 million through a subordinated seller's promissory note, and guaranteed $30 million of a total of $40 million in unsubordinated debt that Counterparty E owed a third party. As a result of the BPO Sale, Synchronoss and Counterparty E jointly owned the BPO business and became related parties.

74. Synchronoss accounted for the BPO Sale as part of net income from discontinued operations net of taxes in the Consolidated Statement of Income.

75. Six days after the BPO Sale, on December 22, 2016, Synchronoss entered into a license agreement with Counterparty E, which allowed Counterparty E to use Synchronoss's Razorsight software in connection with operating the BPO business. Counterparty E paid Synchronoss a $10 million fee in connection with the license agreement.

76. Synchronoss accounted for the license agreement separately from the BPO Sale and recorded $9.2 million of the $10 million license fee as revenue in Q4 2016, because $9.2 million was the Company's fair value estimate of the license agreement. Rogers testified that Synchronoss treated the remaining $800,000 as additional consideration paid by Counterparty E to purchase the BPO business, and recorded the $800,000 as an element of the gain on the sale of the discontinued operations.

77. Rogers and the 2016 Audit engagement team identified the BPO Sale and the license agreement with Counterparty E (collectively, "Counterparty E Transactions") as significant unusual transactions. Rogers and the team also identified revenue recognition and business combination as areas of audit emphasis, and identified the Counterparty E Transactions as part of two other areas of audit emphasis—discontinued operations including

divestiture and related parties—and thus were required to obtain greater and more persuasive evidence.[45]

b. Rogers Failed to Adequately Perform Procedures Concerning Counterparty E Transactions

78. The Company's accounting memorandum, which Rogers reviewed, identified ASC 805 as the authoritative guidance for accounting for the license agreement with Counterparty E. Rogers understood that ASC 805 applied by analogy to the accounting for the license agreement with Counterparty E and the BPO Sale, which was a divestiture.[46]

79. Rogers understood that Synchronoss had to evaluate the license agreement and divestiture under 25-20 and 55-18 to determine whether it was proper to record $9.2 million of the license fee as revenue. The Company's accounting memorandum reviewed by Rogers during the 2016 Audit incorrectly stated that Synchronoss needed to "show that the consideration exchanged for the license was at fair value and was not a bargain purchase resulting in a substantial benefit for either party" in order to treat the license fee as separate. Yet Rogers never understood the basis for that statement, inquired why it had been included, or asked that the memorandum be revised.

80. Rogers failed to perform an adequate evaluation of the Counterparty E License Agreement during the 2016 Audit even though he was aware of evidence suggesting the license agreement with Counterparty E was not a separate transaction from the BPO Sale and indicating the need to exercise heightened professional skepticism. For example, Rogers reviewed minutes of a November 5, 2016 Synchronoss board meeting indicating that a draft of the Operating Agreement included the license agreement as one of its ancillary agreements.

81. Instead, Rogers relied on representations from the CFO and other members of management that the two agreements with Counterparty E were separately negotiated and the negotiations were led by separate members of management. However, Rogers failed to corroborate those representations. The statement in Synchronoss's accounting memorandum

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[45] *See* AS 1105.05; AS 2301.09, .37; *see also* AS 2310.27 ("[T]here may be circumstances (such as for significant, unusual year-end transactions that have a material effect on the financial statements . . .) in which the auditor should exercise a heightened degree of professional skepticism . . . .").

[46] *See* ASC 105-10-05-2 ("If the guidance for a transaction or event is not specified within a source of authoritative GAAP for that entity, an entity shall first consider accounting principles for similar transactions or events within a source of authoritative GAAP for that entity and then consider nonauthoritative guidance from other sources.").

for the license agreement—that the "license agreement was not a negotiating factor in the divestiture"—did not provide sufficient evidence as to whether management's representations were true.

82. Furthermore, though the identification of the Counterparty E Transactions as significant unusual transactions required Rogers to perform the procedures specified in AS 2401.66A and .67, the 2016 Audit work papers do not reflect an evaluation of SUT factors[47] beyond the conclusory statement: "There are no indications that the transaction was entered into to engage in fraud."

83. Rogers failed to adequately perform that evaluation even though he was aware of evidence indicating that the license agreement with Counterparty E was not a separate transaction, and did not have separate economic substance, from the BPO Sale, and might have been entered into separately in order to allow Synchronoss to improperly record revenue and potentially engage in fraudulent financial reporting.

84. Moreover, though the evidence described above in paragraph 80 contradicted, and was inconsistent with, the management representation that the license agreement and BPO Sale were negotiated separately, Rogers failed to sufficiently investigate the circumstances of those contradictions[48] or otherwise perform procedures to resolve those inconsistencies.[49]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.[50] Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Alison G. Yablonowitz is suspended for a period of one year from the date of this Order

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47 *See supra* ¶ 17.

48 *See* AS 2805.04.

49 *See* AS 1105.29.

50 In determining to accept Rogers's Offer, the Board considered efforts undertaken by Rogers in relation to the audit committee-led investigation and restatement.

from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[51]

B. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Shawn C. Rogers is hereby censured;

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

1. Alison G. Yablonowitz, $25,000; and

2. Shawn C. Rogers, $10,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay these civil money penalties within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (c) submitted under a cover letter which identifies Yablonowitz or Rogers as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***Respondents understand that failure to pay the civil money penalty described above may alone be grounds for a summary suspension or bar pursuant to PCAOB Rule 5304.***

[51] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Yablonowitz. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Yablonowitz and Rogers are each required to complete, within one year of the date of this Order, 20 hours of professional education and training directly related to the audits of issuer financial statements under PCAOB standards, covering, among other topics, significant unusual transactions and management representations. Such hours shall be in addition to, and shall not be counted in, the continuing professional education Yablonowitz and Rogers are each required to obtain in connection with any professional license.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 22, 2021

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Yichien Yeh, CPA and Yichien Yeh,

Respondents.

PCAOB Release No. 105-2021-011

September 29, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) Revoking the registration of Yichien Yeh, CPA (the "Firm"), a registered public accounting firm;[1]

(2) Barring Yichien Yeh ("Yeh") (with the Firm collectively, "Respondents") from being associated with a registered public accounting firm;[2] and

(3) Imposing a $10,000 civil money penalty jointly and severally upon Respondents.

The Board is imposing these sanctions on the basis of its findings that Respondents violated PCAOB rules and standards in connection with the Firm's audit of the financial statements of AmericaTowne Holdings, Inc. ("AmericaTowne" or the "Company") for the year ended December 31, 2018 (the "2018 Audit").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c)

[1] The Firm may reapply for registration after two years from the date of this Order.

[2] Yeh may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents each have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **Yichien Yeh, CPA** is a sole proprietorship headquartered in Oakland Gardens, New York. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Yichien Yeh** is a certified public accountant licensed by the New York State Board for Public Accountancy (License No. 096015). At all relevant times, Yeh was the sole owner of the Firm and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Yeh was the engagement partner on the 2018 Audit.

[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Issuer

3. AmericaTowne[5] was, at all relevant times, a Nevada corporation headquartered in Raleigh, North Carolina, and an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Its public filings disclose that AmericaTowne is an emerging growth company that provides "Made in the USA" goods and services to China and African countries, and engages in the development and exporting of modular energy efficient technology and processes to China and elsewhere.

C. Summary

4. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the 2018 Audit.[6] As detailed below, Respondents failed to exercise due professional care, including professional skepticism; failed to evaluate whether revenue was recognized in accordance with the applicable financial reporting framework; and failed to obtain sufficient appropriate audit evidence concerning service fee revenues, related party relationships and transactions, accounts receivable, and the allowance for doubtful accounts.

D. Respondents Violated PCAOB Rules and Standards in Connection with the 2018 Audit

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7] An auditor may express an unqualified opinion on an issuer's financial statements when the auditor has conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[8] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit

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[5] Effective on August 1, 2018, AmericaTowne, f/k/a ATI Modular Technology Corp. ("ATI"), became the surviving entity following a merger with its subsidiary, AmericaTowne, Inc.

[6] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audit discussed herein.

[7] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[8] *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[9]

6. PCAOB standards state that the auditor must evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[10] As part of the evaluation of the presentation of the financial statements, the auditor should evaluate whether the financial statements contain the information essential for a fair presentation of the financial statements in conformity with the applicable financial reporting framework.[11]

i. Respondents Failed to Evaluate Whether AmericaTowne's Revenue Was Recognized in Conformity With the Applicable Financial Reporting Framework

7. In FY 2018, AmericaTowne reported total revenue of $377,000. The Company recognized $262,000 in revenue from four service provider agreements with related parties, and $110,000 in revenue from two agreements with unrelated parties (collectively, the "Agreements"). The Agreements were entered into during FY 2018.

8. Approximately 99% of the Company's FY 2018 revenue was from nonrefundable service fees charged by AmericaTowne pursuant to the Agreements. The service fees were fixed and payable over a period in excess of five years, with approximately 4% of the total fee due upon signing, 44% due in monthly installments over a period of 60 months, and 52% due in equal parts in months 61 and 62. AmericaTowne recognized the total amount of service fees in FY 2018, even though approximately 92% of the fees were not due for payment as of year-end.

9. AmericaTowne's public filings disclosed that revenue was recognized when the following criteria have been met: (i) persuasive evidence of an arrangement exists, (ii) delivery has occurred or services have been rendered, (iii) the price is fixed or determinable, and (iv) collectability is reasonably assured.[12]

10. During the 2018 Audit, Respondents failed to evaluate whether AmericaTowne appropriately recognized revenue in conformity with U.S. Generally Accepted Accounting Principles (GAAP). While they obtained the Agreements, Respondents failed to perform any procedures to evaluate whether the revenue recognition criteria had been met prior to

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[9] *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*.

[10] *See* AS 2810.30, *Evaluating Audit Results*.

[11] *Id.* at .31.

[12] *See* FASB Topic ASC 605, *Revenue Recognition*.

AmericaTowne's recognition of the total amount of service fees as revenue. As a result, Respondents failed to evaluate whether AmericaTowne's revenue was presented fairly, in all material respects, in conformity with U.S. GAAP.[13]

ii. Respondents Failed to Obtain Sufficient Appropriate Audit Evidence Concerning AmericaTowne's Service Fee Revenue

11. During the 2018 Audit, Respondents identified a fraud risk related to improper revenue recognition. To test revenue, Respondents agreed the service fee revenue amounts recorded in the FY 2018 financial statements to the amounts reflected in the Agreements, but failed to perform any other procedures regarding revenue. As a result, they failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence to determine whether the services were provided to a customer, recorded in the proper period, and properly valued in the FY 2018 financial statements.[14]

iii. Respondents Failed to Obtain Sufficient Appropriate Audit Evidence Related to AmericaTowne's Related Party Relationships and Transactions

12. As noted above, AmericaTowne disclosed related party transactions of $262,000 in service provider agreement revenue in its FY 2018 financial statements, and also disclosed associated related party receivables owed to the company of $1.3 million. Respondents identified related party transactions as a significant risk during the 2018 Audit.

13. PCAOB standards require that an auditor obtain sufficient appropriate audit evidence to determine whether related parties and relationships and transactions with related parties have been properly, identified, accounted for, and disclosed in the financial statements.[15] For each related party transaction that is either required to be disclosed in the financial statements or determined to be a significant risk, the auditor should, among other things, evaluate whether the terms and other information about the transaction are consistent with explanations from inquiries and other audit evidence about the business purpose (or lack thereof) of the transaction, and evaluate the financial capability of the related parties.[16] The auditor must also evaluate whether the financial statements contain the information regarding

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13 *See id.*; AS 2810.30.

14 *See* AS 1015.01 and .07; AS 1105.04.

15 *See* AS 2410.02, *Related Parties.*

16 *See id.* at .12.

relationships and transactions with related parties essential for a fair presentation in conformity with the applicable financial reporting framework.[17]

14. During the 2018 Audit, Respondents identified related party sales transactions from the service provider agreements and proposed an entry to reclassify those amounts as related party revenue. Respondents, nevertheless, performed no other procedures to evaluate whether AmericaTowne's revenue and receivables from related party transactions were properly identified, accounted for, and disclosed in the financial statements.[18] Specifically, Respondents failed to perform any procedures to: (i) obtain an understanding of the business purpose of the related party transactions; (ii) evaluate the financial capability of the related parties with respect to significant uncollected accounts receivable balances; and (iii) evaluate whether AmericaTowne had properly disclosed the nature of each material relationship in accordance with U.S. GAAP.[19]

15. As a result of these deficiencies, Respondents failed to obtain sufficient appropriate audit evidence to determine whether related parties and relationships and transactions with related parties had been properly identified, accounted for, and disclosed in the financial statements.[20]

iv. Respondents Failed to Obtain Sufficient Appropriate Audit Evidence Related to AmericaTowne's Sales and Support Services Agreement with Yilaime

16. AmericaTowne's FY 2018 financial statements disclosed that in 2016, ATI, AmericaTowne's predecessor entity, entered into a sales and support services agreement with Yilaime Corporation ("Yilaime"). Yilaime, a Nevada corporation, was a related party entity, AmericaTowne's majority shareholder, and was controlled by AmericaTowne's sole officer and director. Under the 2016 agreement, Yilaime agreed to provide ATI with marketing, sales, and support services related to ATI's business in China in exchange for a commission equal to 10% of the gross amount of monies procured for ATI through Yilaime's services. In consideration of the right to receive the commission, Yilaime agreed to pay ATI a quarterly fee of $250,000 starting on July 1, 2016.

17. Related to the agreement with Yilaime, AmericaTowne's FY 2018 financial statements disclosed a receivable of approximately $2 million (42% of total assets) and a corresponding deferred revenue balance of approximately $2.2 million (89% of total liabilities),

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17 *See id.* at .17.

18 *See id.* at .02.

19 *See id*. at .12 and .17.

20 *See id.* at .02, .12, .14 and .17.

and recorded $950,000 in quarterly fees as "accounts receivable, net-related parties" and as deferred revenue.

18. AmericaTowne's financial statements also disclosed that: (1) AmericaTowne's sole officer and director previously entered felony *nolo contendere* pleas for fraudulent misappropriation; and (2) as a result of his failure to disclose the pleas, he received a desist and refrain order from the California Department of Corporations relating to the offer and sale of securities.

19. To test the related party transactions with Yilaime, Respondents obtained written representations from AmericaTowne's sole officer and director regarding the gross outstanding receivable balance, and traced the quarterly fees due from Yilaime to invoices. Despite knowledge of the sole officer and director's prior convictions, Respondents performed no other procedures to evaluate AmericaTowne's relationship and transactions with Yilaime. Respondents failed to evaluate the business purpose (or lack thereof) of the transactions with Yilaime, and the financial capability of Yilaime to make payments with respect to the $2 million outstanding receivable.[21] As a result, Respondents failed to obtain sufficient appropriate audit evidence to determine whether AmericaTowne's relationship and transactions with Yilaime had been properly identified, accounted for, and disclosed in the financial statements.[22]

v. Respondents Failed to Evaluate AmericaTowne's Accounts Receivable and Allowance for Doubtful Accounts

20. At year-end, AmericaTowne's accounts receivable for service fees from the Agreements was $2.58 million (54% of total assets), with a corresponding allowance for doubtful accounts of $800,000.

21. To test the allowance for doubtful accounts, Respondents obtained AmericaTowne's accounts receivable aging schedule by customer, including the allowance for bad debt. Respondents understood that AmericaTowne estimated its allowance for doubtful accounts by applying an uncollectable percentage based on past collection experience to each aged receivable group.

22. Respondents failed, however, to perform any procedures to test AmericaTowne's allowance for doubtful accounts to determine whether it was properly valued in the financial statements.[23] More specifically, Respondents failed to perform any procedures

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21 *See id.* at .12.

22 *See id.* at .02, .12, .14 and .17.

23 *See* AS 2501.04, .07, and .09-.14, *Auditing Accounting Estimates*.

to evaluate AmericaTowne's collection history or the reasonableness of the estimated uncollectable percentages applied to accounts receivable to obtain the estimated allowance for bad debt and the bad debt expense.[24]

23. Furthermore, Respondents failed to perform procedures to evaluate whether AmericaTowne's accounts receivable was properly presented and disclosed on the consolidated balance sheet in accordance with U.S. GAAP.[25] For example, Respondents failed to perform procedures to evaluate AmericaTowne's classification of accounts receivable from service fees as a current asset, even though amounts due for payment extended beyond 12 months.

24. As a result, Respondents failed to perform sufficient procedures to obtain sufficient appropriate audit evidence to determine whether AmericaTowne's allowance for doubtful accounts was properly valued and to determine whether AmericaTowne's accounts receivable was properly presented and disclosed.[26]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Yichien Yeh, CPA is revoked;

B. After two years from the date of this Order, Yichien Yeh, CPA may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Yichien Yeh is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[27]

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[24] *See id.*

[25] *See* AS 2810.31.

[26] *See id.*; AS 2501.04, .07, and .09-.14.

[27] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Yeh. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this

D. After two years from the date of this Order, Yichien Yeh may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed jointly and severally upon Yichien Yeh, CPA and Yichien Yeh. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Yichien Yeh, CPA and Yichien Yeh as Respondents in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***Respondents understand that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm, or any reapplication for registration pursuant to PCAOB Rule 2101***.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 29, 2021

subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Donald R. Burke, CPA,

Respondent.

PCAOB Release No. 105-2021-012

September 29, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) suspending Donald R. Burke, CPA ("Burke") from being an associated person of a registered public accounting firm for a period of one year; and

(2) imposing a $10,000 civil money penalty upon Burke.

The Board is imposing these sanctions on the basis of its findings that Burke violated PCAOB rules and standards in connection with Rehmann Robson LLP's audits of the financial statements of Issuer A, for the years ended December 31, 2014 ("FY 2014"), and December 31, 2015 ("FY 2015") (each an "Audit" and, collectively, the "Audits").[1]

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Burke.

[1] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015).

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Burke has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Burke and the subject matter of these proceedings, which is admitted, Burke consents to the entry of this Order as set forth below.[2]

III.

On the basis of Burke's Offer, the Board finds[3] that:

A. Respondent

1. **Donald R. Burke** was, at all relevant times, a certified public accountant licensed by the Michigan Department of Licensing and Regulatory Affairs (License No. 1101011461) and by Florida's Department of Business and Professional Regulation, Division of Certified Public Accounting (License No. AC45199). He served as the engagement quality review ("EQR") partner on both Audits. At all relevant times, Burke was a principal at Rehmann Robson LLC (the "Firm") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer

2. Issuer A was, at all relevant times, a Nevada corporation headquartered in Grand Rapids, Michigan, and Golden, Colorado. Issuer A's public filings indicate that it was in the business of marketing and distributing vaping products and e-cigarettes. Its common stock was registered, at all relevant times, under Section 12(g) of the Securities Exchange Act of 1934. It

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[2] The findings herein are made pursuant to the Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Burke's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Issuer A filed for bankruptcy on March 16, 2017.

C. Summary

3. This matter concerns Burke's violations of PCAOB rules and standards in connection with the Audits.[4] As detailed below, Burke, in performing EQRs for both Audits, failed to comply with Auditing Standard ("AS") No. 7, *Engagement Quality Review* ("AS No. 7"), and failed to exercise due professional care, including professional skepticism.

4. Specifically, Burke failed to evaluate properly the significant judgments made by the engagement teams relating to engagement planning concerning revenue. In addition, Burke failed to evaluate properly the engagement teams' assessment of, and audit responses to, significant risks identified by the engagement team, including fraud risks. As a result of his failure to perform the EQRs with due professional care and in conformity with PCAOB standards, Burke lacked an appropriate basis to provide his concurring approvals of issuance of the Firm's audit reports regarding Issuer A's financial statements in each of the Audits.

D. Burke Violated PCAOB Rules and Standards in Connection with the Audits

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] AS No. 7 requires that an EQR be performed on all audit engagements conducted pursuant to PCAOB standards.[6]

6. In conducting the EQR, the EQR reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[7] To evaluate those judgments and conclusions, the EQR reviewer should evaluate the engagement team's significant judgments that relate to engagement planning, including consideration of the company's business, and related financial reporting issues and risks.[8] In addition, the EQR

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[4] *See In the Matter of Glenn Alan Zubryd, CPA*, PCAOB Release No. 105-2021-013 (September 29, 2021).

[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[6] *See* AS No. 7 ¶ 1.

[7] *See id*. ¶ 9.

[8] *See id*. ¶ 10.a.

reviewer should evaluate, among other things, the engagement team's assessment of, and audit responses to, significant risks identified by the engagement team, including fraud risks.[9] In connection with an audit, the EQR reviewer should evaluate whether the engagement documentation that he or she reviewed indicates that the engagement team responded appropriately to significant risks and supports the conclusions reached by the engagement team with respect to the matters reviewed.[10] The EQR reviewer may provide concurring approval of issuance of an audit report only if, after performing his or her responsibilities with due professional care, he or she is not aware of a significant engagement deficiency.[11] To perform an EQR with due professional care, the EQR reviewer must exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[12]

i. Background

7. The Firm served as Issuer A's external auditor for the 2014 and 2015 financial statements. It issued an audit report containing an unqualified opinion, dated March 31, 2015, on Issuer A's FY 2014 financial statements. The Firm also issued an audit report containing an unqualified opinion, dated March 28, 2016, on Issuer A's FY 2015 financial statements. These reports were included with Issuer A's Forms 10-K filed with the Securities and Exchange Commission on April 1, 2015, and March 28, 2016, respectively.

8. Issuer A's public filings reported total revenue for FY 2014 of approximately $43.5 million. In its FY 2015 financial statements, Issuer A reported total revenue for FY 2015 of approximately $54.2 million. In each of the Audits, the engagement teams identified improper revenue recognition as a significant risk and a fraud risk. Notwithstanding these risks, the engagement teams failed to perform sufficient procedures to obtain sufficient appropriate audit evidence regarding revenue in connection with Issuer A's Audits.

9. For significant risks, including fraud risks, PCAOB standards require an auditor to perform substantive procedures, including tests of details, that are specifically responsive to

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[9] *See id*. ¶ 10.b.

[10] *See id*. ¶ 11.

[11] *See* AU §§ 230.07-.09, *Due Professional Care in the Performance of Work* ("AU § 230"). *See also* AS No. 7 ¶ 12.

[12] *See* AU § 230.07.

the assessed risk.[13] In addition, for significant risks of material misstatement, it is unlikely that substantive analytical procedures alone will be sufficient.[14]

10. In both Audits, Issuer A's revenue controls were not operating effectively. During the FY 2014 Audit, management identified 37 revenue key controls. The Firm concluded that 34, or 92%, of the key controls related to revenue were not operating effectively.[15] In both Audits, the engagement teams concluded that it was necessary to increase substantive testing since it was determined that the revenue controls could not be relied upon in the audit.

11. Despite this conclusion and awareness of these control issues, the engagement teams failed to perform substantive audit procedures, including testing of details, relating to revenue in both Audits.[16] In addition, the engagement teams did not design and implement responses to appropriately identify and address the risks of material misstatement relating to revenue in both Audits.[17] In both Audits, the engagement teams' procedures regarding revenue were limited to analytical procedures and were not substantive analytical procedures.[18] The engagement teams failed to perform any audit procedures to test revenue beyond a year-over-year comparison of revenue and inquiry of management. In performing these comparisons, the engagement teams failed to comply with PCAOB standards because they failed to: (1) develop an expectation precise enough to provide the desired level of assurance that differences that may be potential material misstatements, individually or when aggregated with other misstatements, would be identified for investigation;[19] (2) consider the amount of difference from the expectation that could be accepted without further investigation;[20] and (3) evaluate significant unexpected differences.[21] As a result, the year-over-year revenue comparisons were not substantive analytical procedures and the engagement teams failed to obtain sufficient

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[13] *See* AS No. 13 ¶¶ 11 and 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS No. 13").

[14] *See* AU § 329.09, *Substantive Analytical Procedures* ("AU § 329").

[15] The Firm did not audit the internal control over financial reporting of Issuer A as of December 31, 2015.

[16] *See* AS No. 13 ¶ 36.

[17] *See id*. ¶¶ 3, 11, and 13.

[18] *See* AU § 329.09.

[19] *See* AU § 329.17.

[20] *See* AU § 329.20.

[21] *See* AU § 329.21.

appropriate audit evidence to determine whether revenue was recorded in the proper period and was properly valued in each of the Audits.[22]

ii. Burke Failed to Perform an Adequate EQR in Relation to Revenue in Both Audits

12. During the Audits, Burke failed to evaluate properly the significant judgments made by the engagement teams relating to planning, including consideration of the company's business and related financial reporting issues and risks. Prior to the Audits, Burke knew that Issuer A was in a troubled financial condition, including that it had depleted its cash reserves and owed money to its service providers. Despite his knowledge of Issuer A's financial issues, Burke failed to evaluate properly the fact that the engagement teams' planned procedures related to revenue did not include substantive procedures.[23]

13. In addition, during the Audits, Burke failed to evaluate properly the significant judgments made, and the related conclusions reached, by the engagement teams with respect to revenue.[24] Specifically, Burke failed to evaluate properly the engagement teams' assessment of, and audit responses to, significant risks identified by the engagement teams, including fraud risks, related to revenue.[25] During the Audits, Burke, who knew the engagement teams had identified revenue as a significant risk and a fraud risk, failed to obtain an understanding of what, if any, procedures had been performed regarding revenue. Finally, he failed to review properly the engagement teams' work performed and documentation related to revenue testing in both Audits.[26]

14. As a result of the failures described above, Burke provided his concurring approvals of issuance without performing his reviews with the requisite due professional care.[27]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board

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22 *See* AS No. 15, *Audit Evidence*.

23 *See* AS No. 7 ¶ 10.a.

24 *See id*. ¶ 9.

25 *See id*. ¶ 10.b.

26 *See id*. ¶ 11.

27 *See* AU § 230; AS No. 7 ¶ 12.

determines it appropriate to impose the sanctions agreed to in Burke's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Donald R. Burke, CPA, is suspended for one year from the date of this Order from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[28] and

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Burke. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Burke shall pay this civil money penalty within 10 days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies Burke as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 29, 2021

[28] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Burke. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Glenn Alan Zubryd, CPA,

Respondent.

PCAOB Release No. 105-2021-013

September 29, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) barring Glenn Alan Zubryd, CPA ("Zubryd" or "Respondent") from being associated with a registered public accounting firm;[1] and

(2) imposing a $15,000 civil money penalty upon Zubryd.

The Board is imposing these sanctions on the basis of its findings that Zubryd violated PCAOB rules and standards in connection with Rehmann Robson LLP's audits of the financial statements of Issuer A, for the years ended December 31, 2014 ("FY 2014"), and December 31, 2015 ("FY 2015") (each an "Audit" and, collectively, the "Audits").[2]

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Zubryd.

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[1] Zubryd may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

[2] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015).

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Zubryd has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Zubryd and the subject matter of these proceedings, which is admitted, Zubryd consents to the entry of this Order as set forth below.[3]

III.

On the basis of Zubryd's Offer, the Board finds[4] that:

A. Respondent

1. **Glenn Alan Zubryd** was, at all relevant times, a certified public accountant licensed by the Michigan Department of Licensing and Regulatory Affairs. His Michigan registration as a Licensed Accountant (License No. 1101024804) expired on December 31, 2019. His Michigan license as a Registered Accountant (License No. 1103024804) is currently active.[5] At all relevant times, Zubryd was a principal at Rehmann Robson LLC (the "Firm"), and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer

2. Issuer A was, at all relevant times, a Nevada corporation headquartered in Grand Rapids, Michigan, and Golden, Colorado. Issuer A's public filings indicate that it was in the

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[3] The findings herein are made pursuant to the Offer and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Zubryd's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[5] A Michigan Licensed Accountant is permitted to practice as a CPA whereas Registered Accountants in Michigan are not permitted to practice as CPAs.

business of marketing and distributing vaping products and e-cigarettes. Its common stock was registered, at all relevant times, under Section 12(g) of the Securities Exchange Act of 1934. It was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Issuer A filed for bankruptcy on March 16, 2017.

C. Summary

3. This matter concerns Zubryd's violations of PCAOB rules and standards in connection with the Audits.[6] As detailed below, Zubryd, who served as engagement partner on both Audits, failed to obtain sufficient appropriate audit evidence and to exercise due professional care, including professional skepticism, in connection with the Audits. First, with respect to revenue, which was identified as a significant risk and a fraud risk during both Audits, Zubryd failed to perform, or to ensure that the engagement teams performed, substantive audit procedures over revenue, including requisite tests of details specifically responsive to the assessed risks. Second, with respect to intangible asset valuations in both Audits, Zubryd failed to perform, or failed to ensure that the engagement teams performed, adequate procedures to evaluate the reasonableness of the assumptions and to test the underlying data used by Issuer A in its impairment analysis. Specifically, Zubryd and the engagement teams did not test the process for generating the projected amounts in Issuer A's impairment analysis, develop an independent expectation of the projected amounts, or review subsequent events or transactions to evaluate the reasonableness underlying the valuation of intangible assets, including goodwill. Third, Zubryd failed to supervise properly the work of the engagement teams during the Audits.

4. Finally, Zubryd failed to ensure that the FY 2015 Audit documentation was archived by the relevant documentation completion date as required by Auditing Standard ("AS") No. 3, *Audit Documentation* ("AS No. 3").

D. Zubryd Violated PCAOB Rules and Standards in Connection with the Audits

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such

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[6] *See In the Matter of Donald R. Burke, CPA*, PCAOB Release No. 105-2021-012 (September 29, 2021).

[7] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

an opinion on the basis of an audit performed in accordance with PCAOB standards.[8] PCAOB standards require an auditor to plan and perform the audit with due professional care, to exercise professional skepticism, and to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[9] PCAOB standards further require the auditor to identify and appropriately assess the risks of material misstatement at the financial statement level and the assertion level.[10] The auditor should perform risk assessment procedures that are sufficient to provide a reasonable basis for identifying and assessing risks of material misstatement and designing further audit procedures.[11]

6. PCAOB standards state that the engagement partner is responsible for the engagement and its performance.[12] The engagement partner and other engagement team members performing supervisory activities are also responsible for proper supervision of the work of the engagement team members and compliance with PCAOB standards.[13] The engagement partner is required to review the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[14]

7. As further detailed below, Zubryd violated PCAOB rules and standards in connection with revenue as well as intangible asset valuations in both Audits, and the archiving of audit documentation in the FY 2015 Audit.

i. Failure to Perform Substantive Procedures related to Revenue in Both Audits

8. The Firm served as Issuer A's external auditor for the 2014 and 2015 financial statements. It issued an audit report containing an unqualified opinion, dated March 31, 2015, on Issuer A's FY 2014 financial statements. The Firm also issued an audit report containing an unqualified opinion, dated March 28, 2016, on Issuer A's FY 2015 financial statements. These

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8 *See* AU § 508.07.

9 *See* AU § 230.01-.02, .07, *Due Professional Care in the Performance of Work* ("AU § 230"); AS No. 15 ¶ 4, *Audit Evidence* ("AS No. 15").

10 *See* AS No. 12 ¶¶ 3 and 59, *Identifying and Assessing Risks of Material Misstatement* ("AS No. 12").

11 *Id.* at ¶ 4.

12 *See* AS No. 10 ¶ 3, *Supervision of the Audit Engagement* ("AS No. 10").

13 *Id*. at ¶¶ 3-4.

14 *Id.* at ¶ 5c.

reports were included with Issuer A's Forms 10-K filed with the Securities and Exchange Commission on April 1, 2015, and March 28, 2016, respectively. Zubryd, the engagement partner on both Audits, authorized the issuance of both audit reports.

9. Issuer A's public filings reported total revenue for FY 2014 of approximately $43.5 million. In its FY 2015 financial statements, Issuer A reported total revenue for FY 2015 of approximately $54.2 million. In each of the Audits, Zubryd and the engagement teams identified improper revenue recognition as a significant risk and a fraud risk. Notwithstanding these risks, Zubryd failed to perform, or ensure that the engagement teams performed, sufficient procedures to obtain appropriate audit evidence regarding revenue in connection with Issuer A's Audits.

10. For significant risks, including fraud risks, PCAOB standards require an auditor to perform substantive procedures, including tests of details, that are specifically responsive to the assessed risk.[15] In addition, for significant risks of material misstatement, it is unlikely that substantive analytical procedures alone will be sufficient.[16]

11. In both Audits, Issuer A's revenue controls were not operating effectively. During the FY 2014 Audit, management identified 37 revenue key controls. The Firm concluded that 34, or 92%, of the key controls related to revenue were not operating effectively.[17] In both Audits, Zubryd and the engagement teams concluded that it was necessary to increase substantive testing since it was determined that the revenue controls could not be relied upon in the audit.

12. Despite this conclusion and his awareness of these control issues, Zubryd failed to perform, or ensure that the engagement teams performed, substantive audit procedures, including testing of details, relating to revenue in both Audits.[18] In addition, Zubryd failed to ensure that the engagement teams designed and implemented responses to appropriately identify and address the risks of material misstatement relating to revenue in both Audits.[19] In both Audits, the engagement teams' procedures regarding revenue were limited to analytical

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[15] *See* AS No. 13 ¶¶ 11 and 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS No. 13").

[16] *See* AU § 329.09, *Substantive Analytical Procedures* ("AU § 329").

[17] The Firm did not audit the internal control over financial reporting of Issuer A as of December 31, 2015.

[18] *See* AS No. 13 ¶ 36.

[19] *See id.* ¶¶ 3, 11, and 13.

procedures and were not substantive analytical procedures.[20] Zubryd failed to perform, or ensure the engagement teams performed, any audit procedures to test revenue beyond a year-over-year comparison of revenue and inquiry of management. In performing these comparisons, Zubryd failed to comply with PCAOB standards because he and the engagement teams failed to: (1) develop an expectation precise enough to provide the desired level of assurance that differences that may be potential material misstatements, individually or when aggregated with other misstatements, would be identified for investigation;[21] (2) consider the amount of difference from the expectation that could be accepted without further investigation; [22] and (3) evaluate significant unexpected differences.[23] As a result, the year-over-year revenue comparisons were not substantive analytical procedures and Zubryd failed to obtain sufficient appropriate audit evidence to determine whether revenue was recorded in the proper period and was properly valued in each of the Audits.[24]

13. As engagement partner, Zubryd was responsible for supervising the engagement and its performance.[25] However, despite revenue being identified as a significant risk and fraud risk, Zubryd failed to supervise adequately the engagement teams' work during both Audits. Specifically, Zubryd, who had limited involvement in the engagement teams' work in this area, failed to review sufficiently the work of the engagement team members regarding revenue and failed to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[26]

14. In addition to the failures noted above, Zubryd failed to exercise the requisite due professional care, including professional skepticism, relating to revenue in both Audits.[27]

ii. Failure to Perform Adequate Intangible Assets Valuation Testing in Both Audits

15. As of December 31, 2014, Issuer A's public filings reported total assets were $126.8 million, of which approximately $106.4 million consisted of intangible assets including

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20 *See* AU § 329.09.

21 *See* AU § 329.17.

22 *See* AU § 329.20.

23 *See* AU § 329.21.

24 *See* AS No. 15, *Audit Evidence*.

25 *See* AS No. 10 ¶ 3.

26 *See* AS No. 10 ¶ 5.

27 *See* AU § 230.

goodwill. As of December 31, 2015, Issuer A's public filings reported total assets of $95.3 million, of which approximately $81.9 million consisted of intangible assets including goodwill. The intangible assets were primarily associated with certain of Issuer A's recently completed acquisitions. Goodwill was reported as being $51.7 million as of December 31, 2014, and $47.7 million as of December 31, 2015.

16. The FY 2014 Audit was the Firm's first audit of Issuer A and intangible asset valuations were Issuer A's most significant estimates during the Audits. Valuation of intangible assets was identified as an area of significant audit emphasis and as a significant accounting estimate during both Audits.

17. PCAOB standards require the auditor to evaluate the reasonableness of accounting estimates made by management in the context of the financial statements taken as a whole.[28] The auditor's objective when evaluating accounting estimates is to obtain sufficient appropriate evidential matter to provide reasonable assurance that all accounting estimates that could be material to the financial statements have been developed, those estimates are reasonable in the circumstances, and those estimates are presented in conformity with applicable accounting principles and are properly disclosed.[29]

18. To determine whether goodwill is properly valued, it should be tested for impairment at least annually, and whenever there is an indication that it may be impaired.[30] Issuer A disclosed that the amounts of its intangible asset impairments were determined by assessing the recoverable amount, as compared to its carrying amount. Zubryd and the engagement teams understood that Issuer A's management used certain estimates of projected amounts—such as future net sales, the associated projected cost of sales, and projected operating expenses—as key assumptions in formulating the cash flow projections on which it based its impairment analysis.

19. During both Audits, Zubryd failed to gather, or failed to ensure that the engagement teams gathered, sufficient appropriate evidence concerning the intangible asset valuations. Zubryd and the engagement teams failed to perform any audit procedures to

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[28] *See* AU § 342.04, *Auditing Accounting Estimates* ("AU § 342").

[29] *See* AU § 342.07.

[30] Goodwill is periodically tested for impairment—the condition that exists when the carrying amount of goodwill on a company's books exceeds its implied fair value. *See* ASC 350, *Intangibles – Goodwill and Other*. Such testing must occur annually, or more frequently if there is an indication of impairment. If the testing results in an impairment, the carrying amount of the goodwill must be reduced by the amount of the impairment.

evaluate the reasonableness of the key factors and assumptions in Issuer A's impairment analysis, or to test the underlying data used by Issuer A in its impairment analysis. Specifically, the engagement teams failed to test the process for generating the projected amounts, develop an independent expectation of the projected amounts, or review subsequent events or transactions to evaluate the reasonableness of the projected amounts.[31]

20. Zubryd and the engagement teams also failed, in both Audits, to corroborate Issuer A management's representations regarding key factors and assumptions used in the valuation of intangible assets. While evidential matter can include management representations, such representations "are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[32] Zubryd and the engagement teams failed in this regard despite knowing financial information, including Issuer A's historical results, that should have caused them to exercise greater skepticism. For example, Zubryd and engagement team members knew that management assumptions included in the projections to test the valuation of intangible assets predicted increases in net sales and gross profit of approximately 154% and 174%, respectively, in a period of three years (*i.e.*, from 2015 to 2018). These optimistic projections were inconsistent with Issuer A's then-current operations and historical results. In this regard, Issuer A's net sales and gross profit actually increased only 18% and 57%, respectively, during 2015.

21. Zubryd also failed to supervise adequately the engagement teams' work relating to intangible asset valuations.[33] Zubryd failed to review the work of the engagement team members regarding intangible assets and failed to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[34] Specifically, Zubryd failed to review the engagement team's work to ensure they tested the underlying data and evaluated the reasonableness of the significant assumptions used in Issuer A's projections to test sufficiently the valuation of the intangible assets.

iii. Failure to Archive Audit Documentation for the FY 2015 Audit

22. AS No. 3 requires that a complete and final set of audit documentation should be assembled for retention by the "documentation completion date," a date not more than 45

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31 *See* AU § 342.10.

32 *See* AU § 333.02, *Management Representations*.

33 *See* AS No. 10 ¶¶ 3 and 5.

34 *See* AS No. 10 ¶ 5c.

days from the date on which the auditor grants permission to use its report ("report release date").[35] In the FY 2015 Audit, the report release date was March 28, 2016, resulting in a documentation completion date of May 12, 2016.

23. The Firm's records indicate that the audit work papers were not archived by the documentation completion date in the FY 2015 Audit. Zubryd and the engagement team used a date 60 days after the report release date—May 27, 2016—as the documentation completion date for the FY 2015 Audit. As a result, Zubryd violated AS No. 3 by failing to assemble a complete and final set of audit documentation for the FY 2015 Audit for retention as of a date no later than 45 days after the report release date.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Zubryd's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Glenn Alan Zubryd, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[36]

B. Pursuant to PCAOB Rule 5302(b), Glenn Alan Zubryd, CPA, may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order; and

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon Zubryd. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Zubryd shall pay this

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[35] AS No. 3 ¶ 15.

[36] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Zubryd. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

civil money penalty within 10 days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies Zubryd as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. **Zubryd understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.**

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

September 29, 2021

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Deloitte LLP,

Respondent.

PCAOB Release No. 105-2021-014

September 29, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring Deloitte LLP ("Deloitte Canada," the "Firm," or "Respondent");

(2) imposing a civil money penalty of $350,000 on the Firm;

(3) requiring the Firm to establish, revise, or supplement, as necessary, its quality control policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that personnel comply with PCAOB audit documentation requirements, including those concerning the dating of the completion of work performed and the dating of the review of work papers; and

(4) requiring the Firm to ensure that all Firm professionals involved in any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), have received four (4) hours of additional training concerning compliance with PCAOB audit documentation standards.

The Board is imposing these sanctions on the basis of its findings that, from November 2016 through early March 2018, Deloitte Canada's system of quality control failed to provide reasonable assurance that Firm personnel appropriately dated their preparation and review of audit work papers. As a result, during that period, the Firm failed to comply with PCAOB audit documentation standards in connection with certain audits and quarterly reviews.

In ordering these sanctions, the Board took into account the Firm's extraordinary cooperation in this matter, including self-reporting, substantial assistance, and personnel and policy actions, as described in more detail below.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act, and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Deloitte LLP** is a public accounting firm organized as a limited liability partnership under the laws of Ontario, Canada, and headquartered in Toronto, Ontario. It is a member firm of the Deloitte Touche Tohmatsu Limited ("DTTL") global network of firms. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm served as the auditor for issuer audit clients and performed audit work that other PCAOB-registered firms, including member firms of DTTL, used or relied on in issuing audit reports for their issuer clients ("referred work").

B. Summary

2. This matter concerns Deloitte Canada's failure to establish, implement, and communicate appropriate quality control policies and procedures to provide the Firm with reasonable assurance that the work performed by engagement personnel complied with

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

applicable professional standards, regulatory requirements, and the Firm's standards of quality. These failures resulted in violations of PCAOB audit documentation standards concerning the dating of work papers over a 16-month period.

3. PCAOB standards require auditors to prepare audit documentation that accurately reflects when audit work was completed and reviewed. Prior to November 2016, Deloitte Canada's electronic work paper system ("system" or "work paper system") allowed Firm personnel to document their performance and review of work by manually selecting preparer and reviewer sign-off dates for each work paper. In November 2016, the Firm updated its work paper system and removed Firm personnel's ability to manually select sign-off dates. Under the new system, when an auditor entered a sign-off, the current date was automatically generated. At the time the Firm adopted its new system, personnel from the Firm's National Office were aware of a risk that individuals could override the new system by changing their computer date settings to backdate work paper sign-offs. Despite that awareness, the Firm did not take sufficient steps—through written policies, guidance, training, or otherwise—to address that risk.

4. During the 16 month-period following the adoption of the new work paper system, Firm personnel overrode the system and backdated their work paper sign-offs in at least six issuer audits and two quarterly reviews subject to PCAOB standards. This conduct occurred while teams were assembling a complete and final set of work papers for retention, or earlier, in these engagements. Additionally, some auditors on these engagements deleted and replaced sign-offs in order to ensure that reviewer sign-offs were dated after preparer sign-offs. Collectively, this conduct obscured the dates on which work had actually been completed and reviewed.

5. In light of the above-described conduct, the Firm violated PCAOB quality control and audit documentation standards.

C. The Firm Violated PCAOB Quality Control and Audit Documentation Standards

i. Applicable Standards

6. PCAOB rules require a registered public accounting firm to comply with all applicable auditing and related professional practice standards, including the Board's quality

control standards.[2]

7. PCAOB quality control standards require a registered firm to have a system of quality control for its accounting and auditing practice.[3] The system should include policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[4] Among other areas, a firm's policies and procedures should address the documentation of each engagement in accordance with applicable professional standards.[5] PCAOB quality control standards also provide that a firm should communicate its quality control policies and procedures to its personnel in a manner that provides reasonable assurance that those policies and procedures are understood and complied with.[6]

8. PCAOB auditing standards require an auditor to document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[7] This audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to determine who performed the work and the date such work was completed, as well as who reviewed the work and the date of such review.[8]

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[2] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Auditing Standards* (applicable to audits for fiscal years ending before December 31, 2016); PCAOB Rule 3200, *Auditing Standards* (applicable to audits for fiscal years ending on or after December 31, 2016); and PCAOB Rule 3400T, *Interim Quality Control Standards*.

[3] *See* QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[4] *See* QC § 20.17.

[5] *See* QC § 20.18.

[6] *See* QC § 20.23.

[7] *See* AS 1215.06, *Audit Documentation*. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondent's conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

[8] *See* AS 1215.06.

ii. Firm Personnel Backdated Work Paper Sign-offs in Multiple Engagements

9. Until November 2016, Deloitte Canada's work paper system allowed Firm personnel to select the date of their sign-off when documenting their preparation or review of each work paper. In November 2016, the Firm implemented an update to its work paper system, which restricted personnel from selecting sign-off dates. Under the updated system, when an auditor entered a sign-off, the system automatically generated the current date, as reflected on the auditor's computer, and prevented the auditor from manually entering a different date.

10. At the time the Firm was preparing to implement the update, certain personnel in the Firm's National Office were aware of the possibility of circumventing the new system's restriction on selecting sign-off dates. Specifically, the National Office personnel were aware of a risk that, although the updated system automatically generated sign-off dates based on a computer's settings, auditors could change the date settings on their computers and thereby alter sign-off dates.

11. Based on that awareness, National Office personnel responsible for implementing the new system considered issuing guidance instructing Firm auditors not to circumvent the new system's sign-off restrictions by changing their computer settings. Ultimately, they chose not to do so based on their understanding at the time that such changes could not be systematically prevented or detected.

12. Shortly after the Firm's implementation of the updated system, Firm personnel in certain engagements began changing the date setting on their computers to backdate work paper sign-offs. Specifically, from November 2016 through early March 2018, in connection with at least six issuer audits and two quarterly reviews subject to PCAOB standards, Firm personnel changed the settings on their individual computers to backdate numerous work paper sign-offs.

13. This backdating of sign-offs occurred in connection with engagement teams' assembling a complete and final set of work papers for retention,[9] or earlier, in the engagements. It often resulted from an engagement team member running a Deloitte software program to detect work papers with missing sign-offs or inconsistencies, such as a preparer sign-off that post-dated a reviewer sign-off. After running the program, the engagement team member would direct other team members, including partners, to insert missing sign-offs and

[9] *See* AS 1215.15 (requiring the auditor to assemble a complete and final set of audit documentation for retention "as of a date not more than 45 days after the report release date (*documentation completion date*)"; *see also* AS 1215.14 (defining "report release date").

backdate them to earlier dates. Additionally, in certain instances, Firm personnel were instructed to delete existing work paper sign-offs, change the date settings on their computer clocks, and substitute new sign-offs, in order to indicate the sequential preparation and review of the work papers.

14. In February 2018, a Deloitte Canada auditor raised a concern with senior Firm personnel about auditors altering the dates on their computers to backdate work paper sign-offs. In response, the Firm identified and implemented in early March 2018 a method to remove personnel's ability to change the date settings on their computers, which prevented further backdating of work paper sign-offs. The Firm also promptly instructed personnel to "[a]lways use the actual date on when the physical sign-off occurs."

iii. Violations of PCAOB Quality Control and Audit Documentation Standards

15. As a result of the conduct described above, Deloitte Canada violated PCAOB quality control standards. From November 2016 through early March 2018, the Firm failed to establish and communicate policies and procedures to provide reasonable assurance that the work performed by engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality with respect to documenting the dating of work paper sign-offs.[10]

16. Specifically, when the Firm upgraded its work paper system to eliminate personnel's ability to manually select sign-off dates, it failed to establish and communicate appropriate and effective written policies and guidance and failed to provide sufficient training to personnel about the upgrade and its purpose. The Firm failed to do so, despite the fact that National Office personnel were aware of the risk that the new system's restrictions could be overridden to backdate work paper sign-offs.

17. The Firm's quality control violations, in turn, resulted in, or contributed to, violations of PCAOB audit documentation standards concerning the dating of work papers for audit, referred work, and quarterly review engagements. The practices in which Firm personnel engaged—changing their computer settings to backdate sign-offs, and deleting and re-ordering sign-offs—had the effect of obscuring the date when work was actually performed and reviewed, in violation of PCAOB standards.[11]

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[10] *See* QC §§ 20.17-.18, .23.

[11] *See* AS 1215.06.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation in this matter.[12] Specifically, the Firm: (a) voluntarily self-reported the conduct described in this Order; (b) provided substantial assistance to the PCAOB's investigation, including by conducting its own extensive internal investigation and sharing the results of that internal investigation with Board staff; (c) disciplined personnel identified by the Firm as involved in the conduct; and (d) implemented enhancements to its quality control policies and procedures in relevant areas, including by providing training to its personnel concerning PCAOB documentation standards. Absent that extraordinary cooperation, the civil money penalty imposed would have been significantly larger, and the Board may have charged the Firm with additional violations of PCAOB rules and standards.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Deloitte LLP is censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4),a civil money penalty in the amount of $350,000 is imposed upon Deloitte LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Deloitte LLP shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, certified check, bank cashier's check, or bank money order (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (c) submitted under a cover letter which identifies Deloitte LLP as the Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public

[12] *See Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations,* PCAOB Rel. No. 2013-003 (Apr. 24, 2013).

Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

C. Pursuant to Sections 105(c)(4)(F) and (G) of the Act and PCAOB Rules 5300(a)(6) and (9), Deloitte LLP is required:

1. within 120 days from the date of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that personnel comply with applicable audit documentation requirements, including those concerning the dating of the completion of work performed and the dating of the review of audit documentation;

2. within 120 days from the date of this Order, to ensure that all Firm professionals involved in any "audit," as that term is defined in Section 110(1) of the Act, have received four (4) hours of additional training concerning compliance with PCAOB auditing standard AS 1215;[13] and

3. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within 150 days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 29, 2021

[13] This training is in addition to training the Firm provided prior to the date of this Order.

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

1666 K Street NW
Washington, DC 20006

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Order Making Findings and Imposing Sanctions

In the Matter of Thomas P. Donovan, CPA,

Respondent.

PCAOB Release No. 105-2021-015

September 30, 2021

By this Order Making Findings and Imposing Sanctions, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Thomas P. Donovan, CPA ("Donovan" or "Respondent");

(2) imposing a civil money penalty in the amount of $15,000 on Donovan;

(3) limiting Donovan's activities in connection with any audit of an issuer, for two years from the date of this Order, by prohibiting Donovan from serving in certain capacities in any issuer audit, as described in Section III.B. herein; and

(4) requiring that Donovan complete forty hours of continuing professional education ("CPE") within two years from the date of this Order in addition to any CPE required in connection with any professional license.

The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB rules and standards in connection with the audits of the financial statements of two issuers.

I.

On September 1, 2020, the Board instituted non-public disciplinary proceedings against Respondent.[1] Pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement

[1] Section 105(c)(2) of the Sarbanes-Oxley Act of 2002, as amended, 15 U.S.C. § 7215 (c)(5) ("Act"), provides that litigated disciplinary proceedings shall not be public, "unless otherwise ordered by the Board for good cause shown, with the consent of the parties . . . ." Although the Board found good cause

("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[2]

II.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Thomas P. Donovan** is a certified public accountant licensed by the State of Texas (License No. 040410). Donovan is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). At all relevant times, Donovan was the engagement partner in charge of the Issuer A Audit, and he was the engagement quality review ("EQR") reviewer for the Issuer B Audit.

B. Other Relevant Entity and Individual

2. PMB Helin Donovan, LLP was, at all relevant times, a limited liability partnership organized under the laws of the State of Texas, licensed in the State of Texas (License No. P05374), and headquartered in Austin, Texas. The Firm also was, at all relevant times, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. On December 17, 2019, the Board entered an Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions against PMB Helin Donovan, LLP, Christie J. Cardwell, CPA,

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for making the proceedings public, Respondent did not consent, as permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203.

[2] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

and Donald K. McPhee, CPA ("December 2019 OIP").[4] In the December 2019 OIP, the Board stated that the Firm had filed a Form 1-WD seeking leave to withdraw from registration with the Board, which the Board had determined to grant as of December 17, 2019.

3. Christie J. Cardwell was, at all relevant times, a partner of the Firm. Cardwell was, at all relevant times, a certified public accountant licensed by the State of Washington and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Cardwell served as the engagement partner for the Issuer B Audit. In the December 2019 OIP, the Board sanctioned Cardwell in connection with the audits of two issuers for which she was the engagement partner, including the Issuer B Audit.[5]

C. Issuers

4. Issuer A is, and at all relevant times was, a Bermuda corporation headquartered in Addison, Texas. Its public filings disclose that, at the time of the Issuer A Audit, it was an international oil and natural gas company engaged in acquisition, exploration, development and production. At all relevant times, its common stock was registered under Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act"). At all relevant times, Issuer A was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. Issuer B was, at all relevant times, a Wyoming corporation headquartered in Folsom, California. Its public filings disclose that, at the time of the Issuer B Audit, Issuer B was a payments and banking software developer, licensor, and services provider. Its common stock was registered under Section 12(g) of the Exchange Act. At all relevant times, Issuer B was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

D. Summary

6. This matter concerns Donovan's failure to comply with PCAOB rules and auditing standards in connection with PMB Helin Donovan LLP's ("PMB" or the "Firm") audit of the financial statements of Issuer A for the fiscal year ending December 31, 2016 ("Issuer A Audit"). While serving as the engagement partner on the Issuer A Audit, Donovan failed to exercise due care and professional skepticism, failed to obtain sufficient appropriate audit evidence, and failed to properly supervise his engagement team members.

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[4] *In the Matter of PMB Helin Donovan, LLP, Christie J. Cardwell, CPA, and Donald K. McPhee, CPA*, PCAOB Rel. No. 105-2019-031 (Dec. 17, 2019).

[5] *Id*.

7. Specifically, during the Issuer A Audit, Donovan improperly used the report of a specialist engaged by Issuer A to evaluate relevant financial statement assertions for oil and natural gas properties. Donovan failed to make appropriate tests of the data provided by Issuer A to the specialist. Oil and natural gas properties, net of accumulated amortization, constituted approximately one-half of the value of Issuer A's total assets.

8. Additionally, this matter concerns Donovan's failure to exercise due professional care, including professional skepticism, and to maintain objectivity, while serving as the EQR reviewer for PMB's audit of the financial statements of Issuer B for the year ending December 31, 2015 ("Issuer B Audit"). Donovan failed to maintain objectivity in performing his EQR by assuming responsibilities of the engagement team. Further, Donovan violated the EQR standard by providing his concurring approval of issuance for PMB's audit report when he was aware of a significant engagement deficiency in the Issuer B Audit.

E. Donovan Violated PCAOB Rules and Standards in Two Issuer Audits

9. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[7] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[8] PCAOB standards

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[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200*, Auditing Standards* (applicable to audits for fiscal years ending on or after December 31, 2016); PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for fiscal years ending before December 31, 2016). As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondent's conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

[7] *See* AS 3101.07, *Reports on Audited Financial Statements.*

[8] *See* AS 1015, *Due Professional Care in the Performance of Work*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 1105.04, *Audit Evidence*.

further require that auditors evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[9]

10. PCAOB standards provide that the engagement partner is responsible for proper supervision of the work of engagement team members and for compliance with PCAOB standards, including standards regarding using the work of specialists.[10] Among other things, the engagement partner should review the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work support the conclusions reached.[11]

11. As described below, Donovan failed to comply with PCAOB rules and standards in connection with the Issuer A Audit and the Issuer B Audit.

i. Donovan and His Engagement Team Failed to Make Appropriate Tests of Data Provided to a Specialist in the Issuer A Audit

12. The Firm served as the external auditor for the Issuer A Audit. The Firm's audit report for Issuer A's 2016 financial statements, dated March 22, 2017, was included in Issuer A's Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") on March 22, 2017. The Firm expressed an unqualified opinion that Issuer A's 2016 financial statements presented fairly, in all material respects, Issuer A's financial position, results of operations, and cash flows in conformity with U.S. generally accepted accounting principles ("GAAP"). Donovan served as the engagement partner and authorized the issuance of the Firm's audit report for the Issuer A Audit.

13. When using the findings of a specialist, PCAOB standards require an auditor, among other things, to make appropriate tests of data provided to the specialist, taking into account the auditor's assessment of control risk.[12]

14. During the Issuer A Audit, Donovan understood that oil and natural gas properties, net of accumulated amortization, constituted approximately one-half of Issuer A's total assets. The work papers Donovan reviewed included a report on reserves and revenues that was prepared by a specialist engaged by Issuer A (the "Specialist Report"). This report provided estimates, as of December 31, 2016, of the extent and value of the proved, probable,

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9 *See* AS 2810.30, *Evaluating Audit Results*.

10 *See* AS 1201.03, *Supervision of the Audit Engagement*.

11 *Id*. at .05.c.

12 AS 1210.12, *Using the Work of a Specialist*.

and possible oil, condensate, and sales gas reserves of certain properties in which Issuer A represented that it owned an interest.

15. The Specialist Report states that the specialist relied, without independent verification, on information furnished by Issuer A with respect to its property interests, production from such properties, current costs of operation and development, current prices for production, agreements relating to current and future operations and sale of production, estimation of taxes, and various other information and data that the specialist accepted as represented.

16. Donovan relied on the Specialist Report as audit evidence to support his evaluation of components of Issuer A's depletion expense and any required impairment of Issuer A's oil and gas properties at year-end.[13] However, despite relying on these findings, Donovan and the engagement team failed to perform any audit procedures to test the data Issuer A provided to the specialist. Accordingly, Donovan failed to "make appropriate tests of data provided to the specialist," and failed to direct the engagement team to make such tests, when he used the specialist's findings in the audit.[14]

17. In addition, Donovan failed to review with due care the work of engagement team members regarding the use of the Specialist Report, and failed to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[15]

ii. Donovan Violated PCAOB Standards in Conducting His Engagement Quality Review for the Issuer B Audit

18. An EQR is required for all audits conducted pursuant to PCAOB standards.[16] An EQR reviewer must be independent of the company, the EQR must be performed with integrity, and the EQR reviewer must maintain objectivity in performing the review.[17] In order to maintain objectivity, the EQR reviewer and others who assist the reviewer should not make

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13 Issuer A recognized $4.5 million in impairment to oil and gas properties in 2016. In 2015, Issuer A had recognized $16 million in impairment.

14 *See* AS 1210.12.

15 *See* AS 1201.05.c; AS 1210.12.

16 *See* AS 1220.01, *Engagement Quality Review*.

17 *Id*. at .06.

decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team.[18]

19. The standards provide that a firm may grant permission to an audit client to use the firm's audit report only after an EQR reviewer provides concurring approval of issuance of the report.[19] The EQR reviewer may provide concurring approval of issuance for an audit report only if, after performing with due professional care the review required, he or she is not aware of a significant engagement deficiency.[20]

20. An EQR reviewer should evaluate whether the engagement documentation reviewed indicates that the engagement team responded appropriately to the significant risks and supports the conclusions reached with respect to the matters reviewed.[21] Furthermore, documentation of an EQR, which is required to be included in the engagement documentation, should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the reviewer.[22]

21. The Firm served as the external auditor for the Issuer B Audit. The Firm's audit report, dated June 3, 2016, for Issuer B's financial statements for the year ended December 31, 2015, was included in Issuer B's Form 10-K filed with the Commission on June 6, 2016.

22. Christie Cardwell, as engagement partner, authorized the issuance of the Firm's audit report for the Issuer B Audit. Donovan served as the EQR reviewer for the audit and, prior to the start of his EQR, was aware that Cardwell had recent negative internal inspection results, including findings of poor audit documentation. At the time he started working on the Issuer B Audit, Donovan was also aware that Cardwell might leave the Firm. And before the conclusion of the audit, he further learned she was in the process of leaving the Firm. Knowing these facts, Donovan, throughout the audit, reviewed the work papers for all significant accounts.

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18 *Id*. at .07.

19 *Id*. at .13.

20 *See id*. at Note to .12 ("A *significant engagement deficiency* in an audit exists when (1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client.").

21 *Id*. at .11.

22 *Id*. at .19 and .20.

a. Donovan Failed to Maintain His Objectivity in Conducting His EQR of Issuer B

23. As part of the acquisition of an overseas company in 2015, Issuer B obtained, among other things, a computer application developed by that company that purportedly enabled customers to complete banking transactions on mobile telephones (the "Mobile App IP"). As a result, the engagement team needed to audit Issuer B's measurement of the fair value of the assets and liabilities of the acquired company as of the acquisition date, including the Mobile App IP intangible asset, which would comprise almost all of Issuer B's post-acquisition assets.

24. Although he served as the EQR reviewer on the audit, Donovan performed audit procedures and prepared two work papers for the engagement team in connection with the Firm's evaluation of Issuer B's measurement of the fair value, at acquisition, of the Mobile App IP intangible asset.[23] These work papers documented his tests of Issuer B's significant assumptions, the valuation model, and underlying data used in its measurement of the acquisition date fair value.[24] Donovan also communicated directly with Issuer B's CEO about the revenue projections drafted by the CEO that were used to determine year-end impairment of the intangible asset, and suggested revisions thereto.

25. As a result of these actions, Donovan assumed responsibilities of the engagement team with regard to the assessment of management's determination of the fair value of the Mobile App IP intangible asset as of the acquisition date. Because Donovan failed to maintain his objectivity in performing his EQR for the Issuer B Audit, he violated AS 1220.06 and .07.

b. Donovan Failed to Exercise Due Care and Provided His Concurring Approval of Issuance in the Issuer B Audit While Aware of a Significant Engagement Deficiency

26. The Mobile App IP intangible asset constituted over 90% of Issuer B's total assets. Notwithstanding that this asset had been acquired during the year, Donovan knew that the engagement team had identified a significant risk of material misstatement from the identification and recording of impairment to the value of this intangible asset. As of year-end, Issuer B had noted events or changes in circumstances indicating that the carrying amount of the Mobile App IP may not have been recoverable. Accordingly, the engagement team needed to evaluate the reasonableness of Issuer B's estimate of any potential year-end impairment of

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[23] *See* AS 2502.23, *Auditing Fair Value Measurements and Disclosures*.

[24] *See id*. at .26.

the Mobile App IP intangible asset,[25] and Donovan was required to evaluate, with due professional care, the engagement team's assessment of, and audit responses to, this significant risk.[26]

27. Donovan understood that the determination of whether or not the Mobile App IP intangible asset was impaired was a significant accounting estimate. Yet, based on his review of the audit documentation, he was aware that the engagement team had failed to evaluate the reasonableness of Issuer B's estimate indicating there was no impairment of the Mobile App IP intangible asset, because, among other things, the engagement team failed to: (a) adequately review and test the process used by management to develop the estimate and/or develop an independent expectation of the estimate, (b) perform the necessary procedures to resolve inconsistencies and contradictions in the audit evidence obtained, and (c) evaluate the estimate for bias and whether the effect of that bias resulted in a material misstatement.[27] As a result, Donovan was aware that the engagement team failed to obtain sufficient appropriate audit evidence, which constituted a significant engagement deficiency.[28]

28. Donovan reviewed work papers and other documents containing audit evidence that was inconsistent and contradicted Issuer B's ultimate conclusion not to impair the Mobile App IP intangible asset. In an Impairment Analysis Memo shared with the engagement team, Issuer B's Controller indicated that, "[u]ntil the Company has contracts in place[,] it is hard to justify the current balance of the intangible asset . . ., and therefore [the Company] must impair the entire balance of the intangible asset related to the [Mobile App IP]." Although he did not know the exact source of this impairment determination, Donovan understood that Issuer B's Controller had initially proposed to fully impair the intangible asset. And he reviewed an audit work paper about Issuer B's significant estimates that indicated there was no significant revenue from the Mobile App IP to support the carrying value, and noted agreement with management's assessment that this IP was fully impaired. The Mobile App IP value, however, remained unchanged on Issuer B's books, while the CEO, contradicting his Controller's proposed impairment adjustment, drafted a revenue forecast to support no impairment as of year-end. Donovan was aware that, at the time the CEO was drafting his projections, Issuer B was in default of certain loan covenants and under threat of being delisted, which increased the risk for management bias in that estimate, yet the work papers do not evaluate this potential

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[25] *See* ASC 350-30-35 and 360-10-35.

[26] *See* AS 1220.09, .10b, and .12; AS 1015.

[27] *See* AS 2501.10, *Auditing Accounting Estimates*; AS 1105.29; AS 2810.03 and .24 – .27.

[28] AS 1105.04-.06; AS 2501.07; AS 1220.12.

management bias.[29] Finally, Donovan reviewed the engagement team's inadequate evaluation of the reasonableness of Issuer B's ultimate conclusion of no impairment, which used the CEO's projections.[30]

29. Donovan provided his concurring approval of issuance in the Issuer B Audit engagement, despite being aware of a significant engagement deficiency related to the audit testing for impairment of the Mobile App IP. Further, he failed to evaluate with due care whether the audit documentation indicated that the engagement team responded appropriately to significant risks and supported the conclusions reached by the engagement team. As a result, Donovan failed to perform the engagement quality review with due professional care in violation of AS 1220.

III.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Thomas P. Donovan is hereby censured;

B. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two years from the date of this Order, Thomas P. Donovan's role in any audit of an "issuer," as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), shall be restricted as follows: Thomas P. Donovan shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit

[29] *See* AS 2810.24-.27.

[30] *See* AS 2501.09 and .10.

report; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon Thomas P. Donovan. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Thomas P. Donovan shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter which identifies Thomas P. Donovan as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Thomas P. Donovan is required to complete, within two years from the date of this Order, forty hours of CPE in subjects that are directly related to the audits of issuer financial statements under PCAOB standards, including audits of ICFR (such hours shall be in addition to, and shall not be counted in, the CPE that he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 30, 2021

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

1666 K Street NW
Washington, DC 20006

Office: 202-207-9100
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www.pcaobus.org

Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of WDM Chartered Professional Accountants and Mike Kao,

Respondents.

PCAOB Release No. 105-2021-016

September 30, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) revoking the registration of WDM Chartered Professional Accountants ("WDM" or the "Firm"), a registered public accounting firm;[1]

(2) barring Mike Kao ("Kao") from being associated with a registered public accounting firm;[2] and

(3) imposing a $10,000 civil money penalty jointly and severally upon WDM and Kao (collectively, "Respondents").

The Board is imposing these sanctions on the basis of its findings that: (a) WDM violated PCAOB rules and quality control standards by failing to take sufficient steps to ensure that its system of quality control provided reasonable assurance that its personnel complied with applicable professional standards and the Firm's standards of quality, despite being made aware repeatedly of quality control concerns by PCAOB inspections; (b) Kao violated PCAOB Rule 3502 by directly and substantially contributing to WDM's violations of PCAOB quality control standards; and (c) WDM and Kao violated PCAOB rules and auditing standards in connection with the audit of an issuer.

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[1] WDM may reapply for registration after five years from the date of this Order.

[2] Kao may file a petition for Board consent to associate with a registered public accounting firm after five years from the date of this Order.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **WDM Chartered Professional Accountants** is a chartered accounting firm in Vancouver, British Columbia. The Firm is currently licensed by the Chartered Professional Accountants of British Columbia. WDM registered with the Board on June 21, 2005, and has been subject to PCAOB inspection five times. WDM first registered with the Board as Watson Dauphinee & Masuch, Chartered Accountants. In 2013, the Firm changed its name to WDM Chartered Accountants and, in 2015, the Firm became WDM Chartered Professional

[3] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

Accountants.[5] At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Mike Kao** is the sole and Managing Partner of the Firm. He is a Chartered Professional Accountant, Certified General Accountant (CPA, CGA) licensed by the Chartered Professional Accountants of British Columbia. At all relevant times, Kao was an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Prior to becoming the Managing Partner in 2020, Kao served as the Firm's Engagement Quality and Professional Standards leader. He was the engagement partner for the fiscal year ended December 31, 2019 audit of Issuer A.

B. Issuer A

3. Issuer A is a British Columbia corporation with its principal offices located in Vancouver, British Columbia. Issuer A's public filings disclosed that it is a financial technology services company. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. This matter primarily concerns WDM's violations of PCAOB rules and standards in connection with its failure to properly design and implement, and monitor the effectiveness of, a system of quality control, and Kao's direct and substantial contribution to certain of those violations.[6] Specifically, the Firm failed to: (1) use an audit methodology designed to comply with PCAOB standards and rules; (2) provide technical training; and (3) perform internal monitoring procedures. The Firm's system of quality control, therefore, did not (1) provide reasonable assurance that the work performed by engagement personnel would meet applicable professional standards and regulatory requirements, (2) provide reasonable assurance that personnel participated in continuing professional education that enabled them to fulfill responsibilities assigned, or (3) ensure performance of adequate monitoring procedures, including internal inspections.

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[5] The Firm was previously sanctioned by the Board for failing to timely file required Forms AP. *See WDM Chartered Professional Accountants*, PCAOB Rel. No. 105-2019-007 (Mar. 19, 2019).

[6] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

5. During the period from 2009 through 2017, PCAOB inspectors conducted four inspections of the Firm and raised concerns about several significant deficiencies in its system of quality control including in the areas noted above.

6. The Firm was given the opportunity to submit a remediation response to demonstrate that it had satisfactorily addressed the quality control criticisms, and yet each time, the Firm chose not to do so.[7] The Firm also failed to undertake actions to improve its system of quality control. As of late 2020, the significant historical quality control defects were still present and the Firm's system of quality control was not effective.

7. In addition, the Firm and Kao violated numerous PCAOB rules and standards in conducting the Firm's 2019 audit of Issuer A, by failing to: (1) properly evaluate the accounting for a significant transaction, (2) obtain pre-approval for non-audit services, and (3) properly communicate matters related to the audit to Issuer A's audit committee equivalent. Many of these audit violations are directly linked to the defects in the Firm's quality controls.

D. WDM Violated PCAOB Rules and Quality Control Standards

8. Beginning with the inspection conducted in December 2009, PCAOB inspectors identified, and communicated to WDM, deficiencies in the Firm's system of quality control including, among others, its failure to (1) implement an audit methodology designed to comply with PCAOB standards and rules; (2) provide training to its personnel on PCAOB and SEC requirements; and (3) perform sufficient and appropriate monitoring of its issuer audit practice.[8] PCAOB inspectors also noted defects in the Firm's performance of issuer audits, including, among others, the failure to (1) perform sufficient audit procedures over material accounts or transactions; (2) perform audit procedures to evaluate material disclosures; and (3)

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[7] As a result, the quality control sections of the PCAOB's inspection reports on WDM were made public. *See* *WDM Chartered Professional Accountants - Firm Summary*.

Under the Act and Board rules, portions of an inspection report that deal with criticisms of or potential defects in the quality control system of the firm must remain nonpublic if the firm addresses those criticisms or defects to the Board's satisfaction within 12 months of the report's issuance. If the firm fails to satisfactorily address a quality control criticism within 12 months, the PCAOB expands the publicly available version of the firm's inspection report to reveal those quality control criticisms. *See* Section 104(g)(2) of the Act; PCAOB Rule 4009.

[8] *See* Inspection of Watson Dauphinee & Masuch, at 7-8 (Jan. 28, 2011) ("2009 Inspection Report"); Report on 2012 Inspection of Watson Dauphinee & Masuch, Chartered Accountants, at 6-8 (May 2, 2013) ("2012 Inspection Report"); Report on 2015 Inspection of WDM Chartered Accountants, at 11-12 (Dec. 21, 2015) ("2015 Inspection Report"); Report on 2017 Inspection of WDM Chartered Professional Accountants, at 11-12 (Sept. 20, 2018) ("2017 Inspection Report").

identify and address departures from U.S. generally accepted accounting principles.[9] Despite the Firm's awareness of these deficiencies and concerns, the Firm's internal monitoring procedures failed to provide reasonable assurance that its system of quality control was effective, and the Firm failed to take and implement timely corrective action to improve quality control. Each of the above quality control defects contributed to the audit deficiencies above, as well as the Firm's and Kao's violations of auditing standards during the audit of the 2019 financial statements of Issuer A.

i. WDM's Quality Control Policies and Procedures Failed to Provide the Firm with Reasonable Assurance that the Work Performed by Engagement Personnel Met Professional Standards

9. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[10] These standards require that a registered firm have a system of quality control for its accounting and auditing practice.[11] PCAOB quality control standards provide that a registered firm should establish policies and procedures "to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[12] Such policies should "encompass all phases of the design and execution of the engagement."[13] In addition, "[t]o the extent appropriate and as required by applicable professional standards, these policies and procedures should cover planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement."[14]

10. At all relevant times, WDM failed to establish policies and procedures to provide reasonable assurance that the Firm used an audit methodology on issuer audit work that was designed to comply with applicable PCAOB auditing standards and other regulatory

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[9] *See* Inspection of Watson Dauphinee & Masuch, at 4 (Jan. 28, 2011); Report on 2015 Inspection of WDM Chartered Accountants, at 4 (Dec. 21, 2015); Report on 2017 Inspection of WDM Chartered Professional Accountants, at 4 (Sept. 20, 2018).

[10] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[11] *See* Quality Control Standard 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20"), .01.

[12] QC § 20.17.

[13] QC § 20.18.

[14] *Id*.

requirements. WDM used an external service provider and its associated practice aids as the Firm's audit methodology for purposes of performing audits of issuers' financial statements that were designed to be conducted in accordance with Canadian Auditing Standards ("CAS") and not PCAOB and SEC requirements. As early as 2009, WDM understood that use of its audit methodology on issuer audits did not meet PCAOB requirements.

11. Despite being aware for more than a decade that its audit methodology was not designed for work in accordance with PCAOB standards, WDM failed to implement a system to ensure that issuer audits were conducted in accordance with PCAOB standards. Indeed, during 2015, WDM obtained third-party prepared forms for use on issuer audits, but in the years that followed, the Firm failed to implement a system to ensure that firm personnel were using those forms during issuer audit work. As a result, WDM continued to use CAS methodology and practice aids on its issuer audits rather than the forms designed to assist the Firm in complying with PCAOB standards. Thus, WDM failed to implement a system to provide reasonable assurance that the work performed by engagement personnel complied with professional standards and regulatory requirements in violation of QC § 20.17.

ii. WDM Quality Control Policies and Procedures Failed to Provide the Firm with Reasonable Assurance that Personnel Participated in Training on PCAOB and SEC Requirements

12. PCAOB quality control standards provide that firms should establish policies and procedures to provide the firm with reasonable assurance that "[w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances" and "[p]ersonnel participate in general and industry-specific continuing professional education . . . that enable them to fulfill responsibilities assigned."[15]

13. Despite these requirements, WDM repeatedly failed to establish policies and procedures to require those assigned to PCAOB audits to participate in continuing professional education to ensure that such individuals received periodic technical training related to PCAOB standards and SEC reporting requirements, rules, and regulations. Instead, the Firm relied upon an informal "hands-on" approach to training where senior staff, including Kao, would inform junior staff of what the audit entails and train them on the use of WDM's audit program. This approach assumed that Kao had the requisite knowledge of PCAOB and SEC requirements to appropriately teach the more junior staff; however, the Firm failed to take any actions to ensure that Kao had that knowledge and failed to require that Kao obtain formal training in such requirements. In fact, although Kao reviewed PCAOB update newsletters, he did not

[15] *See* QC § 20.13.

attend any continuing professional education courses related to PCAOB and SEC requirements. Accordingly, the Firm's reliance on Kao to train junior staff on PCAOB and SEC requirements was misplaced and did not provide reasonable assurance that personnel participated in continuing professional education to enable them to fulfill responsibilities assigned or that work was being assigned to personnel having the degree of technical training and proficiency required to perform audits under PCAOB standards.

14. The Firm was also on notice that in prior years its approach to training had failed to provide reasonable assurance that its staff could fulfill assigned responsibilities. The Firm's 2009 and 2012 PCAOB inspection reports included quality control findings on that issue. Significantly, the Firm's 2012 Inspection Report emphasized the Firm's failure to take "meaningful steps to address" the Firm's prior failure to implement procedures "to provide sufficient assurance that individuals assigned to issuer clients receive periodic technical training related to PCAOB standards and SEC reporting requirements, rules, and regulations."[16]

15. Despite the Firm's Quality Assurance Manual's ("QAM") requirement that staff understand and comply with all relevant professional standards, defects in the Firm's training-related quality controls continued in 2020 because the staff had not received training on PCAOB and SEC requirements. The defects were attributable to the Firm's continued failure to implement a system that ensured its personnel received periodic training on PCAOB and SEC requirements from appropriate sources.[17] As a result, the Firm violated QC § 20.[18]

16. Because the Firm failed to ensure that its staff received appropriate training on SEC and PCAOB requirements, it was unable to ensure that work was assigned to personnel having the degree of technical training and proficiency required in the circumstances and that personnel participated in general and industry-specific continuing professional education that enabled them to fulfill their assigned responsibilities. Accordingly, the Firm violated QC § 20.[19]

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[16] *See* Report on 2012 Inspection of Watson Dauphinee & Masuch, Chartered Accountants, at 8 (May 2, 2013).

[17] Although the Firm's QAM required personnel to understand and comply with relevant professional requirements, its QAM did not require personnel to participate in continuing professional education on PCAOB and SEC requirements. The Firm's policies and procedures do not specify how the Firm expected its personnel to develop the required understanding.

[18] *See* QC § 20.13.

[19] *Id*.

iii. WDM Failed to Perform Internal Monitoring to Ensure Its System of Quality Control Was Operating Effectively

17. Pursuant to PCAOB standards, firms should also establish policies and procedures to provide reasonable assurance that: (a) "the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality,"[20] including with respect to "planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement"[21] and (b) the firm's quality control policies and procedures "are suitably designed and are being effectively applied."[22]

18. PCAOB quality control standards further provide that one required element of a quality control system is monitoring.[23] Monitoring involves an ongoing consideration and evaluation of: (a) the relevance and adequacy of the firm's policies and procedures; (b) the appropriateness of the firm's guidance materials and any practice aids; (c) the effectiveness of professional development activities; and (d) compliance with the firm's policies and procedures.[24] Monitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective.[25]

19. To satisfy its PCAOB practice monitoring requirements, WDM's QAM required that the Firm perform triennial internal inspections; however, the Firm has not performed a cyclical inspection of completed audit files since 2016. Moreover, when the Firm conducted an internal inspection in 2016, Issuer A, the Firm's only issuer audit client at the time, was not included in the internal inspection. As a result, over the course of at least five years, the Firm did not perform an internal inspection to assess whether the work performed by its engagement personnel on PCAOB audits meets the applicable professional standards, regulatory requirements, and the Firm's standards of quality.

20. Significantly, the Firm failed to perform appropriate monitoring procedures even after receiving repeat criticisms from PCAOB inspectors. Specifically, the 2009 Inspection Report noted that "the Firm's engagement performance monitoring program [did] not include procedures to evaluate whether audits of issuers are being conducted in accordance with

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20 QC § 20.17.

21 QC § 20.18.

22 QC § 20.20; *see also* QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

23 QC § 20.07.

24 QC § 30.02; *see also* QC § 20.20.

25 QC § 30.03.

PCAOB standards."[26] In the 2015 Report, PCAOB inspectors noted that the Firm had not performed any monitoring procedures since 2011.[27]

21. Despite these quality control criticisms and the engagement-level deficiencies noted by PCAOB inspectors during prior inspections, the Firm repeatedly failed to follow the monitoring requirements set forth in its QAM in violation of QC § 30.[28] Therefore, with respect to its PCAOB issuer audits, since 2016 the Firm did not undertake monitoring procedures to enable the firm to obtain reasonable assurance that its system of quality control was effective. Accordingly, the Firm violated QC §§ 20 and 30.

E. Kao Directly and Substantially Contributed to WDM's QC Violations

22. PCAOB Rule 3502 states that "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[29]

23. At the time of the 2015 PCAOB inspection, Kao served as the Firm's Engagement Quality and Professional Standards leader. He also served as the engagement partner on the Firm's issuer audits that were reviewed during each of the Firm's PCAOB inspections. After a Firm restructuring in February 2020, Kao assumed the role of Managing Partner. In these management roles, Kao was responsible, at least in part, for the Firm's system of quality control, was on notice of the PCAOB inspection findings identifying deficiencies in the Firm's system of quality control discussed above, and was in a position to remediate those deficiencies. Yet Kao knowingly failed to take appropriate actions to provide reasonable assurance that the Firm's quality controls were suitably designed and being effectively applied. Specifically, Kao, as engagement partner on issuer audits, was in a position to ensure that forms purchased by the Firm to ensure compliance with PCAOB and SEC requirements were actually used on the audits. Instead, Kao relied on the Firm's CAS audit methodology, which contributed

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[26] *See* Report on 2012 Inspection of Watson, Dauphinee & Masuch, Chartered Accountants, at 7 (May 2, 2013).

[27] *See* Report on 2015 Inspection WDM Chartered Accountants, at 11 (Dec. 12, 2015).

[28] *See* QC § 30.02.

[29] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

to the Firm's violation of auditing standards on its issuer audits. In his Firm leadership roles, Kao also was in a position to ensure that the Firm performed its cyclical inspection of completed audits, yet again Kao failed to do so.

24. As a result, Kao directly and substantially contributed to the Firm's ongoing violations of audit methodology and practice monitoring-related PCAOB quality control standards in violation of Rule 3502.

F. In Part Due to WDM's Quality Control Failures, WDM and Kao Violated PCAOB Rules and Auditing Standards in the 2019 Audit of Issuer A

25. For the year ended December 31, 2019, WDM served as the auditor for Issuer A and issued an audit report stating it was independent and had conducted its audit in accordance with the requirements of Canadian Generally Accepted Auditing Standards and the standards of the PCAOB.

i. WDM and Kao Failed to Evaluate Whether Issuer A Accounted for a Business Combination in Conformity with International Financial Reporting Standards

26. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[30] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[31] In addition, AS 1015, *Due Professional Care in the Performance of Work*, requires "[d]ue professional care … to be exercised in the planning and performance of the audit and the preparation of the report."[32]

27. Under AS 2810, *Evaluating Audit Results*, "[a]s part of the overall review, the auditor should evaluate whether … [t]he evidence gathered in response to unusual or unexpected transactions… is sufficient; and … [u]nusual or unexpected transactions… indicate risks of material misstatement that were not identified previously, including, in particular, fraud

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30 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

31 AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

32 AS 1015.01.

risks."[33] The auditor should also "obtain corroboration for management's explanations regarding significant unusual or unexpected transactions[.]"[34] The auditor is also required to evaluate whether the financial statements are presented fairly and in conformity with the applicable financial reporting framework.[35]

28. Issuer A entered into an agreement ("Acquisition Agreement") in 2019 to acquire all the assets and liabilities of a third party, ("Company X"). Under the terms of the Acquisition Agreement, a newly formed corporation, ("Company Y"), acquired all the assets and liabilities of Company X. As a result of this acquisition agreement transaction, Issuer A obtained control of Company Y and consolidated it, using Company Y's book value, into Issuer A's consolidated financial statements as of December 31, 2019.

29. Despite designating this transaction a "significant event" in the audit work papers, WDM and Kao failed to evaluate or instruct the engagement team to evaluate the appropriateness of the issuer's accounting for the acquisition, including the initial recognition and measurement of the assets and liabilities assumed and consideration paid. Rather, WDM and Kao simply accepted management's accounting determination and measurement without any evaluation including whether the transaction should be accounted for as a business combination or an asset acquisition. As a result, WDM and Kao violated AS 1015 and AS 2810 because they failed to (a) exercise professional skepticism, (b) evaluate whether the engagement team had obtained sufficient appropriate evidence to support the appropriateness of the accounting for the significant unusual transaction, and (c) evaluate whether the financial statements were presented fairly and in conformity with International Financial Reporting Standards.

ii. WDM and Kao Failed to Obtain Pre-Approval for Tax Services

30. In addition to complying with PCAOB rules and standards with respect to independence, an auditor has an obligation to satisfy all other independence criteria applicable to the engagement.[36] This obligation includes independence criteria set out in the rules and

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[33] AS 2810.06.

[34] AS 2810.08; *see also* AS 1015.07-.09 ("The auditor neither assumes that management is dishonest nor assumes unquestioned honesty. In exercising professional skepticism, the auditor should not be satisfied with less than persuasive evidence because of a belief that management is honest.").

[35] AS 2810.30.

[36] *See* Note 1 to Rule 3520, *Auditor Independence.*

regulations of the Commission under federal securities laws.[37] SEC independence rules specify that audit and non-audit services are required to be pre-approved by an issuer's audit committee or audit committee equivalent, and PCAOB Rule 3524, *Audit Committee Pre-approval of Certain Tax Services*, sets forth additional requirements relating to audit committee pre-approval of tax services.[38]

31. For the year ended December 31, 2019, WDM provided tax services to Issuer A that consisted of preparation and filing of Corporate Income Tax and Goods and Services Tax returns. Both the Firm and Kao were aware of the requirement to obtain pre-approval for such services as both U.S. and Canadian regulators require such pre-approval and the Firm and Kao had obtained pre-approval for similar services provided to Issuer A during previous years. Despite being aware of the requirement, the Firm and Kao, as engagement partner on the audit of Issuer A, failed to obtain pre-approval for such services from Issuer A's Board of Directors.[39]

32. Therefore, WDM violated PCAOB Rules 3520 and 3524, and Kao directly and substantially contributed to the Firm's violation, in violation of Rule 3502, by knowingly or recklessly failing to obtain the necessary pre-approvals for tax services provided to Issuer A.

iii. WDM and Kao Failed to Communicate All Required Matters to Audit Committee

33. AS 1301, *Communications with Audit Committees,* requires the auditor to communicate certain matters related to the conduct of an audit to the issuer's Audit Committee.[40] In connection with its audit of Issuer A's December 31, 2019 financial statements, WDM issued letters to the Audit Committee, dated February 19, 2020, and June 4, 2020.

34. Despite issuing the two letters, WDM and Kao failed to address certain required communications, including: (a) whether there were any significant issues discussed with management in connection with the retention of the auditor; (b) critical accounting policies and practices, critical accounting estimates, qualitative aspects of significant accounting policies and practices, assessment of critical accounting policies and practices, and conclusions regarding critical accounting estimates; and (c) matters that are difficult or contentious for which the auditor consulted outside the engagement team and that the auditor reasonably determined

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37 *See id.*

38 *See* Rule 2-01(c)(7) of Regulation S-X; PCAOB Rule 3524.

39 The Issuer's Board of Directors is the Audit Committee equivalent as defined by PCAOB Rule 3501(a)(v), *Definitions of Terms Employed in Section 3, Part 5 of the Rules*.

40 *See* AS 1301.01.

are relevant to the audit committee's oversight of the financial reporting process.[41] WDM and Kao were aware of the requirements of AS 1301, as the Firm's 2017 PCAOB Inspection Report included an observation related to the Firm's failure to comply with the requirements of AS 1301 on its 2016 audit of Issuer A.

35. Therefore, WDM and Kao violated AS 1301.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of WDM Chartered Professional Accountants is revoked;

B. After five years from the date of this Order, WDM Chartered Professional Accountants may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Mike Kao is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[42]

D. After five years from the date of this Order, Kao may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed jointly and severally upon

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[41] *See* AS 1301.04, .12, .13, .15.

[42] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Kao. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

WDM and Kao. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies WDM or Kao as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***By consenting to this Order, Respondents acknowledge that a failure to pay the civil money penalty described above may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b) or a reapplication for registration pursuant to PCAOB Rule 2101***.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 30, 2021

PCAOB
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www.pcaobus.org

Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Slack & Company LLC,

Respondent.

PCAOB Release No. 105-2021-017

December 14, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is imposing sanctions upon Slack & Company LLC (the "Firm" or "Respondent"), a registered public accounting firm. The Board is:

(1) censuring the Firm; and

(2) imposing a civil money penalty in the amount of $15,000 upon the Firm.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of

these proceedings, which are admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Slack and Company LLC** is a limited liability corporation located in South Carolina. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs are due by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm audited the financial statements of Alfi, Inc. as of and for the year ended December 31, 2019. The Firm issued an audit report dated February 9, 2021, which was included in Alfi, Inc.'s Form S-1/A filed with the SEC on February 10, 2021.

4. The Firm audited the financial statements of Green Stream Holdings, Inc. as of and for the fiscal year ended April 30, 2020. The Firm issued an audit report dated August 16, 2020, which was included in Green Stream Holdings, Inc.'s Form 10-K filed with the SEC on August 19, 2020.

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

5. The Firm audited the financial statements of ABCO Energy, Inc. as of and for the years ended December 31, 2019 and December 31, 2020. The Firm issued audit reports dated August 6, 2020 and April 15, 2021, which were included in ABCO Energy, Inc.'s Form 10-K/A filed with the SEC on September 16, 2020, and Form 10-K filed with the SEC on April 15, 2021, respectively.

6. The Firm audited the financial statements of GEX Management, Inc. as of and for the years ended December 31, 2018, December 31, 2019 and December 31, 2020. The Firm issued audit reports dated August 26, 2019, May 14, 2020, and April 15, 2021, which were included in GEX Management's Form 10-K/A filed with the SEC on August 26, 2019, and Forms 10-K filed with the SEC on May 14, 2020, and April 15, 2021, respectively.

7. The Firm audited the financial statements for Quad M Solutions, Inc. as of and for the fiscal years ended September 30, 2019 and September 30, 2020. The Firm issued audit reports dated January 15, 2020 and January 8, 2021, which were included in Quad M Solutions, Inc.'s Form 10-K/A filed with the SEC on January 16, 2020, and Form 10-K filed with the SEC on January 12, 2021, respectively.

8. The Firm failed to file the required Form APs for the above filings by the 35th day after the date the audit reports were first included with the filings made with the SEC, in violation of PCAOB Rule 3211.

9. The Firm belatedly filed the aforementioned Form APs on August 5, 2021.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determined it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured; and

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank

cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 14, 2021

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Harbourside CPA LLP

Respondent.

PCAOB Release No. 105-2021-018

December 14, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is imposing sanctions upon Harbourside CPA LLP (the "Firm" or "Respondent"), a registered public accounting firm. The Board is:

(1) censuring the Firm;

(2) imposing a civil money penalty in the amount of $10,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Harbourside CPA LLP** is a limited liability partnership located in British Columbia. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs are due by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm audited the financial statements of Tego Cyber, Inc. as of and for the fiscal year ended June 30, 2020. The Firm issued an audit report dated October 20, 2020, which was included in Tego Cyber, Inc.'s Forms S-1/A filed with the SEC on October 27, 2020 and November 9, 2020.

4. The Firm audited the financial statements of DSG Global Inc. as of and for the years ended December 31, 2019 and December 31, 2020. The Firm issued audit reports dated

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

May 14, 2020, and March 4, 2021, which were included in DSG Global Inc.'s Forms 10-K filed with the SEC on May 15, 2020 and March 5, 2021, respectively.

5. The Firm audited the financial statements of Trillion Energy International Inc. as of and for the years ended December 31, 2019 and December 31, 2020. The Firm issued audit reports dated May 14, 2020, and March 31, 2021, which were included in Trillion Energy International Inc.'s Forms 10-K filed May 15, 2020, and April 1, 2021, respectively.

6. The Firm failed to file the required Form APs for the above filings by the 35th day after the date the audit reports were first included with the filings made with the SEC, in violation of PCAOB Rule 3211.

7. The Firm belatedly filed the aforementioned Form APs on August 4, 2021.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determined it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including PCAOB Rule 3211 and that Form APs are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 2006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 14, 2021

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of SS Accounting and Auditing Inc.,

Respondent.

PCAOB Release No. 105-2021-019

December 14, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is imposing sanctions upon SS Accounting and Auditing Inc. (the "Firm" or "Respondent"), a registered public accounting firm. The Board is:

(1) censuring the Firm;

(2) imposing a civil money penalty in the amount of $5,000 upon the Firm, and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file a required Form AP, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **SS Accounting and Auditing Inc.** is a corporation located in Texas. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File a Form AP in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs are due by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm audited the financial statements for China Green Agriculture, Inc. as of and for the year ended June 30, 2020. The Firm issued an audit report dated November 25, 2020, which was included in China Green Agricultural, Inc.'s Form 10-K filed with the SEC on December 7, 2020.

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the 10th day after the date the audit report is first included in a document filed with the SEC. *See* Rule 3211(b)(2).

4. The Firm failed to file the required Form AP for the above filing by the 35th day after the date the audit report was first included with the filing made with the SEC, in violation of PCAOB Rule 3211.

5. The Firm belatedly filed the aforementioned Form AP on July 14, 2021.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determined it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $5,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

   1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including

PCAOB Rule 3211 and that Form APs are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 2006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 14, 2021

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Cheryl L. Gore, CPA and Stanley R. Langston, CPA,

Respondents.

PCAOB Release No. 105-2021-020

December 14, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) barring Cheryl L. Gore, CPA ("Gore") from being associated with a registered public accounting firm;[1] if the Board later consents to Gore's association with a registered firm, limiting Gore's activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act") for an additional period of one year following the termination of the bar; requiring that Gore complete forty hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license; imposing a $20,000 civil money penalty on Gore; and

(2) limiting Stanley R. Langston, CPA's ("Langston") activities in connection with any "audit," as that term is defined in Section 110(1) of the Act for a period of one year from the date of this Order, and imposing a $10,000 civil money penalty on Langston.

The Board is imposing these sanctions on the basis of its findings that Gore and Langston (collectively, "Respondents") violated PCAOB rules and standards in connection with the audits by Turner, Stone & Company, L.L.P. (the "Firm") of the financial statements of Issuer

[1] Gore may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

A for the year ended December 31, 2016 ("2016 Audit") and the restated financial statements for the same period ("Restatement Audit") (collectively, the "Audits").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act, and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[2]

III.

On the basis of Respondents' Offers, the Board finds[3] that:

A. Respondents

1. **Cheryl L. Gore, CPA** is a certified public accountant licensed by the Texas State Board of Accountancy (License No. 063764). Gore is a partner at the Firm and served as the engagement partner on each of the Audits. At all relevant times, Gore was an associated person

[2] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

2. **Stanley R. Langston, CPA** was, at all relevant times, a certified public accountant licensed by the Texas State Board of Accountancy (License No. 042545). Langston was not a partner, principal, or employee of the Firm. Langston served as the engagement quality reviewer ("EQR reviewer") on each of the Audits. At all relevant times, Langston was an associated person of a registered public accounting firm (the Firm) as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities

3. Issuer A was, at all relevant times, a Colorado corporation headquartered in Irvine, California. Issuer A's public filings disclose that, at all relevant times, it was a development-stage company engaged in the development, production, and commercialization of cannabis-based pharmaceutical products. Issuer A was, at all relevant times, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. Corporation A was identified in Issuer A's fiscal year ended December 31, 2016 ("FY 2016") Form 10-K/A filed with the Securities and Exchange Commission ("Commission") on August 11, 2017, as an entity that had made payments on Issuer A's behalf during 2016 and part of 2017. In a second amended Form 10-K/A for FY 2016 filed with the Commission on April 15, 2019, Issuer A further disclosed that Corporation A was owned by Issuer A's CEO's adult son.

C. Summary

5. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Audits. As detailed below, during the Audits, Gore failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence in connection with Issuer A's identification, accounting, and disclosure of related party relationships and transactions.

6. In addition, in connection with the Audits, Langston violated AS 1220, *Engagement Quality Review*, by providing his concurring approval of issuance of the Firm's audit reports without performing the required engagement quality reviews with due professional care.

D. Gore Violated PCAOB Rules and Standards During the Audits

7. In connection with the preparation and issuance of an audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[4] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[5] PCAOB standards also provide that due professional care be exercised in the planning and performance of the audit and the preparation of the report.[6] Due professional care requires the auditor to exercise professional skepticism.[7]

8. PCAOB standards require the auditor to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.[8] Inquiry of company personnel, by itself, does not provide sufficient audit evidence.[9] Management representations are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit.[10]

9. PCAOB standards require the auditor's responses to the assessed risks of material misstatement, particularly fraud risks, to involve the application of professional skepticism in gathering and evaluating audit evidence.[11]

10. In the case of significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment, PCAOB standards require the auditor to gain an understanding of the business purpose for such transactions and whether that purpose (or

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[4] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[5] *See* AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending before December 15, 2017).

[6] AS 1015.01, *Due Professional Care in the Performance of Work.*

[7] AS 1015.07.

[8] AS 1105.04, *Audit Evidence*.

[9] *See* Note to AS 1105.17.

[10] AS 2805.02, *Management Representations.*

[11] AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*.

lack thereof) suggests that the transactions may have been entered into to engage in fraudulent financial reporting or to conceal misappropriation of assets.[12] In addition, where a risk of fraud is identified, the auditor is required by PCAOB standards to perform substantive procedures, including tests of details, that are specifically responsive to the assessed fraud risks.[13]

11. PCAOB standards further require the auditor to evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework and evaluate whether the financial statements contain the information essential for a fair presentation of the financial statements in conformity with the applicable financial reporting framework.[14] Generally accepted accounting principles recognize the importance of reporting transactions and events in accordance with their substance. The auditor should consider whether the substance of transactions or events differs materially from their form.[15]

12. As described below, Gore failed to comply with PCAOB rules and standards during the Audits.

i. The 2016 Issuer A Audit

13. The Firm served as Issuer A's external auditor for the FY 2016 financial statements. The Firm issued an audit report containing an unqualified opinion, dated April 13, 2017, regarding Issuer A's FY 2016 financial statements. The report was included with Issuer A's Form 10-K filed with the Commission on April 17, 2017. Gore, the engagement partner on the 2016 Audit, authorized the release of the report. Langston, as the EQR reviewer on the engagement, provided concurring approval of issuance of that audit report.

14. Issuer A disclosed in its Form 10-K revenue of approximately $9,000 and stock-based payments to related parties of approximately $1.4 million in FY 2016. These related party transactions comprised 16% of Issuer A's reported net loss before taxes.

15. The objective of the auditor under the PCAOB's standard on related parties is to obtain sufficient appropriate audit evidence to determine whether related parties and

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[12] *See* AS 2401.66, .66A & .67, *Consideration of Fraud in a Financial Statement Audit*.

[13] AS 2301.13.

[14] AS 2810.30 & .31, *Evaluating Audit Results*.

[15] AS 2815.06, *The Meaning of "Present Fairly in Conformity with Generally Accepted Accounting Principles."*

relationships and transactions with related parties have been properly identified, accounted for, and disclosed in the financial statements.[16] PCAOB standards also require an auditor to perform procedures to obtain an understanding of the company's relationships and transactions with its related parties that might reasonably be expected to affect the risks of material misstatement of the financial statements in conjunction with performing risk assessment procedures in accordance with AS 2110, *Identifying and Assessing Risks of Material Misstatement*.[17] The procedures performed to obtain an understanding of the company's relationships and transactions with related parties include: obtaining an understanding of the company's process; performing inquiries; and communicating with the audit engagement team and other auditors.[18]

16. Gore was required to obtain an understanding of Issuer A management's process for: identifying related parties and relationships and transactions with related parties; authorizing and approving transactions with related parties; and accounting for and disclosing relationships and transactions with related parties in its financial statements.[19] Specifically, as part of her risk assessment procedures, she was required to obtain an understanding of the design and implementation of Issuer A's internal control over financial reporting ("ICFR") in connection with related parties,[20] to evaluate the design of those controls that were relevant to the audit, and to determine whether those controls had been implemented.[21] Gore failed to perform any of these procedures during the 2016 Audit.

17. Moreover, Gore assessed unrecorded and/or undisclosed related party transactions as a fraud risk.[22] She also determined that unrecorded and/or undisclosed related party transactions were the types of disclosure errors that posed the greatest risk of material

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[16] AS 2410.02, *Related Parties.*

[17] AS 2410.03.

[18] *Id*.

[19] AS 2410.04.

[20] *See id.*; AS 2110.20.

[21] *See* AS 2110.20. *See also* AS 2110.18 ("The auditor should obtain a sufficient understanding of each component of internal control over financial reporting ('understanding of internal control') to (a) identify the types of potential misstatements, (b) assess the factors that affect the risks of material misstatement, and (c) design further audit procedures.").

[22] Gore also understood during the Audits that Issuer A's CEO had previously been disciplined for violating the securities laws by the Commission and by a Canadian regulator, in both instances for conduct intended to defraud investors.

misstatement to Issuer A's financial statements. However, Gore failed to apply professional skepticism in gathering and evaluating audit evidence in response to this assessed fraud risk.[23]

18. Indeed, other than creating a list of Issuer A's related parties based upon inquiries of Issuer A's CFO and obtaining uncorroborated representations from Issuer A's CEO and CFO regarding the completeness and accuracy of that list, Gore failed to perform any other procedures to obtain an understanding of the company's relationships and transactions with its related parties that might reasonably be expected to affect the risks of material misstatement of the financial statements.[24]

19. In addition, Gore failed to obtain a sufficient understanding of Issuer A's process for identifying related parties and relationships and transactions with related parties.[25] Other than obtaining representations from Issuer A's CFO about the process for identifying, authorizing, and accounting for and disclosing related party relationships and transactions, she failed to perform any other procedures to obtain an understanding of the company's process. For example, Issuer A's CFO represented that Issuer A required the Board of Directors' approval for authorizing significant related party transactions, but Gore failed to inquire of management regarding, among other things, what constituted a significant related party transaction under the company's policies and procedures and how many, if any, significant related party transactions were authorized and approved by the Board of Directors (or were granted exceptions from the company's policies and procedures) during the 2016 Audit.[26]

20. Further, during the 2016 Audit, Gore became aware of certain information indicating management might not have disclosed a complete and accurate listing of its related parties and relationships and transactions with related parties. Among other things, while performing substantive procedures, Gore reviewed numerous recorded transactions with individuals bearing the CEO's surname. These transactions, none of which were disclosed as being with related parties, totaled approximately $2.5 million. They took the form of stock issuances and other payments, and were purportedly made in exchange for various consulting services.

21. Despite the fact that these payments were made to individuals with the CEO's surname, Gore failed to perform any procedures to resolve the inconsistencies in the audit

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[23] *See* AS 2301.07.

[24] *See* AS 2410.03. *See also* AS 2805.02.

[25] *See* AS 2410.04.

[26] *See* AS 2410.05f & .05g.

evidence concerning related parties and relationships and transactions with related parties.[27] She also failed to perform procedures to test the accuracy and completeness of the related parties and relationships and transactions with related parties identified by the company, taking into account the information gathered during the audit.[28]

22. In addition, Gore failed to perform certain required inquiries of management about related parties. For example, she failed to inquire of management about, among other things: background information concerning related parties (for example, physical location, industry, size, and extent of operations); the nature of any relationships, including ownership structure, between the company and its related parties; the transactions entered into, modified, or terminated, with its related parties during the period under audit and the terms and business purposes (or the lack thereof) of such transactions; and the business purpose for entering into a transaction with a related party versus an unrelated party.[29] Gore, therefore, failed to obtain sufficient appropriate audit evidence and failed to perform sufficient procedures concerning related parties and relationships and transactions with related parties.[30]

ii. The Issuer A Restatement Audit

23. Several weeks after the issuance of the Firm's audit report, Issuer A informed Gore of material errors in its previously issued FY 2016 financial statements. In particular, Gore learned that Issuer A had failed to record or disclose material transactions entered into on Issuer A's behalf during FY 2016 by an entity identified by the CEO as Corporation A. The unrecorded transactions caused Issuer A's total assets to be understated by approximately $1.3 million (107%), and total liabilities by approximately $630,000 (17%).

24. The Firm issued an audit report containing an unqualified opinion, dated August 10, 2017, regarding Issuer A's restated FY 2016 financial statements. The report was included with Issuer A's Form 10-K/A filed with the Commission on August 11, 2017. Gore authorized the release of the audit report. Langston provided concurring approval of issuance of that audit report. This restatement of Issuer A's FY 2016 financial statements amended the FY 2016 financial statements to include the previously unrecorded transactions with Corporation A.

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27 *See* AS 1105.29.

28 AS 2410.14.

29 *See* AS 2410.05.

30 *See* AS 1105.04.

25. Through discussions with Issuer A management during the Restatement Audit, Gore learned that Corporation A was controlled by the adult son of Issuer A's CEO. Issuer A's CEO asserted, however, that Corporation A should not be disclosed as a related party in the restated financial statements based on his view that adult immediate family members were not related parties unless they shared a common household.

26. Based on her understanding of U. S. generally accepted accounting principles and Regulation S-X, Gore understood that Corporation A appeared to be a related party and should be disclosed in Issuer A's financial statements.[31] However, despite being aware of this, she failed prior to authorizing the audit report to recognize that Issuer A was not disclosing Corporation A as a related party. As a result, Gore failed to act with due professional care and professional skepticism and failed to perform sufficient procedures to determine whether related parties and relationships and transactions with related parties were properly identified, accounted for, and disclosed in the restated financial statements.

27. Indeed, although she knew Corporation A was "a related party or relationship or transaction with a related party previously undisclosed to the auditor,"[32] Gore failed to evaluate why the related parties or relationships or transactions with related parties were previously undisclosed to the auditor and to assess the need to perform additional procedures to identify other undisclosed relationships or transactions with Corporation A.[33] In addition, Gore failed to perform the required procedures concerning the implications on her assessment of Issuer A's ICFR for the Restatement Audit.[34]

28. During the Restatement Audit, Issuer A provided Gore with supporting documentation for a second service agreement between Issuer A and Corporation A allowing Corporation A to enter into transactions on Issuer A's behalf, which had been in force during FY

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[31] Rule 4-08(k) of Regulation S-X, *Related party transactions that affect the financial statements* (17 C.F.R. 210.4-08(k)), states that amounts of related party transactions should be stated on the face of the balance sheet, statement of comprehensive income, or statement of cash flows. The term "related parties" includes, among other things, principal owners of the entity and members of their immediate families and management of the entity and members of their immediate families. *See* Footnote 1 of AS 2410; 17 C.F.R. 210.1-02(u); FASB ASC Master Glossary. "Immediate Family" means family members who might control or influence a principal owner or a member of management, or who might be controlled or influenced by a principal owner or a member of management, because of the family relationship. *See* FASB ASC 850-10-20, *Related Party Disclosures.*

[32] AS 2410.16.

[33] AS 2410.16b & .16d.

[34] *See* AS 2110.18 & .20.

2016 but had not been disclosed to Gore and the engagement team during the 2016 Audit. Despite understanding from discussions with Issuer A management that Issuer A's ICFR was based on a definition of "related party" that did not conform with her understanding of U.S. generally accepted accounting principles or Regulation S-X, Gore failed to perform any procedures to evaluate the implications of that information and support her and the engagement team's continued reliance on management's processes to properly identify, approve, and disclose related party relationships and transactions.

29. When evaluating the results of the Restatement Audit, Gore was required to evaluate whether the accumulated results of the auditing procedures and other observations affected the assessment of the fraud risks made throughout the audit and whether the audit procedures needed to be modified to respond to those risks.[35] Gore concluded, without any basis, that the unrecorded, undisclosed Corporation A transactions were an isolated error, despite PCAOB standards stating that Gore could not assume that an instance of error or fraud was an isolated occurrence, and requiring Gore to evaluate the nature and effects of the individual misstatements accumulated during the audit on the assessed risks of material misstatement—an evaluation important in determining whether the risk assessments remained appropriate.[36]

30. In addition, during the Restatement Audit, Gore did not ask for, or obtain, an updated list of related parties from Issuer A, and instead relied on the audit work that she performed in the area of related parties during the 2016 Audit. Gore thus failed to inquire of management or others within the company regarding the names of the company's related parties, and to perform any procedures to test the accuracy and completeness of the related parties and relationships and transactions with related parties identified by the company, taking into account the information she gathered during the audit concerning Corporation A's ownership and potential related party stock transactions.[37] Moreover, the related party list she relied on during the Restatement Audit was still incomplete, as it did not include Corporation A, the CEO's son, or the other individuals that shared the CEO's surname and received large amounts of Issuer A stock in FY 2016.

31. During the Restatement Audit, Gore failed to obtain an understanding of the company's process for identifying, authorizing, and accounting for and disclosing relationships

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35 AS 2810.28.

36 *See* AS 2810.19.

37 *See* AS 2410.05a, .06 & .14.

and transactions with related parties,[38] and to apply professional skepticism in gathering and evaluating the audit evidence in response to the assessed fraud risk concerning related parties and relationships and transactions.[39] After learning that Issuer A's interpretation of related parties did not appear to comply with U.S. generally accepted accounting principles and Regulation S-X, Gore failed to obtain the required understanding of the company's process and failed to identify as related party transactions the transactions and stock issuances during FY 2016 that were with and to other individuals that shared the CEO's surname.

32. Gore was also required during the Restatement Audit to obtain an understanding of the design and implementation of Issuer A's ICFR in connection with related parties.[40] She was also required to evaluate the design of these controls, which were relevant to the audit, and to determine whether the controls had been implemented.[41] She failed to perform any of these procedures.

33. Gore also failed to exercise due professional care in connection with her review of the financial statements during the final days of the Restatement Audit.[42] Indeed, despite her discussions with Issuer A management concerning the definition of related parties, and her review of several Form 10-K/A drafts of potential language concerning the Corporation A transactions, Gore failed to evaluate the final Form 10-K/A that was to be filed with the Commission on August 11, 2017, to determine whether it did, in fact, disclose that Corporation A was a related party.[43] As a result, Gore failed to obtain sufficient appropriate audit evidence and to perform sufficient procedures concerning whether Issuer A's financial statements accurately disclosed its related party transactions.[44]

E. Langston Violated PCAOB Rules and Standards in Connection with the Engagement Quality Reviews During the Audits

34. As noted above, PCAOB rules provide that associated persons of registered public accounting firms shall comply with all applicable auditing and related professional

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38 *See* AS 2410.04.

39 *See* AS 2301.07.

40 *See* AS 2110.20.

41 *See id*.

42 *See* AS 1015.

43 *See* AS 2410.17.

44 *See* AS 1105.04.

practice standards.[45] PCAOB standards also require that an engagement quality review be performed on all audit engagements conducted pursuant to PCAOB standards.[46] In conducting the engagement quality review, the EQR reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[47]

35. PCAOB standards also require the EQR reviewer to evaluate the assessment of, and audit responses to, among other things, significant risks identified by the engagement team, including fraud risks.[48] In addition, the EQR reviewer is required to evaluate whether the engagement documentation that he or she reviewed when performing the procedures required by paragraph AS 1220.10 indicates that the engagement team responded appropriately to significant risks, and supports the conclusions reached by the engagement team with respect to the matters reviewed.[49]

36. PCAOB standards further require the EQR reviewer to review the engagement completion document and confirm with the engagement partner that there are no significant unresolved matters.[50] PCAOB standards also require engagement quality review documentation to contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the EQR reviewer to comply with the provisions of AS 1220, including information that identifies, among other things, the documents reviewed by the EQR reviewer.[51]

37. During both Audits, Langston failed to evaluate properly the significant judgments made by Gore and the engagement teams with respect to unrecorded and/or undisclosed related party transactions that were identified as fraud risks. As noted above, Issuer A disclosed approximately $1.4 million in stock-based payments to related parties and failed to disclose an additional $2.5 million in such payments. Although he had telephone discussions with Gore during both Audits, and reviewed certain drafts of Issuer A's Form 10-K and 10-K/A during the 2016 Audit and Restatement Audit, respectively, he failed during the

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45 *See* PCAOB Rule 3100.

46 *See* 1220.01.

47 AS 1220.09.

48 AS 1220.10b.

49 AS 1220.11.

50 AS 1220.10e.

51 AS 1220.19.

Audits to review any audit work papers in the significant risk areas of the audit, including related parties, and failed to evaluate the engagement teams' assessment of and audit response to these risk areas,[52] as well as the significant judgments made by the engagement teams and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the respective engagement reports.[53] Langston also failed to review the engagement completion documents during both Audits, as required by AS 1220.[54] Because of these failures, Langston failed to evaluate whether the documentation prepared by the engagement teams responded appropriately to significant risks, and supported the conclusions reached by the engagement teams with respect to the matters reviewed.[55]

38. Finally, the documentation Langston prepared did not contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand which documents Langston reviewed.[56]

39. As a result of the failures described above, Langston provided his concurring approvals of issuance without performing his reviews with the requisite due professional care.[57]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Cheryl L. Gore is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[58]

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[52] AS 1220.10b.

[53] AS 1220.09

[54] AS 1220.10e.

[55] AS 1220.11.

[56] *See* AS 1220.19; AS 1215.06, *Audit Documentation*.

[57] *See* AS 1220.12; AS 1015.01.

[58] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Gore. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or

B. Pursuant to PCAOB Rule 5302(b), Gore may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

C. If Gore is permitted to associate again with a registered public accounting firm, pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date her bar is terminated, Gore's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Gore shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, to either sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) assist the engagement partner in fulfilling his or her responsibilities under paragraph 4 of AS 1201, *Supervision of the Audit Engagement*; or (6) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Gore is required to complete, before filing a petition for Board consent to associate with a registered firm, forty hours of continuing professional education ("CPE") and training relating to PCAOB auditing standards (such hours shall be in addition to, and shall not be counted in, the CPE she is required to obtain in connection with any professional license);

E. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date of this Order, Stanley R. Langston's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule

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barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

1001(a)(v), shall be restricted as follows: Langston shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) assist the engagement partner in fulfilling his or her responsibilities under paragraph 4 of AS 1201, *Supervision of the Audit Engagement*; or (6) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

1. Cheryl L. Gore, $20,000; and,

2. Stanley R. Langston, $10,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay these civil money penalties within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, certified check, bank cashier's check, or bank money order (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***Respondent Gore understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm. Respondents also understand that failure to pay the civil***

money penalty described above may alone be grounds for a summary suspension or bar pursuant to PCAOB Rule 5304(b).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 14, 2021

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Dale Matheson Carr-Hilton LaBonte LLP,

Respondent.

PCAOB Release No. 105-2021-021

December 14, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Dale Matheson Carr-Hilton LaBonte LLP (the "Firm," or "Respondent"), a registered public accounting firm;

(2) imposing a $50,000 civil money penalty on the Firm; and

(3) requiring the Firm to undertake certain remedial measures.

The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB rules and standards in connection with two issuer audits and also violated PCAOB quality control standards concerning client acceptance and continuance and engagement performance.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Dale Matheson Carr-Hilton LaBonte LLP** is, and at all relevant times was, a Canadian limited liability partnership headquartered in Vancouver, British Columbia, Canada. The Firm currently has a total of four offices, each in Canada. The Firm is associated with Moore Global Network Limited, and is licensed to practice public accounting by the Chartered Professional Accountants of British Columbia (License No. 100002080). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Issuers

2. Issuer A was, at all relevant times, a Canadian corporation incorporated in British Columbia, Canada, and headquartered in Vancouver, British Columbia, Canada. Issuer A's public filings disclose that, at all relevant times, it was engaged in the business of mineral exploration and development. Issuer A filed a Form F-4 registration statement with the Commission on April 10, 2017. From the time that it filed its Form F-4, and at all relevant times thereafter, Issuer A was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

3. Issuer B was, at all relevant times, a Canadian corporation incorporated in British Columbia, Canada, and headquartered in Vancouver, British Columbia, Canada. Issuer B's public filings disclose that, at all relevant times, it was engaged in the business of developing and

[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

manufacturing electric vehicles. Issuer B was, at all relevant times, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. This matter concerns Respondent's violations of PCAOB rules and standards in connection with its audit of the financial statements of Issuer A for the fiscal year ended October 31, 2016 ("2016 Issuer A Audit"), and its audit of the financial statements of Issuer B for the fiscal year ended December 31, 2017 ("2017 Issuer B Audit") (collectively, the "Audits"), as well as violations of PCAOB quality control standards in the areas of client acceptance and continuance and engagement performance.[2]

5. Despite information available to the Firm that the Audits were required to be performed in accordance with PCAOB standards, the Firm planned and performed the Audits in accordance with Canadian Generally Accepted Auditing Standards ("CGAAS"). In each instance, the Firm initially issued an audit report stating the audit had been performed in accordance with CGAAS, and its report did not refer to PCAOB standards.

6. In both cases, the staff of the U.S. Securities and Exchange Commission ("Commission") notified the relevant issuer that its filing required an audit report stating the audit had been performed in accordance with PCAOB standards. The Firm amended each of its initial audit reports to indicate that the audit had been performed in accordance with PCAOB standards, and consented to the inclusion of the amended audit reports in the issuers' amended filings when, in fact, the Audits had not been performed in accordance with PCAOB standards. Indeed, the Firm failed to plan or perform any additional procedures to support the assertions in the amended reports that the audits were conducted in accordance with PCAOB standards.

D. The Firm Violated PCAOB Rules and Standards

7. In connection with the preparation and issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the

[2] As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Rel. No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or substantively change the requirements of PCAOB standards. While Respondent's conduct occurred both before and after the reorganization, the reorganized standards are cited herein for clarity.

PCAOB's auditing and related professional practice standards.[3] PCAOB standards also provide that due professional care be exercised in the planning and performance of the audit and the preparation of the report.[4]

8. PCAOB auditing standards state that the auditor should perform certain activities at the beginning of the audit, including procedures regarding the continuance of a client relationship and the specific audit engagement.[5]

9. As part of planning activities, PCAOB auditing standards also require that the auditor evaluate whether certain matters are important to the company's financial statements and internal control over financial reporting, and if so, how they will affect the auditor's procedures, including, but not limited to: matters affecting the industry in which the company operates, such as financial reporting practices, economic conditions, laws and regulations; matters relating to the company's business, including its organization, operating characteristics, and capital structure; and legal or regulatory matters of which the company is aware.[6]

10. PCAOB standards also require that the auditor plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report.[7] An auditor's standard report stating that the financial statements present fairly, in all material respects, an entity's financial position, results of operations, and cash flows in conformity with generally accepted accounting principles may be expressed only when the auditor has formed such an opinion on the basis of an audit performed in accordance with the standards of the PCAOB.[8]

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[3] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards* (applicable before December 31, 2016); PCAOB Rule 3200, *Auditing Standards* (applicable as of December 31, 2016).

[4] *See* AS 1015.01, *Due Professional Care in the Performance of Work.*

[5] AS 2101.06, *Audit Planning*.

[6] AS 2101.07.

[7] AS 1105.04, *Audit Evidence*.

[8] *See* AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending on or before December 14, 2017); AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion* (applicable to audits for fiscal years ending on or after December 15, 2017).

11. As described below, the Firm failed to comply with PCAOB rules and standards during the Firm's 2016 Issuer A Audit and the Firm's 2017 Issuer B Audit.

i. The Firm's 2016 Issuer A Audit

12. In September 2016, Issuer A engaged the Firm to audit Issuer A's financial statements for the fiscal year ended October 31, 2016. Issuer A was a new audit client. However, the Firm failed to exercise due professional care and professional skepticism in planning and performing the audit.[9]

13. Specifically, the Firm was aware prior to its consent to the inclusion of its audit report that Issuer A was in the process of becoming a U.S. public company, and knew that audits of U.S. public companies were required to be performed in accordance with PCAOB standards.[10] Indeed, the Firm's work papers contained a summary of press releases indicating that Issuer A was in the process of becoming a U.S. public company—including announcements in February 2017 that Issuer A's securities were trading in the U.S. on an over-the-counter market and that Issuer A planned to file a Form F-4 registration statement with the Commission in March 2017.

14. Despite this awareness, in planning and performing the audit, the Firm failed to evaluate whether Issuer A's plan to become a U.S. public company was important to its financial statements and how it would affect the Firm's audit procedures.[11] In particular, the Firm failed to evaluate matters related to the financial reporting practices and laws and regulations concerning Issuer A's plans to include the Firm's audit report in its registration statement to be filed with the Commission. Specifically, the Firm was required to plan and perform its audit of Issuer A's financial statements in accordance with PCAOB standards and include in the audit report a statement that the audit was conducted in accordance with PCAOB standards.[12]

15. As a result of this failure, the Firm's audit documentation and its audit report reflect that the Firm planned and performed the 2016 Issuer A audit in accordance with CGAAS rather than in accordance with PCAOB standards. For example, the Firm's independence questionnaire, prepared after Issuer A's February 2017 press releases, identified Issuer A only

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9 *See* AS 1015.01.

10 *See* PCAOB Rule 3100.

11 *See* AS 2101.07.

12 *See* PCAOB Rule 3100; AS 3101.08 (applicable to audits for fiscal years ending on or before December 14, 2017).

as a Canadian public company, without acknowledging Issuer A's intent to file a registration statement with the Commission the following month. In addition, in conducting the audit, the Firm did not use its checklist and templates designed for U.S. issuer audits, and instead used documentation meant for performing audits in accordance with CGAAS.

16. The Firm's audit report dated March 29, 2017, which opined on Issuer A's financial statements for the fiscal years ended October 31, 2015 and October 31, 2016, and was included with Issuer A's Form F-4 registration statement filed with the Commission on April 10, 2017, stated that the audit was conducted in accordance with CGAAS and did not refer to PCAOB standards.

17. In a comment letter dated May 5, 2017, the Commission's Division of Corporation Finance staff informed Issuer A that it should obtain a revised independent auditor's report indicating the audit had been performed in accordance with PCAOB standards. The issuer informed the Firm of the comment letter. The Firm, in response, issued an amended audit report bearing the same March 29, 2017 date as the original audit report, but adding a statement that the audit was conducted in accordance with PCAOB standards ("Amended Issuer A Report"). The Firm then consented to the inclusion of its Amended Issuer A Report to accompany Issuer A's amended registration statement filed on May 25, 2017.

18. The Firm failed, however, to perform any additional audit procedures in connection with the Amended Issuer A Report prior to its consent to include the Amended Issuer A Report in Issuer A's amended registration statement. Instead, the Firm inappropriately relied upon the work it had performed under CGAAS, which did not sufficiently address PCAOB standards. Consequently, the Firm failed to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the audit opinion in the Amended Issuer A Report,[13] and expressed that audit opinion without having conducted an audit in accordance with PCAOB standards.[14]

ii. The Firm's 2017 Issuer B Audit

19. In February 2018, Issuer B engaged the Firm to audit Issuer B's financial statements for the fiscal year ended December 31, 2017. The Firm had served as Issuer B's auditor since 2015. From the outset of the 2017 Issuer B Audit, the Firm was aware that Issuer B was a U.S. public company, having audited Issuer B's financial statements for the previous fiscal year ended December 31, 2016 and issued an audit report filed with the Commission

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[13] *See* AS 1105.04.

[14] *See* AS 3101.07 (applicable to audits for fiscal years ending on or before December 14, 2017).

indicating the 2016 audit had been conducted in accordance with PCAOB standards. The Firm, as noted above, was also aware during the relevant time frame that audits of U.S. public companies were required to be performed in accordance with PCAOB standards.

20. However, the Firm failed to exercise due professional care and professional skepticism in conducting its client continuance procedures and in planning and performing the audit.[15] Similar to the 2016 Issuer A Audit, the Firm failed to identify that a PCAOB audit was required, and instead conducted the 2017 Issuer B Audit in accordance with CGAAS.

21. No information was brought to the Firm's attention during the 2017 Issuer B Audit suggesting the circumstances had changed with respect to Issuer B's status as a U.S. public company. Indeed, while planning the audit, the Firm was aware that Issuer B had filed an application in October 2017 to list its stock on a major U.S.-based stock exchange. Moreover, a Firm audit work paper concerning materiality noted that "[t]he company recent[ly] went public in the [U.S.] and is trying to increase the capital to fund future operations."

22. In planning and performing the audit, however, the Firm failed to evaluate whether Issuer B's status as a U.S. public company was important to the company's financial statements and how it would affect the Firm's audit procedures.[16] In particular, the Firm failed to consider that because the 2017 Issuer B audit was an audit of a U.S. public company and the audit report would accompany a Form 20-F filed with the Commission, the Firm was required to plan and perform the audit in accordance with PCAOB standards, and include in the audit report a statement that the audit was conducted in accordance with PCAOB standards.[17]

23. Despite issuing an audit report for the prior fiscal year stating that the audit was conducted in accordance with PCAOB standards and being aware of Issuer B's plans to list its stock on a U.S. based exchange, the Firm planned and performed the 2017 Issuer B Audit in accordance with CGAAS rather than in accordance with PCAOB standards. For example, during the audit, the Firm used a client continuance checklist that referred only to Canadian standards. The Firm's engagement letter and communications with Issuer B's Audit Committee indicated that the audit would be conducted in accordance with CGAAS and under the auditor independence requirements of the Code of Professional Conduct of the Chartered Professional Accountants of British Columbia. The Firm did not use its checklist or templates designed for U.S. issuer audits during the audit, and instead used audit documentation meant for performing

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[15] *See* AS 1015.01; AS 2101.06.

[16] *See* AS 2101.07.

[17] *See* PCAOB Rule 3100; AS 3101.09 (applicable to audits for fiscal years ending on or after December 15, 2017).

audits in accordance with CGAAS. The Firm's audit report for the 2017 Issuer B Audit, dated April 2, 2018, indicated that the audit was conducted in accordance with CGAAS and did not make reference to PCAOB standards. This report accompanied Issuer B's Form 20-F for the fiscal year ended December 31, 2017, filed with the Commission on April 19, 2018.

24. In failing to evaluate Issuer B's status as a U.S. public company and recognize that a PCAOB audit was required, the Firm failed to perform sufficient procedures regarding the continuance of the client relationship and the specific audit engagement.[18]

25. In the weeks following the filing of the April 19, 2018 Form 20-F, Issuer B prepared to file a Form F-1/A amended registration statement with the Commission. Because Issuer B intended to include its audited financial statements for the year ended December 31, 2017 in the Form F-1/A, members of the engagement team discussed via email whether the accompanying audit report needed to state that the audit had been performed in accordance with PCAOB standards. Following these discussions, the Firm amended its April 2, 2018 report to state that the audit was conducted in accordance with PCAOB standards ("Amended Issuer B Report"). On May 29, 2018, Issuer B filed a Form F-1/A registration statement, and the Firm consented to the inclusion of the Amended Issuer B Report to accompany the filing. The Firm, however, failed to perform any additional procedures prior to its consent to include the Amended Issuer B Report in Issuer B's amended registration statement to support the assertion in the Amended Issuer B Report that the audit was conducted in accordance with PCAOB standards.[19] Instead, the Firm inappropriately relied upon the work it had performed under CGAAS, which did not sufficiently address PCAOB standards.

26. On August 21, 2018, Issuer B received a comment letter from the Commission's Division of Corporation Finance staff requesting Issuer B to include with its April 19, 2018 Form 20-F an audit report indicating that the Firm conducted its audit in accordance with PCAOB standards. On August 29, 2018, Issuer B filed an amended Form 20-F/A, and the Firm reissued the Amended Issuer B Report stating that the audit had been conducted in accordance with PCAOB standards and consented to the inclusion of the Amended Issuer B Report in the filing. The Firm, however, failed to perform any additional procedures prior to its consent to include the reissued Amended Issuer B Report to accompany the amended Form 20-F/A. Indeed, even after being aware of the Commission's comment letter, the Firm failed to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis

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[18] *See* AS 2101.06(a).

[19] *See* AS 1105.04; AS 3101.02 (applicable to audits for fiscal years ending on or after December 15, 2017).

for the audit opinion in the Amended Issuer B Report,[20] and expressed that audit opinion without having conducted an audit in accordance with PCAOB standards.[21]

iii. The Firm Violated PCAOB Rules and Standards Related to Quality Control

27. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[22] PCAOB quality control standards require that "[t]o minimize the risk of misunderstandings regarding the nature, scope, and limitations of the services to be performed," a firm's quality control policies and procedures "should provide for obtaining an understanding with the client regarding those services."[23] Throughout the relevant time period, the Firm's quality control policies and procedures concerning the acceptance and continuance of clients and engagements did not require engagement teams to obtain an understanding with the client regarding the services to be performed. Indeed, as described above, in both Audits, the engagement teams misunderstood the services to be performed, and performed audits in accordance with CGAAS rather than the required PCAOB standards.

28. PCAOB quality control standards also require that a registered public accounting firm establish policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[24] As described above, throughout the relevant time period, the Firm failed to establish and implement quality control policies and procedures to provide reasonable assurance that the work performed by the Firm met applicable PCAOB standards and regulatory requirements, and the Firm's standards of quality. Although the Firm developed audit checklists and templates, the Firm's quality control policies and procedures did not instruct engagement teams to evaluate the circumstances in which the various templates should be used. Nor did the Firm's quality control policies and procedures instruct engagement teams to evaluate whether an audit needed to be performed in accordance with PCAOB standards.

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20 *See* AS 1105.04.

21 *See* AS 3101.02 (applicable to audits for fiscal years ending on or after December 15, 2017).

22 PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

23 QC § 20.16, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice.*

24 QC § 20.17.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Dale Matheson Carr-Hilton LaBonte LLP, is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon Dale Matheson Carr-Hilton LaBonte LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Dale Matheson Carr-Hilton LaBonte LLP shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Dale Matheson Carr-Hilton LaBonte LLP as the Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Dale Matheson Carr-Hilton LaBonte LLP is required:

1. within ninety (90) days from the date of this Order, to establish quality control policies and procedures, or revise and/or supplement existing quality control policies and procedures, for the purpose of providing the Firm with reasonable assurance that:

    a. The Firm's policies and procedures provide for obtaining an understanding with the client regarding services to be performed, in compliance with QC Section 20.16;

b. The work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the Firm's standards of quality, in compliance with QC Section 20.17;

c. The Firm's quality control monitoring procedures taken as a whole enable the Firm to obtain reasonable assurance that its system of quality control is effective, in compliance with QC Section 30.03;

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent basis, concerning identification of audit clients subject to PCAOB auditing standards for all Firm personnel involved in audit services; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) & C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 14, 2021

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of PKF O'Connor Davies, LLP,

Respondent.

PCAOB Release No. 105-2022-001

January 25, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring PKF O'Connor Davies, LLP ("PKFOD," the "Firm," or "Respondent");

(2) imposing a civil money penalty of $40,000 on the Firm;

(3) requiring the Firm to undertake a self-assessment of its system of quality control; and

(4) requiring the Firm to retain an independent consultant to review and make recommendations concerning the Firm's system of quality control as it relates to audits performed under PCAOB standards.

The Board is imposing these sanctions on the basis of its findings that: (a) PKFOD violated PCAOB rules and auditing standards in connection with the audits of two issuers; and (b) PKFOD violated PCAOB rules and quality control standards by failing to take sufficient steps to ensure that its system of quality control provided reasonable assurance that its personnel complied with applicable professional standards and the Firm's standards of quality.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **PKF O'Connor Davies, LLP** is a limited liability partnership organized under the laws of the state of New York headquartered in New York City. PKFOD also has offices in New York, New Jersey, Connecticut, Rhode Island, Maryland, and Florida. The Firm is licensed to practice public accounting in multiple jurisdictions, including the state of New York (Partnership ID No. 069980). The Firm is, and at all relevant times was, registered with the PCAOB pursuant to Section 102 of the Act and PCAOB rules. PKFOD is a member of the PKF International Limited network of firms.

B. Issuers

2. Issuer A is a real estate investment trust ("REIT") incorporated under the laws of the state of Maryland. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

3. Issuer B is a REIT incorporated under the laws of the state of Maryland. At all relevant times, Issuer B was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. This matter concerns PKFOD's violations of PCAOB rules and standards in conducting the Firm's integrated audit of Issuer A's financial statements and internal control over financial reporting ("ICFR") for the fiscal year ended December 31, 2018 ("Issuer A Audit"), and integrated audit of Issuer B's financial statements and ICFR for fiscal year ended September 30, 2019 ("Issuer B Audit") (together, "Audits"). In the Audits, the Firm failed to: (1) test the operating effectiveness of the issuers' information technology general controls, (2) test the completeness and accuracy of certain issuer-produced reports, and (3) perform sufficient and appropriate procedures to respond to fraud risks.[3]

5. The Firm's audit violations are the direct result of its failure to properly design and implement, and monitor the effectiveness of, a system of quality control. Specifically, the Firm failed to: (1) provide and implement sufficient practice aids and tools for use on issuer audits; (2) provide sufficient technical training on auditing ICFR; and (3) perform sufficient appropriate internal monitoring procedures. The Firm's system of quality control, therefore, did not: (1) provide reasonable assurance that the work performed by engagement personnel would meet applicable professional standards and regulatory requirements; (2) provide reasonable assurance that personnel participated in continuing professional education or other professional development activities that enabled them to fulfill assigned responsibilities; (3) provide reasonable assurance that work was assigned to personnel having the degree of technical training and proficiency required in the circumstances; and (4) enable the Firm to obtain reasonable assurance that its system of quality control was suitably designed and effectively applied.

D. PKFOD Violated PCAOB Rules and Standards

6. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[4] An auditor may express an

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[3] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

[4] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

unqualified opinion on an issuer's financial statements only when the auditor has conducted an audit in accordance with PCAOB standards and the auditor concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[5] Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism in performing an audit and preparing an auditor's report.[6]

7. When an auditor is engaged to perform an audit of management's assessment of the effectiveness of ICFR, the audit of ICFR should be integrated with the audit of the financial statements.[7] The objectives of the audits are not identical, however, and the auditor must plan and perform the work to achieve the objectives of both audits.[8]

8. In an integrated audit, an auditor should design its testing of controls to accomplish the objectives of both audits simultaneously: (1) to obtain sufficient evidence to support the auditor's opinion on ICFR as of year-end; and (2) to obtain sufficient evidence to support the auditor's control risk assessments for purposes of the audit of financial statements.[9] As part of evaluating the period-end financial reporting process, the auditor should assess, among other things, the extent of information technology ("IT") involvement in the period-end financial reporting process.[10] In addition, the auditor should "understand how IT affects the company's flow of transactions."[11] The auditor's identification of IT-related risk and controls is not a separate evaluation, but instead is "an integral part of the top-down approach used to identify significant accounts and disclosures and their relevant assertions, and the controls to test, as well as to assess risk and allocate audit effort. . . ."[12]

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5 *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion.*

6 *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work.*

7 *See* AS 2201.01 and 06, *An Audit of Internal Control Over Financial Reporting That is Integrated with An Audit of Financial Statements.*

8 *See* AS 2201.06.

9 *See* AS 2201.07.

10 AS 2201.27.

11 AS 2201.36; *see also* AS 2110.29, .B1 - .B6, *Identifying and Assessing Risks of Material Misstatement.*

12 AS 2201.36, Note.

9. Under PCAOB standards, an auditor should test the controls that are important to the auditor's conclusion about whether the company's controls sufficiently address the assessed risk of misstatement to each relevant assertion.[13] That testing should assess both the design and operating effectiveness of such controls.[14] If an auditor plans to assess control risk at less than the maximum and rely on controls for purposes of the financial statement audit, the auditor must obtain evidence that such controls were designed and operating effectively during the entire period upon which the auditor plans to place reliance on these controls.[15]

10. PCAOB standards further require that the auditor should evaluate the extent to which he or she will use the work of others to reduce the work the auditor might otherwise perform. If, in an integrated audit, the auditor determines to use the work of others, including management, the auditor must comply with AS 2605, *Consideration of the Internal Audit Function*.[16] To that end, the auditor should assess the competence and objectivity of the persons whose work the auditor plans to use to determine the extent to which the auditor can rely on that work.[17]

11. PCAOB standards require the auditor to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[18] To be appropriate, audit evidence must be both relevant and reliable.[19] The reliability of evidence depends on its nature and source and the circumstances under which it is obtained.[20] Evidence obtained from inquiry of issuer personnel is not on its own sufficient audit evidence.[21]

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13 AS 2201.39.

14 *See* AS 2201.42, .44.

15 *See* AS 2201.B4; *see also* AS 2301.16, *The Auditor's Responses to the Risks of Material Misstatement.*

16 *See* AS 2201.16.

17 *See* AS 2201.18.

18 *See* AS 1105.04, *Audit Evidence*.

19 *See* AS 1105.06.

20 *See* AS 1105.08.

21 *See* AS 1105.17, Note.

i. PKFOD Failed to Properly Test and Relied Inappropriately on Information Technology General Controls

12. PKFOD issued audit reports containing unqualified opinions on the financial statements and ICFR for the Issuer A Audit on March 7, 2019, and for the Issuer B Audit on November 25, 2019. These reports were included with the issuers' Forms 10-K filed with the Securities and Exchange Commission on March 7, 2019 and November 25, 2019, respectively. On both Audits, the engagement teams included IT audit personnel from the Firm's Risk Advisory Group, who tested the design and operating effectiveness of the issuers' information technology general controls ("ITGCs").[22] That testing, however, was insufficient as the engagement teams failed to perform procedures sufficient to test design effectiveness of the ITGCs and further failed to test the operating effectiveness of those same controls.

13. The IT audit personnel for both Audits made inquiries and obtained documents management used in its evaluation of ITGCs. The IT audit personnel used these documents to assess the design effectiveness of ITGCs but failed to perform procedures to test whether the controls identified, if operating effectively, satisfied the companies' control objectives and could effectively prevent or detect errors or fraud that could result in material misstatements in the companies' financial statements.[23] Further, the engagement teams' design effectiveness test work was flawed because neither the IT audit personnel nor anyone else on the engagement teams performed any procedures to assess the competence and objectivity of the issuers' management whose work they used in violation of PCAOB standards.[24]

14. Although the IT audit personnel concluded that the ITGCs were operating effectively, there is no evidence that the IT audit personnel performed procedures to test the operating effectiveness of the ITGCs.[25] Because the engagement teams did not test the operating effectiveness of the ITGCs, the Firm lacked the foundation for its reliance on those controls for other audit procedures.[26] As a result of the engagement teams' inappropriate reliance on ITGCs, neither engagement team modified the planned nature, timing or extent of

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[22] IT general controls are broad controls over general IT activities, such as security and access, computer operations, and systems development and system changes.

[23] *See* AS 2201.42 - .43.

[24] *See* AS 2201.16, .18.

[25] *See* AS 2201.44 - .45.

[26] *See* AS 2301.16.

their substantive procedures. This resulted in the engagement teams' failure to obtain sufficient evidence to support its opinions in violation of PCAOB standards.[27]

15. Accordingly, the Firm's failure to test, or sufficiently test, the design and operating effectiveness of ITGCs violated AS 2201 and AS 2301.

ii. PKFOD Failed to Properly Test the Accuracy and Completeness of Information Produced by the Issuers

16. When using information produced by the company as audit evidence, PCAOB standards require the auditor to evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to, among other things, test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information.[28]

17. In the Audits, the Firm repeatedly relied on reports provided by the issuers, including in areas identified as significant risks or fraud risks, such as revenue, long-lived assets, and management override of controls, without performing any procedures to test the accuracy and completeness of those reports. The Firm also failed, as described above, to properly test ITGCs related to the underlying systems that generated the reports. Accordingly, the Firm's use of issuer-produced reports as evidence violated PCAOB standards.[29]

iii. PKFOD Failed to Perform Sufficient and Appropriate Fraud Procedures

18. In addressing fraud risk related to management override of controls, PCAOB standards require the auditor to test the appropriateness of journal entries and other adjustments for evidence of possible material misstatement due to fraud.[30] When identifying and selecting specific journal entries and other adjustments for testing, the auditor should consider, among other things, (1) the auditor's assessment of the fraud risk, (2) the effectiveness of controls that have been implemented over journal entries and other adjustments, (3) the entity's financial reporting process and the nature of the evidence that can be examined, (4) the characteristics of fraudulent entries of adjustments, and (5) journal entries or other adjustments processed outside the normal course of business.[31] As noted above,

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27 *See* AS 2201.07; *see also* AS 2301.16.

28 *See* AS 1105.10, *Audit Evidence*.

29 *Id*.

30 *See* AS 2401.57 - .58, *Consideration of Fraud in a Financial Statement Audit*; *see also* AS 2110.69.

31 *See* AS 2401.61.

inquiry of company personnel, by itself, does not provide sufficient audit evidence to reduce audit risk to an appropriately low level for a relevant assertion.[32]

19. In both Audits, the engagement teams identified management override of controls as a fraud risk and planned to address that risk, in part, by performing procedures to test journal entries selected based on fraud criteria determined by the engagement teams. However, the engagement teams failed to perform sufficient procedures to test the completeness of the population of journal entries provided by management or to test the controls over the completeness of that information.[33] In the Issuer A Audit, the engagement team noted numerous gaps in the journal entry sequence in the report received from management, yet the Firm relied solely on management inquiry to evaluate the reasonableness of those gaps.[34] Moreover, neither engagement team tested the parameters used to generate the reports used to select journal entries for testing. Accordingly, neither engagement team had an appropriate foundation from which to select journal entries for testing.[35]

20. In both Audits, the engagement teams identified unique characteristics that they believed indicated possible fraudulent journal entries. However, despite identifying populations of journal entries that met those characteristics, neither engagement team addressed adequately the fraud risks presented by those populations. In the Issuer A Audit, the engagement team identified 1,074 journal entries that met its fraud characteristics, yet it tested only 40 journal entries. For the Issuer B Audit, the engagement team obtained a listing from the issuer of all journal entries for the fiscal year. The engagement team then scanned the list and selected 25 entries for testing. The engagement team did not document how many other entries met the criteria, but were not tested.

21. Despite the fraud risk associated with the entries that presented the engagement teams' characteristics of being fraudulent that were not tested and the judgment involved in determining not to test those entries, neither engagement team explained why the full populations of relevant entries were not tested or how the entries that were selected provided sufficient appropriate evidence to address the risk of fraud due to management override of controls.[36] As a result, the procedures performed did not sufficiently address the risk

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[32] *See* AS 1105.17, Note.

[33] *See* AS 1105.10.

[34] *See* AS 1105.17.

[35] *See* AS 1105.10.

[36] *See* AS 2401.57-.62, .83; AS 1105.04; AS 1015.07-.09.

of material misstatement due to management override of controls.[37] Accordingly, the Firm violated AS 1015, AS 1105, and AS 2401 in both Audits.

E. PKFOD Violated PCAOB Rules and Quality Control Standards

i. PKFOD's Quality Control Policies and Procedures Failed to Provide the Firm with Reasonable Assurance that the Work Performed by Engagement Personnel Meets Professional Standards

22. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[38] These standards require that a registered firm have a system of quality control for its accounting and auditing practice.[39] PCAOB quality control standards provide that a registered firm should establish policies and procedures "to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[40] Such policies should "encompass all phases of the design and execution of the engagement."[41] In addition, "[t]o the extent appropriate and as required by applicable professional standards, these policies and procedures should cover planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement."[42]

23. PKFOD failed to establish policies and procedures sufficient to provide reasonable assurance that the work performed by its engagement personnel met applicable professional standards, regulatory requirements, and the firm's standards of quality. PKFOD supplemented a third-party audit methodology with Firm-developed practice aids but failed to adequately evaluate whether the resulting methodology and related practice aids provided Firm personnel with sufficient guidance on the requirements for testing ITGCs or whether the Firm needed to supplement its methodology with additional guidance and templates to facilitate engagement teams' compliance with auditing standards. Moreover, the Firm failed to

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37 *See* AS 2401.57, .83.

38 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

39 *See* Quality Control Standard 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20"), .01.

40 QC § 20.17.

41 QC § 20.18.

42 *Id*.

require the use and partner review of certain Firm-developed practice aids on its integrated audits, including practice aids related to testing ICFR.

24. In performing the Audits, the engagement teams relied on a combination of third-party practice aids, Firm-developed practice aids, and "unwritten policies" to provide the necessary guidance to its personnel. However, the aids used failed to provide guidance or establish procedures for testing ITGCs. In addition, the Firm's "unwritten policies" were not sufficiently communicated to Firm personnel. As a result, neither the IT audit personnel nor other engagement team members understood how to properly test ITGCs, and document such testing.

25. Moreover, the engagement partners failed to properly supervise the work of the IT audit personnel. The engagement partners on the Audits did not provide the IT audit personnel with instructions or review their work as required under AS 1201, *Supervision of an Audit Engagement*.[43] Rather, the engagement partners simply outsourced the ITGC testing to the IT audit personnel. As a result, both engagement partners failed to identify or evaluate the potential control deficiencies identified by the IT audit personnel that were documented in the work papers.

26. At the time of the Audits, the Firm relied primarily on third-party checklists without tailoring or providing supplemental guidance on how to supervise, or the importance of supervising, IT audit personnel involved in issuer audit engagements. The Firm also failed to tailor or provide supplemental guidance to engagement partners on its issuer audits, and thus failed to adequately communicate the responsibility of the engagement partner to supervise the work of IT audit personnel.[44] Therefore, the engagement partners' failures to supervise the IT audit personnel directly stemmed from defects in the Firm's system of quality control.[45]

27. In addition, a Firm worksheet created to assist engagement personnel with complying with AS 2401 was not designed effectively. Specifically, engagement teams were not required to use the worksheet and those that used the worksheet were permitted to modify the worksheet to exclude procedures necessary to satisfy the requirements of AS 2401. As such, the design and implementation of this worksheet did not provide reasonable assurance that the Firm's personnel would comply with AS 2401. Moreover, the worksheet did not: (1) provide guidance on how to identify relevant characteristics of fraudulent journal entries, (2) instruct engagement teams to test the completeness and accuracy of the population of journal entries,

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43 *See* AS 1201.05.

44 *See* QC § 20.13.

45 *See* QC § 20.18.

or (3) provide guidance on how or whether engagement teams should implement sampling on journal entry testing to address fraud risks.[46] Because of the design defects in the worksheet and the lack of sufficient guidance elsewhere in the Firm's audit methodology, use of the worksheet failed to provide the Firm with reasonable assurance that engagement teams who completed it would comply with PCAOB auditing standards.[47]

ii. PKFOD's Quality Control Policies and Procedures Failed to Provide the Firm with Reasonable Assurance that Certain Personnel Assigned to Issuer Audits Participated in Training on PCAOB and SEC Requirements

28. PCAOB quality control standards provide that firms should establish policies and procedures to provide the firm with reasonable assurance that work is assigned to personnel having the degree of technical training and proficiency required in the circumstances and personnel participate in general and industry-specific continuing professional education that enable them to fulfill responsibilities assigned.[48]

29. Despite these requirements, during the periods under audit, PKFOD's policies and procedures failed to require personnel assigned to PCAOB audits, including its IT audit personnel, to participate in continuing professional education to ensure that such individuals received periodic technical training related to relevant PCAOB standards and SEC reporting requirements, rules, and regulations. Although the Firm provided annual PCAOB updates in January of each year, the Firm's quality control policies and procedures did not require personnel assigned to issuer audits, including IT audit personnel, to attend these updates or any other trainings on PCAOB standards. Further, none of the staff assigned to the audits were required to participate in training on auditing ICFR, including ITGCs, or how to supervise the work of IT audit personnel. Accordingly, the Firm's policies and procedures did not provide reasonable assurance that personnel assigned to issuer audits participated in continuing professional education to enable them to fulfill the responsibilities assigned to them or that work was being assigned to personnel having the degree of technical training and proficiency required to perform audits under PCAOB standards.

30. Because the Firm failed to ensure that its personnel received appropriate training on PCAOB and SEC requirements, it was unable to ensure that work was assigned to personnel having the degree of technical training and proficiency required in the circumstances and that personnel participated in general and industry-specific continuing professional

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46 *See* AS 2401.61.

47 *See* QC §§ 20.17 -.18.

48 *See* QC § 20.13.

education that enabled them to fulfill their assigned responsibilities. Accordingly, the Firm violated QC §§ 20.13.

iii. PKFOD Failed to Perform Sufficient and Appropriate Internal Monitoring to Ensure Its System of Quality Control Was Operating Effectively

31. PCAOB quality control standards provide that one required element of a quality control system is monitoring.[49] Monitoring involves an ongoing consideration and evaluation of the: (a) relevance and adequacy of the firm's policies and procedures; (b) appropriateness of the firm's guidance materials and any practice aids; (c) effectiveness of professional development activities; and (d) compliance with the firm's policies and procedures.[50] Monitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective.[51]

32. During 2019, PKFOD relied on retrospective monitoring activities performed by the Firm, including inspections and post-issuance reviews (together "Internal Inspections"), as its primary monitoring activities. However, the Firm failed to effectively design and implement those procedures. PKFOD's quality control policies and procedures required that the Firm perform Internal Inspections of a sample of audits annually from a cross-section of the Firm's engagements, including PCAOB engagements. The Firm's policies and procedures required that inspectors have "adequate technical knowledge and experience." Despite this requirement, the Firm failed to perform procedures to confirm that the individual assigned had the requisite knowledge, skills, and abilities to perform the Internal Inspections of PCAOB engagements including integrated audits.[52] The Firm's policies and procedures also required the use of monitoring checklists; however, the Firm failed to design or implement procedures to ensure that the individual performing the Internal Inspections selected appropriate monitoring checklist(s).

33. During its 2019 internal monitoring process, PKFOD's Quality Control Administration committee ("QCA") selected the Issuer A Audit for Internal Inspection. The Firm contracted with a retired audit partner from PKFOD's predecessor firm ("Individual A") to perform the inspection of Issuer A. Individual A was not a licensed CPA at the time of the inspection, had not been a member of a public accounting firm in nearly 20 years, and had never served as an engagement partner on or participated in an integrated audit performed

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49 *See* QC § 20.07.

50 QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

51 QC § 30.03.

52 *See* QC § 30.08.

under PCAOB standards. Despite not having adequate technical knowledge and experience to conduct an inspection of an integrated audit, Individual A was assigned to conduct the Internal Inspection of the Issuer A Audit.

34. At the outset, Individual A failed to identify that the inspection checklist used was for audits not subject to PCAOB jurisdiction. Individual A also incorrectly indicated on the checklist that the Issuer A Audit was a financial statement audit only. Moreover, Individual A's inspection was cursory at best. Out of the 190 substantive questions on the checklist, Individual A responded to only five and selected "N/A" to a question asking whether the auditor complied with the applicable independence and quality controls standards of the PCAOB. Significantly, Individual A did not identify any of the deficiencies in the Issuer A Audit discussed in this Order, including the engagement team's failure to: (1) test appropriately the design and operating effectiveness of ITGCs, (2) test the accuracy and completeness of company-produced information, and (3) perform sufficient and appropriate procedures to respond to fraud risks.

35. While the deficiencies in Individual A's inspection may have resulted from a lack of technical knowledge or experience in auditing under PCAOB standards, the Firm's quality control policies and procedures contributed to the deficiencies. For example, the third-party checklist the Firm required and used for all internal inspections noted in bold italics on the first page that it was intended for reviews of audits that were not subject to PCAOB standards. The checklist also provided a list of the types of audits that would fall within that category, which excluded issuer audits. Furthermore, the checklist mentioned a general audit engagement checklist and financial reporting and disclosure checklist that should be completed on all audits, as well as checklists for specialized industries and areas that should be completed if applicable; however, the Firm did not require Individual A to, nor did he, complete any additional checklists.

36. Moreover, the Firm's required checklist was deficient because it did not include questions addressing certain of the determinations the Firm's quality control policies and procedures identified as within the scope of an inspection, including whether the "[t]he Firm's guidance materials and practice aids are appropriate and checklists, forms, programs, or other documentation required by the Firm's QC System have been properly completed."

37. Finally, in its quality control policies and procedures, the Firm described a process for accumulating the results of the inspections and reporting those to its QCA and then

ultimately to the partners and staff of the Firm. Yet that reporting process failed to note any of the deficiencies in Individual A's review.[53]

38. Because the Firm's defective internal inspections were its primary monitoring procedures, the Firm violated QC §§ 30.02-.03 and QC §20.20.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation through its substantial assistance to the PCAOB's investigation and voluntary and timely remedial actions to address the violations described in this Order. Specifically, the Firm performed and provided to the PCAOB an analysis of the causes of the violations set forth in this Order; provided to the PCAOB information from a third-party consultant's review of the Firm's journal entry testing, testing of ICFR, and testing of the design and operating effectiveness of ITGCs related to certain of the Firm's issuer audits; and made initial revisions to its Quality Control Manual. In addition, the Firm provided continuing professional education to members of the Firm's PCAOB practice team and members of the Firm's IT team.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), PKF O'Connor Davies LLP is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $40,000 is imposed on the Firm. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies PKFOD as a

[53] *See* QC § 30.08.

respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

C. Pursuant to Sections 105(c)(4)(C) and (G) of the Act and PCAOB Rules 5300(a)(3), (8) and (9), the Board orders that:

1. Self-Assessment

    a. PKFOD shall undertake a self-assessment of its system of quality control to ensure its current policies and procedures are compliant with PCAOB quality control standards.

2. Independent Consultant

    a. PKFOD shall retain and pay for an independent consultant not unacceptable to the PCAOB staff who has the experience with, and is knowledgeable concerning, PCAOB quality control and auditing standards ("Independent Consultant") to review PKFOD's system of quality control applicable to audits and reviews conducted pursuant to PCAOB standards. Within thirty days after the entry of this Order, PKFOD shall submit to the PCAOB staff a proposal setting forth the identity, qualifications, and proposed terms of retention of the Independent Consultant.

    b. To ensure the independence of the Independent Consultant, PKFOD: (i) shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the PCAOB staff; (ii) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

    c. PKFOD shall cooperate fully with the Independent Consultant and shall provide reasonable access to its personnel, information, and records as the Independent Consultant may reasonably request for the Independent Consultant's review, evaluation, and reports.

d. If PKFOD, despite its best, good faith efforts, is unable to identify an Independent Consultant candidate that meets all of the above-listed criteria, it may seek approval from the PCAOB staff of alternative candidates or alternative terms that PKFOD believes to be otherwise suitable.

e. Within 90 days of this Order, PKFOD will review, evaluate, and implement, under the supervision of the Independent Consultant, any necessary enhancements to PKFOD's quality control policies and procedures applicable to audits and reviews conducted pursuant to PCAOB standards. If, as a result of that review and evaluation, it appears to the Independent Consultant that any further enhancements to the system of quality control are necessary, it shall recommend such enhancements to PKFOD.

f. Within 180 days of this Order, PKFOD shall (1) implement any recommendations received from the Independent Consultant, pursuant to Paragraph IV.C.2.e, and (2) require the Independent Consultant to review a sample of the Firm's most recent integrated audits to ensure those audits comply with PCAOB auditing standards and that those integrated audits were conducted in accordance with PCAOB quality control standards and the Firm's revised Quality Control Manual. If PKFOD does not implement recommendations received from the Independent Consultant pursuant to Paragraph IV.C.2.e, it shall communicate to the Director of the Division of Enforcement and Investigations the recommendations of the Independent Consultant it did not implement and the reasons for doing so.

3. Firm Certification

a. Within 270 days of the date of this Order, PKFOD shall certify in writing to the Director of the Division of Enforcement and Investigations, PCAOB, 1666 K Street N.W., Washington, DC 20006, the Firm's compliance with the above paragraphs. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The certification shall include a description of the specific enhancements implemented to PKFOD's system of quality control since the time of the conduct described in

this Order. PKFOD shall also submit such additional evidence of and information concerning as the staff of the Division of Enforcement and Investigations may reasonably request.

b. For good cause shown, the PCAOB staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

c. PKFOD understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

January 25, 2022

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of PricewaterhouseCoopers LLP,

Respondent.

PCAOB Release No. 105-2022-002

February 24, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon PricewaterhouseCoopers LLP ("PwC Canada," the "Firm," or "Respondent"). The Board is:

(1) censuring the Firm;

(2) imposing a $750,000 civil money penalty on the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that PwC Canada violated PCAOB rules and quality control standards over several years in connection with the Firm's internal training program.

In ordering these sanctions, the Board took into account the Firm's extraordinary cooperation in this matter, including self-reporting and remedial actions, as described in more detail below.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **PricewaterhouseCoopers LLP** is an unincorporated partnership in Canada and is headquartered in Toronto, Ontario. It is a member firm of the PricewaterhouseCoopers International Limited global network of firms ("PwC Global"). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm served as the principal auditor for over 55 issuer audit clients. Additionally, at all relevant times, the Firm performed audit work that other PCAOB-registered firms, including member firms of PwC Global, used or relied on in issuing audit reports for their issuer clients.

B. Summary

2. From at least 2016 until early 2020, PwC Canada violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing internal training tests, including tests designed to help the Firm's audit professionals satisfy the requirements for maintaining their accounting certifications. Those quality control failures prevented the Firm from identifying that more than 1,200 Firm professionals were involved in improper answer sharing—either by providing or receiving answers—in connection with tests for mandatory internal training courses covering topics that included auditing, accounting, and professional independence. More than 1,100 of these professionals were from the Firm's Assurance practice.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

3. After discovering the training-related misconduct in January 2020, PwC Canada reported the matter to the PCAOB and began implementing remedial policies and procedures.

C. PwC Canada Violated PCAOB Rules and Standards

i. Applicable PCAOB Rules and Quality Control Standards

4. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[2] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[3]

5. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[4] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[5] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[6]

6. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[7] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[8] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among

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2 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

3 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

4 QC § 20.09.

5 QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

6 QC § 20.13.c; QC § 40.02.c.

7 QC § 20.08.

8 *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[9]

ii. Training Requirements for PwC Canada Personnel

7. As part of PwC Canada's personnel management system, the Firm administers an internal training program for all of its professionals. The Firm has designed its training program to serve multiple purposes, including to provide Firm personnel with technical instruction, to further their professional development, and to satisfy some of the continuing professional education requirements imposed by the accountancy boards that grant CPA certifications to the Firm's auditors. The Firm's training requirements vary by each professional's position, role, and industry practice area, and are intended to be relevant to, among other things, the independence of its personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. The Firm's internal training often includes a testing component.

8. Since at least 2016, the Firm has utilized an online platform to offer training to its personnel. The platform enables the Firm to deliver, track, and record completion of mandatory training and testing. The platform records the dates and times when personnel access and complete mandatory training and testing. For training courses with a testing component, the Firm does not credit personnel with completing the training until they satisfactorily pass the related test.

9. Since at least 2016, the Firm has required all personnel to take certain online courses, including courses containing content regarding professional independence and performing professional responsibilities with integrity. These courses include a testing component at the end. During the same period, the Firm has also administered a number of online courses related to auditing and accounting. The particular courses the Firm's auditors must take vary based on their experience levels. Many of these audit-related courses include a testing component and are mandatory for the Firm's audit personnel.

iii. Failures by PwC Canada to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

10. Between 2016 and early 2020, PwC Canada had in place certain quality control policies and procedures intended to address integrity and personnel management. None of those policies and procedures, however, were designed to provide reasonable assurance that Firm personnel acted with integrity when taking internal training tests. In fact, on only one occasion between 2016 and early 2020 did the Firm formally advise its Assurance personnel

[9] *See* QC § 20. 20.c-.d; QC § 30.02.c-.d.

that they should perform training tests on their own. During this time period, the Firm also employed certain monitoring procedures related to internal training, but those procedures were limited to tracking completion of courses and related tests. The monitoring procedures were not designed to detect other compliance issues, such as answer sharing.

11. As described below, these policies and procedures were inadequate to prevent or detect the extensive answer sharing on training tests that occurred among Firm personnel over multiple years.

iv. Widespread Sharing of Answers to Training Tests at PwC Canada

12. From at least 2016 to early 2020, more than 1,200 PwC Canada personnel were involved in improper answer sharing related to training tests. Firm personnel primarily shared answers through use of several shared drives that professionals had created on the Firm's computer network (the "Shared Drives"), and on which professionals had posted the answers for others to view and provide supplemental answers. In addition, individuals shared answers by sending emails with attached documents containing answers to training test questions, by providing answers in hard copy documents, or by discussing answers when taking tests in the presence of others.

13. Instances of improper answer sharing primarily occurred in connection with tests that were a part of the Firm's mandatory Assurance training. The Shared Drives contained answers for at least 46 of the Firm's approximately 55 mandatory Assurance tests, as well as answers for some mandatory Firm-wide tests containing content concerning professional integrity and professional independence.

14. Improper sharing of training test answers occurred among junior staff, managers, directors, and partners at the Firm. After Firm leadership learned of the practice, it conducted an internal investigation. The Firm's investigation revealed that the misconduct was widespread within the Firm's audit practice, including among those who performed work on audits governed by PCAOB standards. At least 1,100 professionals in the Firm's Assurance practice were involved in answer sharing.

15. As illustrated by the misconduct described above, from 2016 to early 2020, PwC Canada failed to establish policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) Firm personnel performed all professional responsibilities with integrity; (2) personnel to whom work was assigned had the degree of technical training and proficiency required in the circumstances; and (3) personnel participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements

of regulatory agencies. Accordingly, the Firm violated PCAOB quality control policies related to integrity and personnel management.[10]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation in this matter.[11] The Firm voluntarily self-reported the matter to PCAOB staff after learning about the misconduct. Additionally, the Firm promptly instituted remedial measures, including conducting periodic searches across certain Firm systems to identify improper answer sharing, and requiring personnel to re-take certain training and testing. Absent the Firm's extraordinary cooperation, the civil money penalty imposed would have been significantly larger, and the Board may have imposed additional sanctions.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), PricewaterhouseCoopers LLP is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty of $750,000 on PricewaterhouseCoopers LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. PricewaterhouseCoopers LLP shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, certified check, bank cashier's check, or bank money order (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (c) submitted under a cover letter which identifies PricewaterhouseCoopers LLP as the Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W.

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[10] *See* QC § 20.09, .13.b-.c, .20; QC § 30.02; and QC § 40.02.b-.c.

[11] *See Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations,* PCAOB Rel. No. 2013-003 (Apr. 24, 2013).

Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), PricewaterhouseCoopers LLP is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (a) personnel perform all internal training and tests associated with such training with integrity; (b) personnel to whom work has been assigned have the degree of technical training and proficiency required in the circumstances; (c) personnel participate in general and industry-specific continuing professional education that enable them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies; and (d) the above-described policies and procedures are suitably designed and are being effectively applied.

2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1. above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. PricewaterhouseCoopers LLP shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 24, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of BMKR LLP and Joseph Mortimer, CPA,

Respondents.

PCAOB Release No. 105-2022-003

February 24, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) revoking the registration of BMKR LLP ("BMKR" or the "Firm"), a registered public accounting firm;[1]

(2) imposing a $20,000 civil money penalty on BMKR;

(3) barring Joseph Mortimer ("Mortimer") from being associated with a registered public accounting firm;[2] and

(4) imposing a $10,000 civil money penalty on Mortimer.

The Board is imposing these sanctions on BMKR and Mortimer (collectively, "Respondents") on the basis of its findings that: (a) Respondents violated PCAOB rules and auditing standards in connection with the audits of two issuers; (b) BMKR violated PCAOB rules

[1] BMKR may reapply for registration after two years from the date of this Order.

[2] Mortimer may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

and quality control standards; and (c) Mortimer violated PCAOB Rule 3502 by directly and substantially contributing to BMKR's violations of PCAOB rules and quality control standards.[3]

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds that:[5]

A. Respondents

1. **BMKR LLP** is a limited liability partnership organized under the laws of the State of New York with headquarters in Hauppauge, New York. The Firm was, at all relevant times,

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[3] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits and reviews discussed herein.

[4] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

licensed in the state of New York (License No. 058798). The Firm is, and at all relevant times was, registered with the PCAOB pursuant to Section 102 of the Act and PCAOB rules.

2. **Joseph Mortimer** is a partner of the Firm. He is a certified public accountant licensed by the State of New York (License No. 055916). Mortimer is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuers

3. Issuer A is, and at all relevant times was, a Florida corporation headquartered in Hicksville, New York. Its public filings disclosed that it develops and sells products containing Cannabidiol, produces hemp biomass, licenses medical devices, and sells non-CBD products such as sunscreen and lip balm. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. Issuer B was, at all relevant times, a Nevada corporation headquartered in Mississauga, Ontario. Its public filings disclosed that it manages e-commerce transportation and logistics for third parties. At all relevant times, Issuer B was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the audits of Issuer A for the fiscal year ended ("FYE") December 31, 2019, and Issuer B for the FYE July 31, 2019 (the "2019 Audits"). Mortimer, as the only Firm partner performing issuer audits at the time, led the Firm's issuer audit practice and served as engagement partner on the 2019 Audits. As detailed below, Respondents violated PCAOB rules and standards by failing to: (1) properly evaluate whether the issuers' accounting for certain significant transactions was in conformity with U.S. Generally Accepted Accounting Principles ("GAAP") and (2) perform any testing of certain equity transactions.

6. This matter also concerns the Firm's violations of PCAOB rules and quality control standards between 2016 and 2019, and Mortimer's direct and substantial contribution to certain of those violations. Specifically, the Firm failed to: (1) maintain a system of quality control sufficient to provide the Firm with reasonable assurance that the engagement teams performed issuer audits in accordance with applicable professional standards and regulatory requirements; and (2) establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures were suitably designed and were being effectively applied.

D. Respondents Violated PCAOB Rules and Auditing Standards in Connection with the 2019 Audits

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[7] Among other things, PCAOB standards require an auditor to exercise due professional care in the planning and performance of the audit and the preparation of the report, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[8]

8. PCAOB standards further require that auditors evaluate whether the financial statements contain the information essential for a fair presentation of the financial statements in conformity with the applicable financial reporting framework.[9] In addition, PCAOB standards require that the auditor evaluate whether the fair value measurements and disclosures in the financial statements are in conformity with GAAP.[10]

i. Audit of Issuer A's 2019 Financial Statements

9. The Firm issued an audit report dated March 26, 2020, containing an unqualified audit opinion on Issuer A's financial statements for the FYE December 31, 2019. Mortimer, as the engagement partner, authorized the Firm's issuance of the audit report, which was included in Issuer A's Form 10-K filed with the Commission on April 2, 2020.

10. In its Form 10-K, Issuer A reported net intangible assets, total assets, revenues, and net loss of approximately $1.1 million, $6.9 million, $2.3 million, and $4.6 million, respectively. It also disclosed that in January 2019, it purchased technology from a company in

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[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[7] *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

[8] *See* AS 1015.01, .07, *Due Professional Care in the Performance of Work*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 1105.04, *Audit Evidence*.

[9] *See* AS 2810.31, *Evaluating Audit Results*.

[10] *See* AS 2502.15, *Auditing Fair Value Measurements and Disclosures*.

exchange for 7.5 million shares of Issuer A's common stock. The shares were issued to the owner of the company and valued at $131,625, reflecting the book value of those shares. Issuer A recorded $131,625 of intangible assets in its financial statements.

11. During the 2019 audit, Respondents failed to evaluate whether Issuer A's accounting for the acquired technology was recorded in conformity with GAAP. GAAP requires that assets acquired be measured at either the fair value of the consideration given or the fair value of the assets acquired, whichever is more clearly evident.[11] Respondents obtained the relevant agreement and agreed the purchase price to that agreement. In addition, Respondents determined that the fair value of the common stock issued was $510,000, a difference of $378,375 from book value. Respondents failed, however, to evaluate whether the assets acquired, recorded by Issuer A at the book value of the shares, were accounted for in conformity with GAAP.[12]

12. In its Form 10-K, Issuer A also disclosed that in December 2019, it acquired 51% of the issued and outstanding equity interest of a business in exchange for 37.5 million shares of common stock. Although Issuer A acquired 51% of the outstanding equity, it recorded only inventory, totaling $487,500, related to this acquisition in its 2019 financial statements. In addition, the acquisition agreement required that if the 37.5 million shares issued were valued at less than $1 million, Issuer A would issue additional shares to ensure that the total value of the shares issued equaled $1 million.

13. During the 2019 audit, Respondents failed to evaluate whether Issuer A's accounting for the acquisition was recorded in conformity with GAAP. Generally, GAAP requires that an acquisition be treated as a business combination when the acquirer obtains control of the business.[13] If the acquisition is not determined to be a business combination, then it is recorded as an asset acquisition and the entity applies the acquisition method.[14] Although Respondents obtained the share purchase agreement and recalculated the value of inventory acquired, they failed to evaluate whether the acquisition, accounted for as a purchase of inventory and documented in the workpapers as "essentially purchas[ing] . . . inventory," was recorded in conformity with GAAP.[15]

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[11] *See* Financial Accounting Standards Board Accounting Standards Codification Topic ("ASC") 805-50-30-2, *Business Combinations*.

[12] *See* AS 2810.30-.31.

[13] *See* ASC 805-10-25-1.

[14] *Id*.

[15] *See* AS 2810.30-.31.

14. In its Form 10-K, Issuer A disclosed that throughout the year it issued 17 million options of its common stock to a former officer and certain directors, which Issuer A valued in the aggregate at $381,000. Respondents assessed the combined risk of material misstatement as high for equity transactions. Nevertheless, other than obtaining management representations, Respondents failed to perform any audit procedures to test whether the issued stock options were properly valued and properly disclosed in accordance with PCAOB standards.[16]

15. Accordingly, Respondents violated AS 1015, AS 1105, AS 2301, AS 2502, and AS 2810 by failing to: (1) exercise due professional care and professional skepticism; (2) evaluate whether the financial statements were presented fairly and in conformity with GAAP; and (3) perform audit procedures to test stock options.

ii. Audit of Issuer B's 2019 Financial Statements

16. The Firm issued an audit report dated January 15, 2020, containing an unqualified audit opinion on Issuer B's financial statements for the FYE July 31, 2019. Mortimer, as the engagement partner, authorized the Firm's issuance of the audit report, which was included in Issuer B's Form 10-K filed with the Commission on January 16, 2020.

17. In its Form 10-K, Issuer B disclosed that it issued 8 million shares of Series D Preferred Stock, which Issuer B valued at approximately $8,000, recorded at par value.[17] Generally, GAAP requires that share-based payment transactions be measured based on the fair value of the equity instruments issued.[18] Although Respondents obtained the relevant agreement and recalculated the par value of the issued stock, they failed to evaluate whether Issuer B's accounting for the preferred stock was in conformity with GAAP.[19]

18. Accordingly, Respondents violated AS 1015 and AS 2810 by failing to: (1) exercise due professional care and professional skepticism; and (2) evaluate whether the financial statements were presented fairly and in conformity with GAAP.

19. On November 17, 2020, Issuer B disclosed in its Form 10-K for the FYE July 31, 2020, that it had restated its financial statements for FYE July 31, 2019 "to correct the valuation

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16 *See* AS 2301.08; AS 2502.15; 1105.04; 1105.11.

17 "Par value" (a/k/a "nominal value") is the value of a single share as set by a corporation's charter and is not typically related to the actual value of the share. For this particular transaction, the par value was $0.001 per share.

18 *See* ASC 718, *Compensation – Stock Compensation*.

19 *See* AS 2810.30-.31.

of shares issued for services," after having determined that the shares should have been recorded at fair value rather than par value. The restatement increased operating expenses and net loss by approximately $4.77 million.

E. The Firm Violated PCAOB Rules and Quality Control Standards

20. PCAOB rules and standards require that a registered firm have a system of quality control for its accounting and auditing practice.[20] A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and procedures established to provide the firm with reasonable assurance of complying with professional standards.[21] A firm's system of quality control should, among other things, include policies and procedures for engagement performance and monitoring.[22] Specifically, a firm should establish policies and procedures for engagement performance to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[23] A firm should also establish policies and procedures for monitoring to provide the firm with reasonable assurance that its quality control policies and procedures are suitably designed and are being effectively applied.[24]

21. From 2016 through 2019, the Firm failed to establish and maintain policies and procedures that provided reasonable assurance that its personnel complied with applicable professional standards and regulatory requirements. Specifically, the Firm's quality control system failed to ensure, in multiple instances, that Firm personnel evaluated whether its issuer clients' financial statements were presented fairly and in conformity with GAAP. In addition, the Firm was aware of significant engagement deficiencies in its prior years' audits inspected by the PCAOB in 2016 and 2018, related to its testing of purchase accounting and equity transactions. During the 2016 inspection, the PCAOB inspectors notified the Firm of significant engagement deficiencies related to the engagement team's testing of, among other things, purchase accounting. During the 2018 inspection, the PCAOB inspectors notified the Firm of significant engagement deficiencies related to the engagement team's testing of, among other things, equity transactions. Despite knowing about significant engagement deficiencies regarding these issues, the Firm failed to effectively implement policies and procedures to provide it with

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[20] *See* PCAOB Rule 3400T, *Interim Quality Control Standards*; QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[21] *See* QC § 20.04.

[22] QC § 20.07.

[23] QC § 20.17.

[24] *See* QC § 20.20; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

reasonable assurance that its engagement personnel would comply with applicable professional standards in violation of QC § 20.

22. In addition, although the Firm's written policies in place during the 2019 Audits stated that an integral part of its monitoring process for its system of quality control would be annual internal inspections, since at least 2016, the Firm failed to undertake any internal inspections or other monitoring procedures with respect to its PCAOB issuer audits. As a result, the Firm violated QC §§ 20 and 30 by failing to have monitoring procedures to enable the Firm to obtain reasonable assurance that its system of quality control was effective.

F. Mortimer Directly and Substantially Contributed to BMKR's Quality Control Violations

23. PCAOB Rule 3502 states that "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[25]

24. At the time of the 2016 and 2018 PCAOB inspections, Mortimer served as one of three partners at BMKR and, since September 2019, was responsible for overseeing the Firm's system of quality control. Mortimer also performed engagement quality reviews on the Firm's prior years' audits inspected by the PCAOB in 2016 and 2018. In addition, Mortimer served as the engagement partner on the 2019 Audits. In his management roles, Mortimer was responsible, at least in part, for the Firm's system of quality control, and was aware of the PCAOB inspection findings identifying deficiencies discussed above. Yet Mortimer knowingly failed to take appropriate actions to provide reasonable assurance that the Firm's policies and procedures were suitably designed and being effectively applied. Specifically, Mortimer, as the partner in charge of the Firm's system of quality control and the engagement partner on the 2019 Audits, was in a position to ensure that the Firm complied with PCAOB rules and standards.

25. As a result, Mortimer knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of PCAOB quality control standards in violation of Rule 3502.

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[25] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of BMKR LLP is revoked;

B. After two years from the date of this Order, BMKR LLP may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Joseph Mortimer is barred from being an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[26]

D. After two years from the date of this Order, Joseph Mortimer may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon BMKR LLP, and a civil money penalty in the amount of $10,000 is imposed upon Joseph Mortimer. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay the civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C.

[26] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Mortimer. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***By consenting to this Order, Respondents acknowledge that a failure to pay the civil money penalty described above may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b) or a reapplication for registration pursuant to PCAOB Rule 2101.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 24, 2022

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Scott Marcello, CPA,

Respondent.

PCAOB Release No. 105-2022-004

April 5, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or PCAOB) is:

(1) censuring Scott Marcello, CPA ("Marcello" or "Respondent"); and

(2) imposing a civil money penalty of $100,000 on Marcello.

The Board is imposing these sanctions on the basis of its finding that, pursuant to Section 105(c)(6) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), Marcello failed reasonably to supervise associated persons of KPMG LLP ("KPMG") who illegally obtained and used confidential PCAOB information in violation of PCAOB rules and provisions of the securities laws related to the preparation and issuance of audit reports and the obligations and liabilities of accountants, including Securities and Exchange Commission ("Commission") rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(2) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of

these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Scott Marcello** is a certified public accountant licensed in the states of Florida (license no. AC17907 (active)), Connecticut (license no. CPAL.0010221(inactive)), and New York (license no. 087367 (inactive)). Marcello served as the Vice Chair of Audit for KPMG from July 2015 until April 2017 and, at all relevant times, was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Marcello was separated from KPMG in April 2017.

B. Summary

2. This matter concerns Marcello's failure reasonably to supervise senior members of KPMG's audit practice who unlawfully obtained and used confidential PCAOB information.[2] Under Marcello's supervision, several of his subordinates, including his direct report, KPMG's National Managing Partner for the Professional Practice Group, obtained confidential lists of the audits that the PCAOB would select for review during its 2016 and 2017 inspections of KPMG. Marcello's subordinates used the 2016 confidential information to enhance the audit documentation for the engagements on those lists in an attempt to improve KPMG's inspection results. The conduct of Marcello's subordinates violated PCAOB rules and securities laws related to the preparation and issuance of audit reports and the obligations and liabilities of accountants, including Commission rules.[3]

3. Pursuant to Section 105(c)(6) of the Act, Marcello, as a supervisory person of KPMG, failed to take sufficient and appropriate steps to reasonably supervise his subordinates with a view to preventing their misconduct.

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[1] The findings herein are made pursuant to the Offer and are not binding on any other person or entity in this or any other proceeding.

[2] *See KPMG LLP*, SEC Exchange Act Rel. No. 86118 (June 17, 2019).

[3] *See, e.g.*, *David Britt, CPA*, SEC Exchange Act Rel. No. 92514 (July 28, 2021); *Thomas Whittle, CPA*, SEC Exchange Act Rel. No. 92513 (July 28, 2021); *David Middendorf, CPA*, SEC Exchange Act Rel. No. 87969 (Jan. 15, 2020); *Cynthia Holder, CPA*, SEC Exchange Act Rel. No. 87642 (Nov. 29, 2019); *Brian Sweet, CPA*, SEC Exchange Act Rel. No. 82557 (Jan. 22, 2018).

C. Marcello Failed Reasonably to Supervise KPMG Personnel Who Obtained and Used PCAOB Confidential Information

i. Applicable Law

4. Section 105(c)(6) of the Act provides that the Board may impose sanctions on a supervisory person of a registered public accounting firm if the Board finds that an associated person of the firm commits certain violations (hereafter, "predicate violations") and "the firm has failed reasonably to supervise [that] associated person, either as required by the rules of the Board relating to auditing or quality control standards, or otherwise, with a view to preventing" such violations.

5. As Vice Chair of Audit, Marcello was in charge of KPMG's audit practice and he had responsibility for implementation and monitoring of KPMG's audit-related quality control policies and procedures. As a result, Marcello was a "supervisory person" of KPMG, as that term is used in Section 105(c)(6) of the Act. As described below, Marcello failed reasonably to supervise several KPMG associated persons who committed predicate violations.

ii. Background: PCAOB Inspection Process and KPMG's Inspection Results

6. The Act directs the Board to conduct a continuing program of inspections to assess registered public accounting firms' compliance with applicable laws, rules and professional standards during the period covered by an inspection.[4] Board inspections are designed to identify and address weaknesses and deficiencies related to how a firm conducts its issuer and broker-dealer audits. To achieve that goal, Board inspections include an evaluation of a firm's performance in selected audit engagements, as well as an evaluation of the design and operating effectiveness of the firm's quality control policies and procedures. Registered firms that issue audit reports for more than 100 issuers, including KPMG, are required to be inspected by the PCAOB annually.[5]

7. To ensure the integrity of the inspection process, the Board closely guards the confidentiality of its inspection selections. Typically, the Board's Division of Registration and Inspections ("DRI") does not reveal those selections to the firm under inspection until after the

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4 *See* Act § 101(c)(3), 15 U.S.C. § 7211(c)(3); *id.* § 104(a)(1), 7214(a)(1).

5 *See id.* § 104(a)(1), § 7214(b)(1)(A).

"documentation completion dates" for the audits being reviewed and shortly before beginning its inspection field work procedures.[6]

8. Between 2010 and 2014, the rate of deficiencies that the Board identified in the KPMG audits that it reviewed increased each year. More specifically, the percentage of inspected audits in which the Board found that KPMG had failed to obtain sufficient evidence to support its audit opinions (or had failed to fulfill the objectives of its role when it was assigned work by another auditor) steadily increased, from 22 percent in the 2010 inspection to 54 percent in the 2014 inspection.

9. Many of the deficiencies the Board identified during its inspections concerned KPMG's audits of banks and, in particular, the KPMG engagement teams' evaluation of allowances, *i.e.*, reserves, that KPMG's banking clients had recorded for potential losses in their loan portfolios.

10. In light of this inspection history, KPMG determined to take various steps to attempt to improve its results in future PCAOB inspections. One of those steps was to recruit to the Firm personnel from DRI, including individuals who had participated in inspections of KPMG and had identified deficiencies in certain of the Firm's audit work. In May 2015, KPMG hired Brian Sweet as a partner. Immediately prior to joining KPMG, Sweet worked in DRI. While at the PCAOB, Sweet, who had experience auditing and inspecting the audits of banks, was part of the team that inspected KPMG.

iii. Predicate Violations by KPMG's Associated Persons

11. In July 2015, two months after Sweet joined KPMG, the Firm appointed Marcello as Vice Chair of Audit. In his role as Vice Chair, Marcello supervised KPMG's audit practice, which included the Department of Professional Practice ("DPP"), headed by David Middendorf.

12. DPP included an Inspections group responsible for overseeing KPMG's participation in PCAOB inspections. Thomas Whittle, who reported to Middendorf, headed this Inspections group. David Britt, another partner in KPMG's DPP and the co-leader of the Firm's Banking and Capital Markets group, reported to KPMG's Chief Auditor, who, in turn, reported to Middendorf.

[6] Under PCAOB standards, a "complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)." AS 1215.15, *Audit Documentation*.

13. When Sweet joined KPMG, he became part of DPP's Inspections group, reporting to Whittle. After several months at the Firm, Sweet recruited Cynthia Holder, a former colleague from the PCAOB, to join him in KPMG's Inspections group.

14. Between 2015 and February 2017 (both before and after Marcello became Vice Chair of Audit), Middendorf, Whittle, Britt, Sweet, and Holder obtained and used confidential PCAOB inspection information to improve KPMG's inspection results, including for banking clients. The scheme included using an employee at the PCAOB to provide confidential lists of PCAOB inspection selections and inspection focus areas so that KPMG could target resources to those audits in advance of PCAOB inspections.

15. In March 2016, Holder obtained from a PCAOB inspector, Jeffrey Wada, a list of several KPMG issuer clients, mostly banks, whose audits the PCAOB intended to review as part of its 2016 inspection of the Firm (the "2016 Inspections List"). Holder shared the 2016 Inspection List with Sweet, who, in turn, informed Middendorf, Whittle, and Britt of it.

16. Upon receiving that confidential information, Middendorf, Whittle, and Britt instructed Sweet and others to perform examinations of the audit work papers for seven banking clients on the 2016 Inspections List outside of KPMG's normal processes. The reviews consisted of partners outside of the engagement teams re-reviewing the audit work papers of the seven banking clients after KPMG's audit reports had been issued for those clients, but before the respective documentation completion dates for the audits. The re-reviews uncovered problems with audit documentation as well as concerns about substantive audit issues, which Middendorf, Whittle, and the others attempted to have addressed in hopes of improving KPMG's inspection results.

17. In early February 2017, Holder again received from Wada a confidential list, this time the entire list, of the KPMG audits that the PCAOB intended to review as part of its 2017 inspection of the Firm (the "2017 Inspections List"). Holder shared the 2017 Inspections List with Sweet, who promptly informed Middendorf, Whittle, and Britt of it.

18. Before the confidential information from the 2017 Inspections List could be used, one of the engagement partners, who had been informed by Sweet that the PCAOB was planning to review her audit, recognized that prior knowledge that the PCAOB would inspect the audit was confidential information that KPMG should not have. The partner then contacted a supervisor, who in turn escalated the matter. Ultimately, KPMG's Office of General Counsel was informed and began an internal investigation.

19. As a result of the scheme to obtain and use confidential information for KPMG's benefit, Middendorf, Whittle, Britt, Sweet, and Holder, all violated, among other provisions, PCAOB Rule 3500T, *Interim Ethics and Independence Standards*.[7]

20. KPMG failed to adequately supervise Middendorf, Whittle, Britt, Sweet, and Holder as required by PCAOB quality control standards. Indeed, KPMG failed to implement and monitor sufficient policies and procedures to provide "reasonable assurance that . . . personnel . . . perform all professional responsibilities with integrity."[8]

iv. Marcello Failed to Reasonably Supervise

21. In his role as a supervisory person of KPMG, Marcello failed reasonably to supervise Middendorf and other subordinates with a view to preventing the predicate violations described above. Specifically, Marcello failed to take appropriate and immediate steps when he learned that KPMG had received confidential PCAOB inspection information in both 2016 and 2017. As a result, Marcello failed reasonably to supervise associated persons of KPMG under Section 105(c)(6) of the Act.

a. KPMG's Focus on Inspection Results

22. KPMG promoted Marcello to Vice Chair of Audit, in part, to improve its relationship with the PCAOB, including by reversing the trend of poor inspection results. After being appointed Vice Chair of Audit, Marcello met with the SEC and the PCAOB, both of which expressed disappointment with KPMG's inspection performance, specifically with respect to its audits of banks. Thereafter, Marcello's actions contributed to a culture in which KPMG personnel, including Marcello's subordinates, perceived that improving the Firm's inspection results took priority over improvements in overall audit quality.

b. 2016 Confidential Information

23. In March 2016, Marcello learned from Middendorf that KPMG had obtained advance information about certain PCAOB inspection selections of KPMG audits. Specifically,

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[7] *See, e.g.*, *David Britt, CPA*, SEC Exchange Act Rel. No. 92514 (July 28, 2021) (consenting to entry of an order denying him the privilege of appearing or practicing before the Commission as an accountant); *Thomas Whittle, CPA*, SEC Exchange Act Rel. No. 92513 (July 28, 2021) (same); *David Middendorf, CPA*, SEC Rel. No. 87969 (Jan. 15, 2020) (order suspending him from appearing or practicing before the Commission); *Cynthia Holder, CPA*, SEC Exchange Act Rel. No. 87642 (Nov. 29, 2019) (consenting to entry of an order denying her the privilege of appearing or practicing before the Commission as an accountant); *Brian Sweet, CPA*, SEC Exchange Act Rel. No. 82557 (Jan. 22, 2018) (same).

[8] *See KPMG LLP*, SEC Exchange Act Rel. No. 86118, at 13-14 (June 17, 2019) (finding that KPMG violated QC § 20.09, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*).

Marcello understood that KPMG had obtained information about PCAOB inspection selections or potential selections through Sweet's contacts at the PCAOB, which Marcello should have recognized was inappropriate. At the time, Marcello also understood that for all of the selections, which included the Firm's audits of several banks, the documentation completion date for the final assembly of work papers had not passed.[9] Marcello further understood that KPMG personnel intended to review the work papers for those audits and could enhance the documentation in an effort to improve inspection results.

24. Despite knowing that Middendorf and others had received advance notice of certain inspection selections and intended to review and could enhance work papers for those audits, Marcello failed to take appropriate action in response. Marcello did not report or escalate the matter, or instruct Middendorf and other subordinates to refrain from using the PCAOB's confidential information. In failing to take action in response to learning about the receipt and intended use of confidential information in 2016, Marcello missed an opportunity to change the tone at the top of the Firm, which could have helped prevent further violations.

c. 2017 Confidential Information

25. On February 7, 2017, Middendorf reported to Marcello that Sweet had obtained a list of 2017 PCAOB inspection selections. Marcello understood that the list had come from someone inside the PCAOB. Marcello, however, again failed to respond appropriately, including by failing to promptly report the receipt of that highly confidential information to anyone at KPMG or the PCAOB. Instead, over the course of a week, he and Middendorf had several conversations about the list and what to do with the information, though they agreed that no one should use the information while they decided what to do with it.

26. Marcello ultimately reported the receipt of the confidential information, but only after he learned of others' negative reaction to KPMG having the information. First, Marcello learned from Middendorf that KPMG's Chief Auditor had a very negative reaction to learning that Sweet had obtained the confidential inspection information. Second, Marcello also learned from Middendorf that a professional practice partner likewise had a very negative reaction to learning that KPMG had obtained confidential PCAOB inspection information. Finally, two partners who had learned of the issue from the professional practice partner informed Marcello of additional details concerning the situation and that they were troubled by KPMG having the list and would report the issue themselves if Marcello did not. After that meeting Marcello escalated the issue, reporting it to KPMG's in-house counsel on February 14, 2017, a week after learning of KPMG's receipt of the confidential 2017 Inspections List.

* * *

[9] *See* AS 1215.15.

27. As a result of the actions and omissions described above, pursuant to Section 105(c)(6) of the Act, Marcello failed reasonably to supervise Middendorf and other subordinates, with a view to preventing the predicate violations that they committed.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Sections 105(c)(4)(E) and 105(c)(6) of the Act and PCAOB Rule 5300(a)(5), Marcello is censured; and

B. Pursuant to Sections 105(c)(4)(D) and 105(c)(6) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $100,000 is imposed upon Marcello. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Marcello shall pay the civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, certified check, bank cashier's check, or bank money order (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (c) submitted under a cover letter which identifies Scott Marcello as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 5, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of JLKZ CPA LLP and Jimmy P. Lee, CPA,

Respondents.

PCAOB Release No. 105-2022-005

April 19, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) Censuring JLKZ CPA LLP ("JLKZ") and Jimmy P. Lee, CPA ("Lee" and, together with JLKZ, "Respondents");

(2) Limiting JLKZ's activities, for a period of two years from the date of this Order, by prohibiting JLKZ from accepting engagements to prepare or issue audit reports for new clients that are issuers, brokers, or dealers, as those terms are defined by the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB rules; and

(3) Imposing a civil money penalty in the amount of $50,000 jointly and severally on Respondents.

The Board is imposing these sanctions on the basis of Respondents' violations of PCAOB rules and standards in connection with JLKZ's issuance of audit reports for two issuers after the underlying audits had been performed by a separate public accounting firm that was not registered with the Board.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondents pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents each consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds[2] that:

A. Respondents

1. **JLKZ CPA LLP** is a partnership organized under the laws of the state of New York and headquartered in Flushing, New York. The firm registered with the Board, pursuant to Section 102 of the Act and PCAOB rules, on November 28, 2018.

2. **Jimmy P. Lee, CPA** is a certified public accountant registered with the New York State Education Department (License No. 110032). Lee is the managing partner of JLKZ and an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Other Relevant Entities

3. SBA Stone Forest CPA Co., Ltd. ("Stone Forest") is a limited liability corporation headquartered in Shanghai, China. Stone Forest is a public accounting firm, as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii). Stone Forest is not now, and never has been, registered with the Board.

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[1] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

4. Issuer A was, at all relevant times, a Cayman Islands corporation headquartered in Huli District, Xiamen, China. It was, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. Issuer B was, at all relevant times, a Cayman Islands corporation headquartered in Flushing, New York. It was, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

6. This case concerns Respondents' conduct in allowing audit reports to be issued by JLKZ after the underlying audits had been conducted by an unregistered public accounting firm.

7. Specifically, JLKZ entered into an arrangement with Stone Forest contemplating that Stone Forest personnel would act as the engagement partner and engagement quality review ("EQR") partner for certain issuer audits, and that Stone Forest would receive the majority of the audit fees for such audits.

8. The 2019 audits of Issuer A and Issuer B were conducted under that arrangement: Stone Forest personnel served as the engagement partner, EQR partner, and audit staff. JLKZ's involvement in these audits was limited to a review of certain work papers, primarily to check that they used JLKZ templates, and a draft of the financial statements by Lee near the end of the audit. Lee nonetheless agreed to the issuance of audit reports for Issuer A and Issuer B by JLKZ.

9. By issuing audit reports where it had not conducted the underlying audits, JLKZ violated AS 3101, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*. By taking or omitting to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's AS 3101 violations, Lee violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

D. Background

10. On or about February 1, 2019, Stone Forest submitted a registration application to the Board. On February 26, 2019, the Board requested that Stone Forest provide certain additional information. To date, Stone Forest has not responded to the Board's information request and is not registered with the Board.

11. On June 29, 2019, Stone Forest entered into a "Collaborative Professional Service Agreement" with JLKZ providing that, "[a]t each Party's sole discretion, a Party may periodically seek to engage the other Party to perform services (the 'Services') on projects (each a 'Project')." The Collaborative Professional Service Agreement was signed by Lee on behalf of JLKZ and by a director of Stone Forest ("Stone Forest Director") on behalf of Stone Forest.

12. The same day, the Stone Forest Director also entered into an agreement between himself and JLKZ. The agreement stated that the Stone Forest Director's relationship to JLKZ was "that of an independent contractor" and that "[n]othing in this agreement shall be construed to form an employer-employee relationship." The agreement further provided that "[e]ach party has no authority, right, or ability to bind or commit each other Party in any way."

13. Two weeks later, on July 11, 2019, a partner in Stone Forest ("Stone Forest Partner") likewise entered into an agreement with JLKZ, the terms of which were substantially the same as those of the Stone Forest Director's agreement with JLKZ. Lee signed both agreements on behalf of JLKZ.

14. On June 28, 2020, Stone Forest entered into an "Alliance and Joint Marketing Agreement" with JLKZ, which stated that the two firms would "enter[] into an alliance with each other . . . for the purposes of soliciting clients and prospects for both [Stone Forest] and JLKZ." Lee and the Stone Forest Partner signed this agreement on behalf of JLKZ and Stone Forest, respectively.

15. The Alliance and Joint Marketing Agreement provided that for PCAOB audit engagements "where [Stone Forest's] partner(s) shall be the engagement partner and engagement quality reviewer for the Engagements . . . [Stone Forest] shall retain 80% of the Client Fees" and "JLKZ must be the technical quality and/or firm quality control reviewer for the Engagements and [Stone Forest] shall pay to JLKZ 20% of the Client Fees."

16. The Alliance and Joint Marketing Agreement between JLKZ and Stone Forest further provided that "[e]ach party will be solely responsible to the client for their respective services rendered to the client. Delivery of services and invoicing will be processed independently and the parties covenant that to the extent practicable, to co-ordinate the delivery and completion of services."

17. The 2019 audits of Issuer A and Issuer B were performed pursuant to the above arrangement among JLKZ and Stone Forest, the Stone Forest Director, and the Stone Forest Partner.

E. Respondents Violated PCAOB Rules and Standards

18. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[3]

i. JLKZ Issued Audit Reports for Issuer A and Issuer B Without Conducting an Audit in Accordance with PCAOB Standards

19. PCAOB standards provide that "[t]he auditor is in a position to express an unqualified opinion on the financial statements when the auditor conducted an audit in accordance with the standards of the Public Company Accounting Oversight Board ('PCAOB') and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework."[4]

20. Stone Forest's personnel planned, performed, and supervised the audits of Issuer A's and Issuer B's 2019 financial statements as of December 31, 2019. Despite Stone Forest's performance of the underlying audits, JLKZ issued an audit report on Issuer A's and Issuer B's 2019 financial statements.

21. Because Stone Forest, not JLKZ, performed the underlying audits, JLKZ was not in a position to express an opinion on Issuer A's or Issuer B's 2019 financial statements.[5] In doing so, JLKZ violated AS 3101.

a. The 2019 Audit of Issuer A

22. The Stone Forest Director obtained the 2019 Issuer A audit engagement after Issuer A's audit committee chairman, who had previously worked with the Stone Forest

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[3] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[4] AS 3101.02.

[5] *See id.*; *see also Auditor Considerations Regarding Using the Work of Other Auditors and Engaging Assistants from Outside the Firm*, Staff Audit Practice Alert No. 6, at 7 (July 12, 2010) (describing how PCAOB inspectors identified inspection findings where "the level of [a] firm's involvement in the audit work performed by [another firm] was not sufficient for the firm to assert that an audit had been performed by the firm and that the audit provided a reasonable basis for the firm to have an opinion on the financial statements").

Director at an unrelated entity, approached the Stone Forest Director about the audit engagement opportunity.

23. The Stone Forest Director served as the engagement partner, and the Stone Forest Partner served as the EQR partner, for the Issuer A audit. As engagement partner, the Stone Forest Director supervised the planning and performance of the audit procedures and authorized the issuance of the audit report.

24. Stone Forest personnel acted as the audit staff for the Issuer A audit and performed the audit procedures.

25. Stone Forest billed the audit fees directly to, and was paid by, Issuer A.

26. Accordingly, Stone Forest and its personnel obtained, supervised, performed, and billed the client for the 2019 Issuer A audit engagement.

27. Near the end of the audit, and before the audit report was issued under JLKZ's name, Lee reviewed certain work papers, primarily to check that they used JLKZ templates, and a draft of the financial statements. He drafted a memorandum documenting certain questions he had in connection with his review.

28. Lee considered that the purpose of his review was to gain assurance that the Issuer A audit had been conducted in a manner that was consistent with JLKZ's quality control policies and procedures.

29. Lee's review was insufficient for JLKZ to conclude that it had performed the audit or to provide a reasonable basis for the firm to issue an opinion on the financial statements.[6]

30. Nonetheless, on May 11, 2020, JLKZ issued an audit report expressing an unqualified opinion on Issuer A's 2019 financial statements. Issuer A filed JLKZ's audit report with the Commission.

31. Because Stone Forest, not JLKZ, performed the 2019 Issuer A audit, JLKZ did not conduct an audit in accordance with the standards of the PCAOB.[7] By expressing an unqualified

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[6] *See* AS 3101.02; *see also Auditor Considerations Regarding Using the Work of Other Auditors and Engaging Assistants from Outside the Firm*, Staff Audit Practice Alert No. 6, at 7.

[7] *See* AS 3101.02.

opinion on Issuer A's financial statements without having conducted an audit of those financial statements, JLKZ violated AS 3101.

b. The 2019 Audit of Issuer B

32. The Stone Forest Partner obtained the 2019 Issuer B audit engagement after a business contact who knew about the engagement opportunity approached him about it.

33. The Stone Forest Partner served as the engagement partner, and the Stone Forest Director served as the EQR partner, for the Issuer B audit. As engagement partner, the Stone Forest Partner supervised the planning and performance of the audit procedures and authorized the issuance of the audit report.

34. Stone Forest personnel acted as the audit staff for the Issuer B audit and performed the audit procedures.

35. Stone Forest billed the audit fees directly to, and was paid by, Issuer B.

36. Accordingly, Stone Forest and its personnel obtained, supervised, performed, and billed the client for the 2019 Issuer B audit engagement.

37. As with the Issuer A audit, Lee reviewed certain work papers, primarily to check that they used JLKZ templates, and a draft of the financial statements near the end of the Issuer B audit. Lee's review was insufficient for JLKZ to conclude that it had performed the audit or to provide a reasonable basis for the firm to issue an opinion on the financial statements.[8]

38. Nonetheless, on July 29, 2020, JLKZ issued an audit report expressing an unqualified opinion on Issuer B's 2019 financial statements. Issuer B filed JLKZ's audit report with the Commission.

39. Because Stone Forest, not JLKZ, performed the Issuer B audit, JLKZ did not conduct an audit in accordance with the standards of the PCAOB.[9] By expressing an unqualified opinion on Issuer B's financial statements without having conducted an audit of those financial statements, JLKZ violated AS 3101.

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[8] *See* AS 3101.02; *see also Auditor Considerations Regarding Using the Work of Other Auditors and Engaging Assistants from Outside the Firm*, Staff Audit Practice Alert No. 6, at 7.

[9] *See* AS 3101.02.

ii. Lee Substantially Contributed to JLKZ's Violations of AS 3101

40. PCAOB rules prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to the firm's violation of PCAOB rules or professional standards.[10]

41. As JLKZ's managing partner, Lee was in a position to prevent the firm from issuing audit reports where it had not performed the underlying audits, but he failed to do so.

42. On behalf of JLKZ, Lee entered into agreements with Stone Forest and its personnel pursuant to which the two firms would "collaborate" in offering professional services to clients, with Stone Forest audit staff performing and supervising the audit procedures, and Stone Forest receiving 80% of the fees, for PCAOB audits.

43. Lee was further aware that, consistent with the agreements he had signed, the 2019 Issuer A and Issuer B audits were planned and conducted by Stone Forest personnel who served as the engagement partner and EQR partner for each audit.

44. Even though he knew, or was reckless in not knowing, that the 2019 Issuer A and Issuer B audits had been planned and performed by Stone Forest, not by JLKZ, Lee agreed to the issuance of the Issuer A and Issuer B audit reports in JLKZ's name. Accordingly, Lee directly and substantially contributed to JLKZ's violations of AS 3101, in violation of Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rules 5300(a)(5), JLKZ CPA LLP and Jimmy P. Lee, CPA are censured;

B. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), JLKZ CPA LLP shall be prohibited, for a period of two years from the date of this Order, from accepting engagements to prepare or issue audit reports for new clients who are issuers, as that term is defined by Section 2(a)(7) of the Act and

[10] PCAOB Rule 3502.

PCAOB Rule 1001(i)(iii), as well as for new clients who are brokers or dealers, as those terms are defined by PCAOB Rules 1001(b)(iii) and 1001(d)(iii); and

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty of $50,000 jointly and severally on JLKZ CPA LLP and Jimmy P. Lee. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 19, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of WWC, P.C.,

Respondent.

PCAOB Release No. 105-2022-006

April 19, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring WWC, P.C. ("WWC" or "Respondent");

(2) imposing a civil money penalty in the amount of $50,000 on WWC; and

(3) requiring WWC to undertake and certify the completion of certain improvements to its system of quality control.

The Board is imposing these sanctions on the basis of WWC's conduct in connection with its use of audit work performed by WWC P.C. Limited ("WWC-Hong Kong"), a Hong Kong based affiliate of WWC that was not registered with the Board and played a substantial role in ten of WWC's issuer audits between 2017 and 2020. In addition, WWC failed to make timely and accurate Form AP and annual report filings. Specifically, the Board finds that WWC failed to reasonably supervise WWC-Hong Kong and failed to comply with PCAOB rules and standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rules 5200(a)(1) and (2).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, WWC has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of WWC's Offer, the Board finds that:

A. Respondent

1. **WWC, P.C.** is a professional corporation organized under the laws of California and headquartered in San Mateo, California. At all relevant times, WWC was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Other Relevant Entities

2. WWC P.C. Limited is a firm organized under the laws of, and headquartered in, Hong Kong. WWC-Hong Kong is owned by certain partners of WWC. At all relevant times, WWC-Hong Kong was a public accounting firm, as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii), and an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). WWC-Hong Kong is not now, and never has been, registered with the Board.

3. Issuers A through U were, at all relevant times, issuers as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). With respect to each of the audits of Issuers A through U referenced in this Order, WWC issued an audit report that the relevant issuer included in a filing with the U.S. Securities and Exchange Commission ("Commission").

[1] The findings herein are made pursuant to WWC's Offer and are not binding on any other person or entity in this or any other proceeding.

C. Summary

4. This matter concerns WWC's conduct in allowing its unregistered affiliate, WWC-Hong Kong, to play a substantial role in numerous issuer audits.

5. WWC was aware that WWC-Hong Kong was required to register with the Board before it played a substantial role in WWC's issuer audits.[2] A "substantial role" is defined in PCAOB Rule 1001(p)(ii) as, among other things, performing "material services" that a public accounting firm uses or relies on in issuing all or part of an audit report. "Material services" means "services, for which the engagement hours or fees constitute 20% or more of the total engagement hours or fees, respectively, provided by the principal auditor in connection with the issuance of all or part of its audit report."[3] Indeed, the WWC partners who owned WWC-Hong Kong sought to register WWC-Hong Kong with the Board, but were unable to do so as a result of WWC-Hong Kong's inability to provide certain required information.

6. WWC nonetheless entered into an arrangement with WWC-Hong Kong pursuant to which WWC-Hong Kong participated in WWC's issuer audits. WWC failed to take any steps to ensure that WWC-Hong Kong's participation was consistent with PCAOB registration requirements, that is, that it did not constitute a "substantial role" in those audits.

7. WWC-Hong Kong's participation exceeded the 20% of total hours threshold with respect to ten issuer audits over the course of three years, including one audit where WWC-Hong Kong incurred 88% of the total audit hours. Due to its failure to adequately plan and supervise WWC-Hong Kong's participation in these ten audits, WWC failed to reasonably

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[2] Section 102(a) of the Act requires that an accounting firm must register with the Board "to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any issuer, broker, or dealer." 15 U.S.C. § 7212(a). Section 106(a)(2) of the Act provides that "[t]he Board may, by rule, determine that a foreign public accounting firm (or a class of such firms) that does not issue audit reports nonetheless plays such a substantial role in the preparation and furnishing of such reports for particular issuers, brokers, or dealers, that it is necessary or appropriate, in light of the purposes of this Act and in the public interest or for the protection of investors, that such firm (or class of firms) should be treated as a public accounting firm (or firms) for purposes of registration under, and oversight by the Board in accordance with, this subchapter." 15 U.S.C. § 7216(a)(2). PCAOB Rule 2100, *Registration Requirements for Public Accounting Firms*, requires an accounting firm that "plays a substantial role in the preparation or furnishing of an audit report with respect to any issuer" to register with the Board. Thus, by virtue of Section 106(a)(2) and Rule 2100, Section 102(a) is applicable to foreign accounting firms that play a substantial role in an issuer audit.

[3] PCAOB Rule 1001(p)(ii) n.1.

supervise an associated person under the Act and failed to comply with PCAOB rules and standards.[4]

8. In addition, WWC repeatedly failed to make required Form AP and annual report filings on a timely basis and failed to include all of the required information in those filings, in violation of PCAOB rules.

D. Background

9. In 2014, WWC-Hong Kong took steps to submit a registration application to the Board. However, WWC-Hong Kong did not complete the registration process after concluding that it would be unable to provide certain additional information necessary for the Board to take action on a registration application.[5] As a result, WWC-Hong Kong has remained unregistered and may not play a substantial role in the preparation or furnishing of an issuer audit report.

10. Because WWC-Hong Kong is owned entirely by partners of WWC, WWC was aware of WWC-Hong Kong's unregistered status.

11. WWC and WWC-Hong Kong entered into an agreement dated January 1, 2015. The agreement provided:

> [WWC] may from time-to-time request [WWC-Hong Kong] to render accounting, auditing, tax compliance and assurance services to the clients of [WWC]. . . . [WWC-Hong Kong] is responsible to provide personnel acceptable to [WWC] requirements to carry out procedures set forth by [WWC]. . . . [WWC-Hong Kong] will issue invoices on an engagement-by-engagement basis to [WWC] for services rendered and reasonably reimbursable expenses that are subject to the approval of [WWC].

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[4] All citations in this Order are to the standards and rules that were in effect at the time.

[5] *See Consideration of Registration Applications from Public Accounting Firms in Non-U.S. Jurisdictions Where There Are Unresolved Obstacles to PCAOB Inspections*, PCAOB Rel. No. 2010-007, at 3 (Oct. 7, 2010) (where a firm located in a jurisdiction where the Board has been unable to perform inspections submits a registration application, "the Board will ask the applicant to state its understanding of whether a PCAOB inspection of the firm would currently be allowed by local law or local authorities and, if the response is that the inspection would be allowed, to supply written confirmation of that point from the appropriate local regulatory authority").

12. Pursuant to the agreement between the two firms, WWC-Hong Kong participated in a number of WWC's issuer audits. For these audits, WWC personnel served as the engagement partner and engagement quality reviewer, while WWC-Hong Kong staff and a WWC-Hong Kong partner worked with WWC staff to perform the audit procedures. Per their agreement, WWC-Hong Kong invoiced WWC for the services it provided.

13. From 2017 through August 2019, WWC-Hong Kong exceeded the 20% of total hours threshold and therefore played a substantial role with respect to seven audits that WWC performed for six different issuers. As shown in the table below, WWC-Hong Kong's participation in these audits ranged from 21% to 88% of the total audit hours.

Audit	Percent of Total Audit Hours Incurred by WWC-Hong Kong
Audit of Issuer A's December 31, 2017 financial statements	69%
Audit of Issuer B's December 31, 2017 financial statements	65%
Audit of Issuer B's December 31, 2018 financial statements	88%
Audit of Issuer C's December 31, 2018 financial statements	29%
Audit of Issuer D's December 31, 2018 financial statements	21%
Audit of Issuer E's December 31, 2018 financial statements	42%
Audit of Issuer F's March 31, 2019 financial statements	30%

14. The Form AP Instructions for "Part IV – Responsibility for the Audit Is Not Divided" require that an auditor who uses an "other accounting firm"[6] that incurs more than 5% of the total hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP. Nonetheless, WWC did not report WWC-Hong Kong's participation in its Form AP filings for any of the seven audits listed in paragraph 13 above.

[6] *See Form AP – Auditor Reporting of Certain Audit Participants*, General Instruction No. 2 ("'other accounting firm' means (i) a *registered public accounting firm* other than the Firm; or (ii) any other *person* or entity that opines on the compliance of any entity's financial statements with an applicable financial reporting framework").

15. WWC omitted WWC-Hong Kong from its Form AP filings because, as the firm subsequently expressed, it understood that WWC-Hong Kong's participation in WWC's issuer audits as an unregistered firm "may be construed as a violation" of PCAOB requirements.

16. In October 2019, the PCAOB's Division of Registration and Inspections performed an inspection of WWC. In January 2020, the PCAOB inspectors issued a comment form criticizing, among other things, WWC's failure to report the participation of WWC-Hong Kong in certain Form AP filings and WWC's failure to make certain Form AP filings on a timely basis.

17. In response to the inspection comment, WWC represented to the inspectors that it would "continue to push forward" WWC-Hong Kong's registration application. Nonetheless, WWC subsequently continued to use WWC-Hong Kong in a substantial role on issuer audits while WWC-Hong Kong remained unregistered.

18. Specifically, as shown in the table below, WWC-Hong Kong exceeded the 20% of total hours substantial role threshold during three audits completed after WWC received the inspection comment form.

Audit	Percent of Total Audit Hours Incurred by WWC-Hong Kong
Audit of Issuer C's December 31, 2019 financial statements	28%
Audit of Issuer D's December 31, 2019 financial statements	47%
Audit of Issuer E's December 31, 2019 financial statements	28%

19. WWC made Form AP filings disclosing WWC-Hong Kong's participation in the 2019 audits of Issuers C and D, but its Form AP filing for the 2019 audit of Issuer E failed to disclose WWC-Hong Kong's participation in that audit.

20. With respect to the audits listed in the tables in paragraphs 13 and 18 above (the "Substantial Role Audits"), WWC failed to take adequate steps to plan or supervise the audits in a manner that would ensure that WWC-Hong Kong's audit hours did not exceed the substantial role threshold. For example, WWC neither documented any consideration of the 20% substantial role threshold nor performed any analysis of whether the hours expected to be incurred by WWC-Hong Kong would exceed that threshold.

E. WWC Failed to Reasonably Supervise WWC-Hong Kong and Violated PCAOB Rules and Standards

21. During the Substantial Role Audits, WWC-Hong Kong incurred more than 20% of the total engagement hours. Accordingly, WWC-Hong Kong played a substantial role in each of these audits without being registered with the Board, in violation of Section 102(a) of the Act and PCAOB Rule 2100.

22. WWC failed to reasonably supervise WWC-Hong Kong's participation in the Substantial Role Audits in a manner designed to avoid violations of Section 102(a) and PCAOB Rule 2100, and WWC likewise failed to properly plan the Substantial Role Audits.

i. WWC Failed to Reasonably Supervise WWC-Hong Kong

23. Section 105(c)(6) of the Act provides that the Board may impose sanctions on a registered public accounting firm if the Board finds that (1) the firm has failed to reasonably supervise an associated person, either as required by the rules of the Board relating to auditing or quality control standards, or otherwise, with a view to preventing violations of the Act or the rules of the Board; and (2) such associated person commits a violation of the Act or Board rules.

24. Under Section 2(a)(9) of the Act, the term "person associated with a registered public accounting firm" includes "any . . . entity that, in connection with the preparation or issuance of any audit report—(i) shares in the profits of, or receives compensation in any other form from, that firm; or (ii) participates as agent or otherwise on behalf of such accounting firm in any activity of that firm." WWC-Hong Kong invoiced WWC for the services it provided in connection with the Substantial Role Audits. Thus, WWC-Hong Kong "receive[d] compensation" from WWC in connection with the preparation and issuance of WWC's audit reports. In addition, because it performed audit work at the direction, and under the supervision, of WWC, WWC-Hong Kong acted as an "entity that, in connection with the preparation or issuance of [WWC's] audit report[s,] . . . participate[d] as agent or otherwise on behalf of [WWC]." Accordingly, WWC-Hong Kong was an "associated person" of WWC during the Substantial Role Audits.

25. WWC had a responsibility to reasonably supervise its associated persons during its issuer audits. WWC knew that WWC-Hong Kong was unregistered and that its participation in issuer audits "may be construed as a violation" of PCAOB rules.

26. WWC failed to reasonably supervise WWC-Hong Kong during the Substantial Role Audits with a view to preventing violations of the registration requirements set forth in Section 102(a) of the Act and PCAOB Rule 2100. Rather, WWC allowed WWC-Hong Kong, while

unregistered, to play a substantial role in those audits without performing an analysis of WWC-Hong Kong's participation or taking adequate steps to ensure that WWC-Hong Kong's participation would not constitute a substantial role.

27. Indeed, WWC allowed WWC-Hong Kong to play a substantial role in ten issuer audits—including three audits after the January 2020 PCAOB inspection comment form raised the issue of WWC-Hong Kong's unreported participation in WWC's audits, and after WWC's response to the comment form highlighted WWC-Hong Kong's unregistered status.

28. Because WWC-Hong Kong incurred more than 20% of the total audit hours during the Substantial Role Audits, it performed material services used by WWC in issuing WWC's audit reports. WWC-Hong Kong therefore violated Section 102(a) of the Act and Rule 2100 by playing a substantial role in the Substantial Role Audits without being registered with the Board.

29. Accordingly, WWC failed to reasonably supervise WWC-Hong Kong under Section 105(c)(6) of the Act.

ii. WWC Violated PCAOB Rules and Standards

30. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7]

31. PCAOB standards provide that, as part of audit planning, the auditor should establish an overall audit strategy.[8] The auditor should take into account "[t]he factors that are significant in directing the activities of the engagement team" and "[t]he nature, timing, and extent of resources necessary to perform the engagement."[9] PCAOB standards also require that "[d]ue professional care is to be exercised in the planning and performance of the audit and the preparation of the report."[10]

32. In establishing the overall audit strategy for the Substantial Role Audits, WWC failed to adequately take into account: (1) the fact that WWC-Hong Kong was an unregistered

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7 PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

8 AS 2101.08, *Audit Planning*.

9 AS 2101.09.

10 AS 1015.01, *Due Professional Care in the Performance of Work*.

firm whose substantial role participation in issuer audits WWC knew "may be construed as a violation"; (2) the nature of the resources necessary to perform the audits, insofar as those resources included the involvement of an unregistered firm; and (3) for the three post-inspection Substantial Role Audits, the fact that a PCAOB inspection comment and the firm's own response had highlighted WWC-Hong Kong's unreported participation as an unregistered firm.[11] As a result of these failures, WWC did not engage in adequate planning to ensure that WWC-Hong Kong would not violate PCAOB registration requirements.

33. Accordingly, WWC violated AS 2101. WWC also violated AS 1015 by failing to exercise due professional care in planning the Substantial Role Audits.

F. WWC Violated PCAOB Rules Regarding Required Filings

i. WWC Failed to Make Timely and Complete Form AP Filings

34. PCAOB rules provide that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."[12] The Form AP Instructions for "Part IV – Responsibility for the Audit Is Not Divided" require that an auditor who uses another accounting firm that incurs more than 5% of the total hours "[s]tate the legal name of [the] *other accounting firm[]* and the extent of participation in the *audit*."

35. As discussed above, WWC failed to report WWC-Hong Kong's participation, which exceeded 5% of the total hours, in its Form AP filings with respect to eight of the Substantial Role Audits.

36. PCAOB rules further provide that a Form AP is timely filed if it "is filed by the 35th day after the date the audit report is first included in a document filed with the Commission."[13]

37. WWC failed to timely file a Form AP within 35 days of its audit report being included in a filing with the Commission with respect to sixteen audits—including three audit reports with respect to which the firm did not file a Form AP at all.

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11 *See* AS 2101.05 ("Planning is not a discrete phase of an audit but, rather, a continual and iterative process that . . . continues until the completion of the current audit").

12 PCAOB Rule 3211(a), *Auditor Reporting of Certain Audit Participants*.

13 PCAOB Rule 3211(b).

38. Specifically, prior to the 2019 PCAOB inspection, WWC failed to file a Form AP within 35 days of its audit report's inclusion in a filing with the Commission six times, as shown in the following table.

Audit	Days Elapsed Between Audit Report's Inclusion in a Filing with the Commission and WWC's Form AP Filing
Audit of Issuer G's December 31, 2016 financial statements	398 days
Audit of Issuer H's August 31, 2017 financial statements	55 days
Audit of Issuer I's March 31, 2018 financial statements	60 days
Audit of Issuer H's August 31, 2018 financial statements	133 days
Audit of Issuer C's December 31, 2018 financial statements	57 days
Audit of Issuer J's December 31, 2018 financial statements	47 days

39. As discussed above, the PCAOB inspection comment form issued to WWC in January 2020 criticized the firm's failure to make timely Form AP filings. Even after receiving this comment form, however, WWC's failure to make timely Form AP filings continued. As shown in the table below, WWC failed to file a Form AP within 35 days of its audit report's inclusion in a filing with the Commission with respect to ten post-inspection issuer audits.

Audit	Days Elapsed Between Audit Report's Inclusion in a Filing with the Commission and WWC's Form AP Filing
Audit of Issuer K's December 31, 2019 financial statements	Not filed
Audit of Issuer L's December 31, 2019 financial statements	Not filed
Audit of Issuer F's March 31, 2020 financial statements	50 days
Audit of Issuer C's December 31, 2020 financial statements	182 days
Audit of Issuer D's December 31, 2020 financial statements	47 days
Audit of Issuer E's December 31, 2020 financial statements	53 days
Audit of Issuer J's December 31, 2020 financial statements	Not filed
Audit of Issuer M's December 31, 2020 financial statements	48 days
Audit of Issuer N's December 31, 2020 financial statements	168 days
Audit of Issuer O's December 31, 2020 financial statements	145 days

40. Accordingly, WWC violated PCAOB Rule 3211.

ii. WWC Failed to Make Timely and Complete Annual Report Filings

41. PCAOB rules provide that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 by following the instructions to that form."[14] PCAOB rules also require that "[e]ach registered public accounting firm must file the annual report on Form 2 no later than June 30 of each year."[15] Item 4.1 of the Form 2 instructions require the reporting firm to provide "information concerning each *issuer* for which the Firm issued any *audit report(s)* during the reporting period."

14 PCAOB Rule 2200, *Annual Report*.

15 PCAOB Rule 2201, *Time for Filing of Annual Report*.

42. WWC filed its 2020 annual report with the Board on July 1, 2020. The 2020 annual report failed to include information relating to four audit reports WWC had issued during the reporting period: the audit reports for the firm's audits of (1) Issuer P's December 31, 2018 financial statements; (2) Issuer Q's June 30, 2019 financial statements; (3) Issuer R's December 31, 2019 financial statements; and (4) Issuer S's December 31, 2019 financial statements.

43. WWC filed its 2021 annual report with the Board on September 16, 2021. The 2021 annual report failed to include information relating to eight audit reports WWC had issued during the reporting period: the audit reports for the firm's audits of (1) Issuer C's December 31, 2019 financial statements; (2) Issuer D's December 31, 2019 financial statements; (3) Issuer E's December 31, 2019 financial statements; (4) Issuer K's December 31, 2019 financial statements; (5) Issuer L's December 31, 2019 financial statements; (6) Issuer T's December 31, 2019 financial statements; (7) Issuer F's March 31, 2020 financial statements; and (8) Issuer U's March 31, 2020 financial statements.

44. Accordingly, WWC failed to include in its 2020 and 2021 annual report filings information concerning each issuer for which the firm issued an audit report during the respective reporting periods, and WWC filed its 2021 annual report two and a half months after the June 30, 2021 filing deadline. By this conduct, WWC violated PCAOB Rules 2200 and 2201.

G. WWC Violated PCAOB Quality Control Standards

45. PCAOB rules require that a registered firm comply with PCAOB quality control standards, which require that a firm "shall have a system of quality control for its accounting and auditing practice" and describe "elements of quality control and other matters essential to the effective design, implementation, and maintenance of the system."[16] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[17]

46. WWC failed to establish adequate policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel met applicable regulatory requirements when using other accounting firms. WWC's lack of adequate policies and procedures related to the use of other accounting firms resulted in WWC-Hong Kong's

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16 PCAOB Rule 3400T, *Interim Quality Control Standards*; QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

17 QC § 20.17.

participation in the Substantial Role Audits exceeding the 20% of total hours threshold, despite WWC's knowledge that WWC-Hong Kong's participation in the audits was inconsistent with PCAOB registration requirements.

47. In addition, WWC's repeated Form AP and annual report violations—which ranged from the omission of required information to late filings and failures to file at all—demonstrate that the firm lacked sufficient policies and procedures to ensure that these forms would be accurate and timely filed, in compliance with applicable regulatory requirements.

48. Accordingly, WWC failed to comply with QC § 20.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rules 5300(a)(5), WWC, P.C. is censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty of $50,000 on WWC, P.C. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Sections 105(c)(4)(G) of the Act and PCAOB Rules 5300(a)(9), the Board orders that:

1. Review by WWC, P.C. Within six months of the date of this Order, WWC, P.C. shall review and evaluate its quality control policies and procedures to assess whether those policies and procedures provide the firm with reasonable assurance that its personnel and other associated persons comply with applicable regulatory requirements (a) when the firm uses audit work performed or supervised by other accounting firms, and (b) when the firm makes required regulatory filings.

2. Reporting. Within six months of the date of this Order, WWC, P.C. shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the areas specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by WWC, P.C. or, if WWC, P.C. concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the firm believes changes are not warranted. In addition, WWC, P.C. shall submit any additional information and evidence concerning the Report, the information in the Report, and WWC, P.C.'s compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within twelve months of the date of this Order, WWC, P.C.'s managing partner shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that WWC, P.C. has implemented all of the modifications and additions to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of WWC, P.C.'s adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. WWC, P.C. shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. WWC, P.C. understands that a failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 19, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Citrin Cooperman & Company, LLP, Joseph Puglisi, CPA, Mark Schniebolk, CPA, and John Cavallone, CPA,

Respondents.

PCAOB Release No. 105-2022-007

May 11, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Citrin Cooperman & Company, LLP ("Citrin" or the "Firm"), imposing a civil money penalty of $200,000 on Citrin, and requiring the Firm to undertake certain remedial actions as described in Section IV of this Order;

(2) suspending Joseph Puglisi, CPA ("Puglisi") from associating with a registered public accounting firm for a period of one year from the date of this Order, limiting his activities in connection with any audit or examination of a broker-dealer that is required to file a compliance report under Securities Exchange Act of 1934 ("Exchange Act") Rule 17a-5, 17 C.F.R. § 240.17a-5, of the U.S. Securities and Exchange Commission ("Commission") until two years from the date of this Order by prohibiting Puglisi from serving in certain capacities, as described in Section IV hereto, imposing a civil money penalty of $25,000 on Puglisi, and requiring Puglisi to complete, within one year from the date of this Order, 20 hours of professional education or training; and

(3) censuring and limiting the activities of Mark Schniebolk, CPA ("Schniebolk") and John Cavallone, CPA ("Cavallone") for a period of one year from the date of this Order by prohibiting them from: (a) serving, or supervising the work of another person serving, as an engagement quality reviewer, or (b) serving, or supervising the work of another person serving, in any role that is equivalent to, but differently denominated from, engagement quality reviewer on any "audit," as that term is defined in Section 110 of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), or

PCAOB Rule 1001(a)(v), imposing civil money penalties of $15,000 on each of Schniebolk and Cavallone, and requiring that they each complete, within one year from the date of this Order, 20 hours of professional education or training.

The Board is imposing these sanctions on the basis of its findings that: (a) Citrin, Puglisi, Schniebolk, and Cavallone (collectively, "Respondents") violated PCAOB rules and standards in connection with the audits and examinations of a broker-dealer ("Broker-Dealer A") for the fiscal years ended December 31, 2016 and/or 2017; and (b) Citrin violated PCAOB rules and quality control standards by failing to take sufficient steps to ensure that its system of quality control provided reasonable assurance that work performed by its engagement personnel would comply with PCAOB standards and regulatory requirements and was assigned to personnel having the degree of technical training and proficiency required in the circumstances.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

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[1] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (a) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (b) repeated instances of

A. Respondents

1. **Citrin Cooperman & Company, LLP** is a limited liability partnership organized under the laws of New York and headquartered in New York, New York. The Firm is licensed to practice public accounting in multiple jurisdictions, including the State of New York (Partnership ID No. 021300). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm issued audit reports containing unqualified opinions on Broker-Dealer A's financial statements and compliance reports for the fiscal year end ("FYE") December 31, 2016, and FYE December 31, 2017.

2. **Joseph Puglisi, CPA** is a partner of the Firm in its Livingston, New Jersey office, a certified public accountant under the laws of New Jersey (license no. 20CC03427100) and New York (license no. 081527), and, at all relevant times was, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Puglisi served as the engagement partner for the 2016 and 2017 audits and examinations of Broker-Dealer A.

3. **Mark Schniebolk, CPA** is a partner of the Firm in its New York, New York office, a certified public accountant under the laws of the State of New York (license no. 087801), and, at all relevant times was, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Schniebolk served as the engagement quality reviewer for the 2016 audit and examination of Broker-Dealer A.

4. **John Cavallone, CPA** is a partner of the Firm in its New York, New York office, a certified public accountant under the laws of the State of New York (license no. 079788), and, at all relevant times was, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Cavallone served as the engagement quality reviewer for the 2017 audit and examination of Broker-Dealer A.

B. Broker-Dealer

5. Broker-Dealer A is a Delaware corporation, headquartered in New York. Broker-Dealer A's public filings indicate that it is a broker-dealer registered with the Commission and the Financial Industry Regulatory Authority, Inc. ("FINRA"), and provides order management and clearing services to institutions and professional traders. At all relevant times, Broker-Dealer A was a "broker" and a "dealer," as those terms are defined in Sections 110(3) and 110(4) of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii). Broker-Dealer A had assets of

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negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

$232 million as of, and revenue of $36 million for, the year ended December 31, 2016, and assets of $196 million as of, and revenue of $33 million for, the year ended December 31, 2017.

C. Summary

6. This matter concerns Puglisi's violations of PCAOB rules and Attestation Standard No. 1 ("AT No. 1"), *Examination Engagements Regarding Compliance Reports of Brokers and Dealers*, when performing the examinations of the statements made by Broker-Dealer A in its FYE December 31, 2016 and FYE December 31, 2017 compliance reports filed with the Commission pursuant to Exchange Act Rule 17a-5, 17 C.F.R. § 240.17a-5 ("Rule 17a-5") (the "Examinations"). In particular, Puglisi failed to sufficiently evaluate (a) whether Broker-Dealer A maintained effective internal controls over compliance ("ICOC") with Commission Rule 15c3-3. 17 C.F.R. 240.15c3-3, under the Exchange Act ("Rule 15c3-3," or the "Customer Protection Rule") throughout the fiscal years and as of the end of fiscal years 2016 and 2017, and (b) whether Broker-Dealer A was in compliance with Rule 15c3-3(e) (the "Reserve Requirements Rule") as of the end of fiscal years 2016 and 2017.

7. This matter also concerns Puglisi's violations of PCAOB rules and auditing standards in connection with the audits of the financial statements and accompanying supporting schedules of Broker-Dealer A for FYE December 31, 2016 and FYE December 31, 2017 (the "Audits"). Among other things, Puglisi failed to perform sufficient audit procedures to test the supplemental information related to the Customer Protection Rule in connection with the Audits.

8. In addition, Schniebolk and Cavallone, who served as engagement quality reviewers ("EQR reviewers") on the 2016 audit and examination and 2017 audit and examination, respectively, failed to perform their engagement quality reviews ("EQRs") with due professional care, in violation of AS 1220, *Engagement Quality Review*.

9. Finally, the Firm violated quality control standards because its system of quality control failed to provide it with reasonable assurance that the work performed by its engagement personnel would comply with PCAOB standards and regulatory requirements. The Firm's system of quality control also failed to provide reasonable assurance that work was assigned to personnel having the degree of technical training and proficiency required in the circumstances.

D. Puglisi Violated AT No. 1 in the Examinations of Broker-Dealer A's 2016 and 2017 Compliance Reports

i. Certain Commission Reporting Requirements for Broker-Dealer A

10. At all relevant times, Rule 15c3-3 imposed various obligations on Broker-Dealer A to avoid, in the event of a broker-dealer failure, a delay or a shortfall in returning the assets held by Broker-Dealer A for the accounts of its customers ("customer accounts") or for the proprietary securities accounts of broker-dealers ("PAB accounts").[3,4] For example, the Reserve Requirements Rule required Broker-Dealer A, among other things, to maintain with a bank or banks[5] a "Special Reserve Bank Account for the Exclusive Benefit of Customers" (a "Customer Reserve Bank Account") and a "Special Reserve Bank Account for Brokers and Dealers" (a "PAB Reserve Bank Account"), each kept separate from each other and from Broker-Dealer A's other accounts, to deposit therein an amount calculated in accordance with Exhibit A to Rule 15c3-3 (17 C.F.R. § 240.15c3-3a) ("Reserves"), and to make and maintain a record of each such computation.

11. Furthermore, at all relevant times, Broker-Dealer A was required, among other things to promptly obtain and thereafter maintain physical possession or control over its customers' fully paid and excess margin securities.[6] This included the requirement that Broker-Dealer A hold certain customer securities in a "good control location"[7] pursuant to paragraph

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[3] The term "PAB account" is defined in Rule 15c3-3(a)(16).

[4] *See* Division of Trading and Markets and Division of Enforcement of the U.S. Securities and Exchange Commission, *Customer Protection Rule Initiative*, modified June 23, 2016, at Section II, available at https://www.sec.gov/divisions/enforce/customer-protection-rule-initiative.shtml. Although some broker-dealers qualify for exemption from the Customer Protection Rule under paragraph (k) of Rule 15c3-3, Broker-Dealer A, at all relevant times, did not qualify for such an exemption.

[5] "Bank" is defined in Rule 15c3-3(a)(7).

[6] *See* Rule 15c3-3(b).

[7] Although not defined in Rule 15c3-3, the term "good control location" is frequently used to identify those locations that are considered acceptable under the Rule. *See, e.g.*, Division of Trading and Markets, U.S. Securities and Exchange Commission and Office of General Counsel, FINRA, *Joint Staff Statement on Broker-Dealer Custody of Digital Asset Securities* (July 8, 2019) (noting that "[a]mong its core protections for customers, Rule 15c3-3 requires a broker-dealer to physically hold customers' fully paid and excess margin securities or maintain them free of lien at a good control location"), *available at* https://www.sec.gov/news/public-statement/joint-staff-statement-broker-dealer-custody-digital-asset-securities.

(c) of Rule 15c3-3 ("Good Control Location"). In addition, Rule 15c3-3(d) required that Broker-Dealer A regularly determine the quantity of its customers' fully-paid securities and excess margin securities[8] that were not in its possession or control, and to take actions to bring these securities into its possession or control within the time frame prescribed by the Customer Protection Rule. Collectively, these requirements in Rule 15c3-3(b), (c), and (d) are referred to herein as the "Possession and Control Requirements."

12. At all relevant times, Rule 17a-5 required Broker-Dealer A, among other things, to file with the Commission[9] an annual report containing: (a) a financial report that includes financial statements and supporting schedules;[10] and, as Broker-Dealer A did not claim exemption under paragraph (k) of Rule 15c3-3,[11] (b) a compliance report concerning the effectiveness of Broker-Dealer A's ICOC[12] with, among other things, the Customer Protection

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[8] "Customer," "fully paid securities," and "excess margin securities" are defined, respectively, in Rule 15c3-3(a)(1), (3), (5).

[9] *See* Rule 17a-5(d)(6).

[10] *See* Rule 17a-5(d)(1)(i)(A). The financial report, including the required supporting schedules, must be in a format that is consistent with the statements contained in Commission Form X-17A-5. *See* Rule 17a-5(d)(2).

[11] The Commission has stated that there may be circumstances in which a broker-dealer has not held customer securities or funds during the past year, but does not fit into one of the exemptive provisions set forth in paragraph (k) of Rule 15c3-3, and should file an "exemption report" under Rule 17a-5(d)(1)(i)(B)(*2*) in lieu of a "compliance report" under Rule 17a-5(d)(1)(i)(B)(*1*). *See* U.S. Securities and Exchange Commission, *Broker-Dealer Reports*, Exchange Act Release No. 70073 (July 30, 2013), at n. 74, *available at* https://www.sec.gov/rules/final/2013/34-70073.pdf; *see also* Division of Trading and Markets of the U.S. Securities and Exchange Commission, *Frequently Asked Questions Concerning the July 30, 2013 Amendments to the Broker-Dealer Financial Reporting Rule* (updated July 1, 2020), at Question and Answer 8 (describing the views of the staff of the Division of Trading and Markets regarding the eligibility of certain broker-dealers to file exemption reports in accordance with the circumstances described in footnote 74 of the 2013 *Broker-Dealer Reports* release), available at https://www.sec.gov/divisions/marketreg/amendments-to-broker-dealer-reporting-rule-faq.htm. Those circumstances are not applicable here.

[12] The term "internal control over compliance" is defined in Rule 17a-5(d)(3)(ii) as follows: "The term *Internal Control Over Compliance* means internal controls that have the objective of providing the broker or dealer with reasonable assurance that non-compliance with [Exchange Act Rules 15c3-1 ("Rule 15c3-1"), 15c3-3, 17a-13], or any rule of the designated examining authority of the broker or dealer that requires account statements to be sent to the customers of the broker or dealer (an 'Account Statement Rule') will be prevented or detected on a timely basis."

Rule;[13] and (c) reports by a PCAOB-registered firm based on examinations of Broker-Dealer A's financial and compliance reports that meets certain specified requirements.[14] At all relevant times, Rule 17a-5 also required that the auditor's examinations of each of Broker-Dealer A's financial report and compliance report be performed in accordance with PCAOB standards.[15]

13. Rule 17a-5 also required, at all relevant times, Broker-Dealer A's compliance report to contain certain statements ("assertions") about its compliance with, among other things, the Customer Protection Rule, including that: (a) Broker-Dealer A's ICOC was effective during the most recent fiscal year; (b) Broker-Dealer A's ICOC was effective as of the end of the most recent fiscal year; and (c) Broker-Dealer A was in compliance with, among other things, the Reserve Requirements Rule as of the end of the most recent fiscal year.[16]

ii. Relevant Provisions of PCAOB Rules and Standards

14. In connection with the preparation or issuance of an audit report, including an examination report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards, including attestation standards.[17]

15. AT No. 1 provides that, in performing an examination of the assertions made by a broker-dealer in a compliance report (an "examination engagement"), the auditor's objective is to express an opinion regarding whether the assertions made by the broker-dealer in its compliance report are fairly stated, in all material respects.[18] AT No. 1 also provides that, to express such an opinion, the auditor must plan and perform the examination engagement to obtain appropriate evidence that is sufficient to obtain reasonable assurance about whether, among other things: (a) one or more material weaknesses[19] existed during the most recent fiscal year specified in the broker-dealer's assertion; (b) one or more material weaknesses existed as of the end of the most recent fiscal year specified in the broker-dealer's assertion; and (c) one or more instances of non-compliance with the Reserve Requirements Rule existed

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13 *See* Rule 17a-5(d)(1)(i)(B)(1), (d)(3).

14 *See* Rule 17a-5(d)(1)(i)(C), (g), (i).

15 *See* Rule 17a-5(g).

16 *See* Rule 17a-5(d)(3)(i)(A)(2) – (4).

17 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

18 *See* ¶ 3 of AT No. 1.

19 The term "material weakness" is defined in AT No. 1, Appendix A ¶ A4.

as of the end of the most recent fiscal year specified in the broker-dealer's assertion.[20] As noted in AT No. 1, the auditor's examination should include an evaluation of the effectiveness of ICOC with the Customer Protection Rule during, and as of the end of, the most recent fiscal year.[21]

16. AT No. 1 also provides that the auditor must exercise due professional care, which includes application of professional skepticism, in planning and performing the examination and preparation of the report, and that the engagement partner is responsible for proper planning and supervision of work for the engagement.[22]

17. Additionally, AT No. 1 provides, that, when planning the examination engagement, the auditor should obtain an understanding of the broker-dealer's processes regarding compliance with, among other things, the Customer Protection Rule, which includes evaluating the design of controls that are relevant to the examination and determining whether they have been implemented.[23] When performing the examination engagement, the auditor must test the controls that are important to the auditor's conclusion about whether the broker-dealer has maintained effective ICOC for, among other things, the Customer Protection Rule, during the fiscal year and as of fiscal year end.[24] The auditor must obtain evidence that the controls over compliance selected for testing are designed effectively and operated effectively during the fiscal year and as of fiscal year end.[25]

18. AT No. 1 further requires the auditor to conduct tests sufficient to support the auditor's conclusions regarding whether the broker-dealer was in compliance with the Reserve Requirements Rule as of fiscal year end; the auditor does this by, among other things, testing

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20 *See* ¶ 4 of AT No. 1.

21 *See id.* ¶ 4, Note.

22 *See id.* ¶¶ 6(d), 7.

23 *See id.* ¶ 9(b), Notes.

24 *See id*. ¶ 11.

25 *See id.* The auditor should test the design effectiveness of the selected controls by determining whether they can effectively prevent or detect instances of non-compliance with, among other things, the Customer Protection Rule on a timely basis. *See id.* ¶ 14. Additionally, the auditor should test the operating effectiveness of the selected controls by determining whether each selected control is operating as designed. *See id.* ¶ 16.

the accuracy and completeness of the information that the broker-dealer used to determine its compliance with that rule as of fiscal year end.[26]

19. As provided in AT No. 1, the auditor should evaluate whether he or she has obtained sufficient appropriate evidence to support the conclusions to be presented in the examination report, taking into account the risks associated with controls and non-compliance, the results of the examination procedures performed, and the appropriateness (*i.e.*, the relevance and reliability) of the evidence obtained.[27] If the auditor is unable to obtain sufficient appropriate evidence about an assertion, the auditor should express a disclaimer of opinion.[28]

20. As described below, Puglisi failed to comply with applicable PCAOB rules and standards in connection with his examinations of the assertions made by Broker-Dealer A in its compliance reports for FYE December 31, 2016, and FYE December 31, 2017.

iii. Puglisi's Examinations of Broker-Dealer A's 2016 and 2017 Compliance Reports

21. Broker-Dealer A filed its annual reports for 2016 and 2017 with the Commission on March 1, 2017 and March 5, 2018, respectively. Broker-Dealer A included compliance reports in those filings—the 2016 compliance report was dated February 27, 2017, and the 2017 compliance report was dated February 28, 2018 (collectively, the "Compliance Reports"). The Compliance Reports' assertions included that Broker-Dealer A's ICOC with the Customer Protection Rule was effective during the period from January 1, 2016, to December 31, 2016, and as of December 31, 2016, and from January 1, 2017, to December 31, 2017, and as of December 31, 2017, respectively.

22. Puglisi authorized the issuance of the Firm's reports on the Examinations concerning Broker-Dealer A's Compliance Reports (collectively, the "Examination Reports"). Schniebolk and Cavallone, who served as EQR reviewers on the 2016 examination and the 2017 examination, respectively, provided concurring approval of the Firm's issuance of the Examination Reports. The Firm's 2016 examination report was dated February 27, 2017, and the Firm's 2017 examination report was dated February 28, 2018. The Examination Reports expressed the Firm's unqualified opinions that Broker-Dealer A's assertions in the respective Compliance Reports were fairly stated, in all material respects, and the Examination Reports

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26 *See id*. ¶ 21.

27 *See id.* ¶ 27.

28 *See id.* ¶ 29.

stated, among other things, that the Examinations were conducted in accordance with PCAOB standards.

a. Puglisi's Testing of Broker-Dealer A's ICOC related to the Customer Protection Rule for the Examinations

23. In connection with the Examinations, Puglisi failed to adequately test Broker-Dealer A's ICOC with the Customer Protection Rule during, and at the end of, the 2016 and 2017 fiscal years.

24. With respect to the Possession and Control Requirements, Puglisi failed to sufficiently plan the 2016 examination engagement because Puglisi failed to obtain an understanding of Broker-Dealer A's key controls to ensure compliance with the Possession and Control Requirements during the 2016 examination.[29] Specifically, Puglisi failed to identify the controls that he believed were important to the conclusion that Broker-Dealer A maintained effective ICOC with the Possession and Control Requirements during, and as of, the FYE December 31, 2016. Further, Puglisi failed to perform, or cause the engagement team to perform, any testing to obtain evidence that Broker-Dealer A's controls for compliance with the Possession and Control Requirements were designed and operating effectively.[30]

25. With respect to the Reserve Requirements Rule, Puglisi failed to adequately evaluate Broker-Dealer A's ICOC related to that rule during, and at the end of, the fiscal years 2016 and 2017. Broker-Dealer A used a system-generated report ("Reserve workbook") to determine the minimum amount of Reserves required to comply with the rule. Puglisi and the engagement team documented that, among other things, Broker-Dealer A relied on a key information technology ("IT") application control in its internally-developed system to ensure the completeness and accuracy of the Reserve workbook. In connection with the 2016 examination, however, Puglisi failed to perform, or cause the engagement team to perform, any procedures to test the design and operating effectiveness of the controls related to the Reserve Requirements Rule.[31] In addition, Puglisi and the engagement team did not test the IT controls applicable to the internally-developed system.[32]

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[29] *See id* ¶ 9.

[30] An auditor must obtain evidence that the controls selected for testing were designed and operated effectively. *See id*. at ¶¶ 11, 14, 16.

[31] *See* AT No. 1 ¶¶ 11, 14, 16.

[32] *Id.* In 2017, Puglisi and the engagement team modified their audit procedures; as a result this failure did not recur.

26. Further, Puglisi was aware that FINRA performed annual examinations of Broker-Dealer A, and obtained the FINRA examination report on the preceding year during each audit and examination.[33] FINRA noted repeatedly in its prior examination reports that: (a) Broker-Dealer A had failed to maintain adequate documentation to ascertain the appropriate classification of an account as either a customer account or a PAB account; and (b) Broker-Dealer A, in several instances, incorrectly designated certain accounts as a PAB account instead of a customer account and vice-versa. Despite the recurring FINRA findings, Puglisi failed to sufficiently plan the examination engagements because Puglisi failed to obtain an understanding of Broker-Dealer A's process, including relevant controls, regarding the designation of an account as either a customer account or a PAB account.[34] Similarly, Puglisi failed to perform, or cause the engagement team to perform, procedures to obtain evidence that Broker-Dealer A's internal controls related to account designation were designed and operating effectively. Finally, Puglisi reviewed FINRA's reports but failed to adequately evaluate whether FINRA's repeated findings contradicted Broker-Dealer A's assertions that its ICOC on the Reserve Requirements Rule was effective during, and as of the end of, the fiscal years 2016 and 2017.[35]

27. As a result, Puglisi failed to obtain appropriate evidence that was sufficient to obtain reasonable assurance about whether there were any material weaknesses in Broker-Dealer A's ICOC related to the Customer Protection Rule during, and as of the end of, the fiscal years 2016 and 2017.[36]

b. Puglisi's Testing of Broker-Dealer A's Compliance with the Reserve Requirements Rule for the Examinations

28. AT No. 1 required that Puglisi perform procedures sufficient to support the auditor's conclusions regarding whether Broker-Dealer A was in compliance with, among other things, the Reserve Requirements Rule as of the end of each fiscal year.[37] Each year, Puglisi and the engagement team tested whether Broker-Dealer A's reserves complied with the Reserve Requirements Rule, primarily by agreeing Broker-Dealer A's Reserves calculation to the Reserve workbook. During the 2016 examination, Puglisi and the engagement team used the Reserve

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33 An auditor is required to inquire of management and others regarding regulatory examinations relevant to the broker-dealer's assertions. *See id*. at ¶ (9)(h).

34 *See id*. at ¶ 9(b).

35 *See id*. at ¶ 25.

36 *See id*. at ¶¶ 3, 4.

37 *See id*. at ¶ 21, Note.

workbook as audit evidence, but failed to: (a) test the IT controls over the system that generated the Reserve workbook; (b) test the design and operating effectiveness of controls related to the Reserve workbook; and (c) perform sufficient substantive examination procedures to otherwise test the completeness and accuracy of the Reserve workbook.[38]

29. Further, Puglisi failed to test sufficiently in 2016, or test at all in 2017, Broker-Dealer A's designation of whether accounts were appropriately classified as customer accounts or PAB accounts. Specifically, in 2016, Puglisi tested Broker-Dealer A's customer account or PAB account designation by selecting samples from the population of new accounts opened during the year and reviewing certain documents to ascertain whether Broker-Dealer A appropriately classified the account as either a customer account or a PAB account. By excluding existing accounts from the population subject to testing, Puglisi failed to address the risk of non-compliance for existing accounts in light of FINRA's repeated examination findings. In 2017, Puglisi failed to perform, or cause the engagement team to perform, any procedures to test Broker-Dealer A's customer account or PAB account designation for either existing accounts or new accounts.

30. Accordingly, Puglisi failed to obtain sufficient appropriate evidence to obtain reasonable assurance that Broker-Dealer A maintained compliance with the Reserve Requirements Rule as of the end of the 2016 and 2017 fiscal years.[39]

E. Puglisi Violated PCAOB Rules and Standards in the Firm's Audits of Broker-Dealer A's 2016 and 2017 Supporting Schedules

31. Rule 17a-5 required that Broker-Dealer A file certain supplemental information in supporting schedules accompanying its 2016 and 2017 financial statements,[40] and that those supporting schedules be audited by a PCAOB-registered firm.[41]

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[38] Under AT No. 1, an auditor must test the completeness and accuracy of the information in the schedules (AT No. 1 ¶ 21(b)), and evaluate whether the amounts in the schedules were determined in accordance with the Reserve Requirements Rule (*id*. at ¶ 21(a)).

[39] *See* AT No. 1 at ¶¶ 3, 4, 27.

[40] *See supra* note 10 and accompanying text. Supporting schedules include, from Part II or Part IIA of Form X-17A-5 (17 C.F.R. § 249.617): (i) a Computation of Net Capital Under Rule 15c3-1; (ii) a Computation for Determination of the Reserve Requirements under Exhibit A of Rule 15c3-3; and (iii) Information Relating to the Possession or Control Requirements Under Rule 15c3-3. *See* Rule 17a-5(d)(2)(ii).

[41] *See* Rule 17a-5(d)(1)(i)(A), (d)(1)(i)(C), (d)(2), (g).

32. In connection with the preparation or issuance of an audit report on such supplemental information, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards.[42] Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism in performing the audit.[43]

33. PCAOB standards also require the auditor to perform audit procedures to obtain appropriate evidence that is sufficient to support the auditor's opinion about whether the supplemental information is fairly stated, in relation to the financial statements as a whole.[44] Among other things, the auditor should perform procedures to test the completeness and accuracy of the information presented in the supplemental information to the extent it was not tested as part of the audit of the financial statements, and evaluate whether the supplemental information complies with relevant regulatory requirements.[45] The standards also provide that, when an auditor uses information produced by a company as audit evidence, the auditor should evaluate whether the information was sufficient and appropriate for purposes of the audit by performing procedures to, among other things, test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information.[46]

34. According to PCAOB standards, if an auditor is unable to obtain sufficient appropriate audit evidence to support an opinion on the supplemental information, the auditor should disclaim an opinion on the supplemental information.[47]

35. As described below, Puglisi failed to comply with PCAOB rules and standards in connection with the audit procedures performed on the supplemental information in supporting schedules accompanying Broker-Dealer A's 2016 and 2017 financial statements.

a. Puglisi's Testing of Broker-Dealer A's Supplemental Information

36. Included in Broker-Dealer A's annual reports for 2016 and 2017 filed with the Commission were the Firm's audit reports for the Audits, dated February 27, 2017, and

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42 *See* PCAOB Rule 3100; PCAOB Rule 3200, *Auditing Standards*.

43 *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*.

44 *See* AS 2701.02, .03, *Auditing Supplemental Information Accompanying Audited Financial Statements*.

45 *See id*. at .04(e)-(f).

46 *See* AS 1105.10, *Audit Evidence*.

47 *See* AS 2701.15.

February 28, 2018, respectively (collectively, the "Audit Reports"). Puglisi authorized the Firm's issuance of the Audit Reports, each of which expressed an unqualified opinion on Broker-Dealer A's related financial statements and supplemental information, and stated, among other things, that the Firm's Audits were conducted in accordance with PCAOB standards. Schniebolk and Cavallone, as the EQR reviewers for 2016 and 2017, respectively, provided concurring approval of the Firm's issuance of the Audit Reports.

37. The Audit Reports also stated that the supplemental information was subjected to audit procedures in connection with the Audits. In particular, the Firm represented that it had performed procedures to "test the completeness and accuracy of the information presented in the supplemental information."

38. For both 2016 and 2017, Broker-Dealer A's supplemental information included schedules reported on its compliance with the Reserve Requirements Rule.[48] In these supporting schedules, Broker-Dealer A reported, for each fiscal year end, that it maintained cash segregated in a Customer Reserve Bank Account and a PAB Reserve Bank Account in excess of the amounts required by the Reserve Requirements Rule. Broker-Dealer A's supplemental information also included the possession or control supplemental information,[49] which represented that, as of the report date, all customers' fully paid securities and excess margin securities were in Broker-Dealer A's possession or held in a Good Control Location in compliance with the Possession or Control Requirements.

39. Puglisi, however, failed to perform, or cause the engagement team to perform, sufficient procedures to test the completeness and accuracy of the information presented in the possession or control supplemental information for FYE December 31, 2016, and whether that information, including its form and content, complied with Rule 15c3-3.[50]

40. In addition, as of the FYE December 31, 2016 and FYE December 31, 2017, Broker-Dealer A held customer securities in, among other locations, a U.S. bank, a foreign custodian bank, and its foreign broker-dealer affiliate, which Broker-Dealer A claimed were

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48 *See supra* note 40. Specifically, Broker-Dealer A included supplemental information for the "Computation for Determination of Reserve Requirements" and "Computation for Determination of PAB Reserve Requirements."

49 *See id.* Specifically, Broker-Dealer A included supplemental information "Relating to Possession or Control Requirements Pursuant to Rule 15c3-3 of the Securities and Exchange Commission."

50 *See* AS 2701.04(e)-(f).

Good Control Locations under Rule 15c3-3(c).[51] Notwithstanding that the amounts at these locations exceeded the Firm's materiality for the Audits,[52] Puglisi failed to perform, or cause the engagement team to perform, any procedures as part of auditing Broker-Dealer A's supplemental information to obtain audit evidence that these three locations were indeed Good Control Locations.

41. Further, Puglisi coordinated the audits of Broker-Dealer A's supplemental information with the testing of Broker-Dealer A's compliance with the Reserve Requirements Rule by relying on the procedures performed during the Examinations for the Audits.[53] Thus, the same failures by Puglisi to test Broker-Dealer A's compliance with the Reserve Requirements Rule discussed above also constituted a failure to perform sufficient procedures to test the supplemental information related to the Reserves for the end of the 2016 and 2017 fiscal years. Specifically, Puglisi failed to perform, or cause the engagement team to perform, sufficient audit procedures to test the completeness and accuracy of the Reserve workbook used by Broker-Dealer A to compute its Reserves during the 2016 examination,[54] and failed to test sufficiently in 2016, or test at all in 2017, Broker-Dealer A's designation of whether an account was appropriately classified as a customer account or a PAB account.

42. Consequently, Puglisi violated PCAOB standards in the Audits by failing to obtain sufficient appropriate audit evidence to support an opinion as to whether the supplemental information in Broker-Dealer A's 2016 and 2017 supporting schedules was fairly stated, in all material respects, in relation to the financial statements as a whole.[55]

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51 *See* Rule 15c3-3(c)(4) and (c)(5); *see also* U.S. Securities and Exchange Commission, *Guidelines for Control Locations for Foreign Securities Pursuant to Subparagraphs (c)(4) and (c)(7) of Rule 15c3-3 Under the Securities Exchange Act of 1934*, Exchange Act Release 34-10429 (Oct. 12, 1973), *available at* https://www.sec.gov/rules/interp/1973/34-10429.pdf.

52 Puglisi and the engagement team established materiality for the Audits at $1,700,000 in 2016 and $400,000 in 2017.

53 According to PCAOB standards, "[t]he auditor should take into account relevant evidence from . . . the attestation engagement[] . . . in planning and performing audit procedures related to the supplemental information and in evaluating the results of the audit procedures to form the opinion on the supplemental information." AS 2701.03(c), Note.

54 *Id*. at .04(e)-(f).

55 *See id*. at .02.

F. Schniebolk and Cavallone Violated PCAOB Rules and Standards in Connection with the Engagement Quality Reviews for the Examinations and Audits

43. PCAOB Rules provide that associated persons of registered public accounting firms shall comply with all applicable auditing and related professional practice standards.[56]

44. AS 1220 requires that an engagement quality review be performed on all audits and certain attestation engagements conducted pursuant to PCAOB standards, like the Audits and Examinations.[57] AS 1220 also provides that the engagement quality reviewer for an engagement performed pursuant to PCAOB auditing or attestation standards should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement.[58] In both audit engagements and attestation engagements performed pursuant to AT No. 1, a firm may grant permission to a client to use the firm's audit or attestation report only after an engagement quality reviewer provides concurring approval of issuance of the report.[59]

45. Moreover, under AS 1220, the engagement quality reviewer may provide concurring approval of issuance of an audit or attestation report only if, after performing with due professional care the review required by AS 1220, he or she is not aware of a significant engagement deficiency.[60] AS 1220 states that a significant engagement deficiency in an audit exists when, among other things, the engagement team failed to obtain sufficient appropriate evidence.[61] Similarly, a significant engagement deficiency in an attestation engagement exists when, among other things, "the engagement team failed to perform attestation procedures necessary in the circumstances of the engagement."[62]

46. In connection with the Examinations, Schniebolk and Cavallone failed to properly evaluate the conclusions reached by the engagement team with respect to significant areas of

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56 *See* PCAOB Rule 3100; PCAOB Rule 3200.

57 *See* AS 1220.01.

58 *See id.* at .10, .18A.

59 *See id.* at .13, .18C.

60 *See id.* at .12, .18B.

61 *Id.* at .12, Note.

62 *Id.* at .18B, Note.

the Examinations, including the testing of Broker-Dealer A's ICOC and the testing of Broker-Dealer A's compliance with the Reserve Requirements Rule as of fiscal year end. Specifically, they failed to properly evaluate the failure of Puglisi and the engagement team to obtain an understanding of Broker-Dealer A's key controls to ensure compliance with the Customer Protection Rule and test whether those controls were designed and operating effectively.

47. During the 2016 audit and examination, Schniebolk failed to document his review of any of the work papers related to Puglisi's evaluation of Broker-Dealer A's ICOC or audit of Broker-Dealer A's financial statements and supplemental information. Schniebolk was aware that the engagement team had identified "compliance with the determination of reserve requirements and the information for possession or control requirements" as a significant risk to the client, but failed to document his review of any work papers reflecting the engagement team's responses to this significant risk, and failed to identify that Puglisi had not performed attestation procedures necessary in the circumstances of the engagement. As a result, Schniebolk failed to properly evaluate the significant judgments made by the engagement team and the conclusions reached in these areas prior to providing his concurring approval for the Firm to issue its reports on the 2016 audit and the 2016 examination.[63]

48. Cavallone, the EQR reviewer for the 2017 audit and the 2017 examination, also failed to properly evaluate the conclusions reached by Puglisi and the engagement team and failed to perform his engagement quality review with due professional care. Unlike Schniebolk, Cavallone documented that he reviewed the key work papers in each of the areas identified above where Puglisi violated PCAOB standards. However, Cavallone failed to perform his review with due professional care and professional skepticism, as he failed to identify that Puglisi and the engagement team had failed to perform attestation procedures necessary in the circumstances of the engagements and had reached conclusions unsupported by the procedures performed. Furthermore, although Cavallone was aware of FINRA's findings related to Broker-Dealer A's improper account designations, he failed to evaluate Puglisi's determination, a significant judgment, not to perform procedures to test those account designations.[64] Nevertheless, Cavallone provided his concurring approval for the Firm to issue its reports on the 2017 audit and the 2017 examination.

49. Accordingly, both Schniebolk and Cavallone failed to perform their engagement quality reviews with due professional care, in violation of AS 1220.

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63 *See id*. at .10, .18A.

64 *See id*. at .18B, Note.

G. Citrin Violated PCAOB Rules and Quality Control Standards

50. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[65] These standards require that a registered firm have a system of quality control for its accounting and auditing practice.[66] PCAOB quality control standards provide that a registered firm should establish policies and procedures "to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[67] Such policies should "encompass all phases of the design and execution of the engagement."[68]

51. PCAOB quality control standards further provide that firms should establish policies and procedures to provide the firm with reasonable assurance that work is assigned to personnel having the degree of technical training and proficiency required in the circumstances.[69]

52. Citrin had a limited number of carrying broker-dealer clients. At the time of the 2016 Broker-Dealer A engagement, only two of Citrin's 35 broker-dealer clients were carrying broker-dealers requiring an examination under AT No. 1. Puglisi was the engagement partner for both of those clients, along with nine other non-carrying broker-dealers.

53. Citrin was also aware that the PCAOB's Division of Registration and Inspections had performed an inspection of the Firm's 2016 audit and 2016 examination of Broker-Dealer A, and that PCAOB inspectors had identified numerous deficiencies in the work performed by Puglisi, including that:

- Puglisi had failed to obtain appropriate evidence that was sufficient to obtain reasonable assurance about whether material weaknesses existed during 2016, and at December 31, 2016, as required by AT No. 1.

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65 *See* PCAOB Rule 3100; Rule 3400T, *Interim Quality Control Standards*.

66 *See* Quality Control Standard 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20"), .01.

67 *Id*. at .17.

68 *Id*. at .18.

69 *See id*. at .13.

- Puglisi had failed to perform sufficient procedures to test controls that were important to determine whether Broker-Dealer A had maintained ICOC with respect to the Reserve Requirements Rule and the Possession and Control Requirements.

- Puglisi had failed to perform procedures sufficient to test the completeness and accuracy of the supplemental information related to the Customer Protection Rule.

54. Notwithstanding the deficiencies identified with respect to the 2016 audit and the 2016 examination, as discussed above, the Firm again assigned Puglisi, who had limited experience with carrying broker-dealers, to serve as the engagement partner for the 2017 engagement. The Firm did so without providing Puglisi with any additional support or resources, as the senior staff on the engagement did not change between 2016 and 2017. The Firm also assigned a new EQR reviewer, Cavallone, to perform the EQR on the 2017 engagement.

55. Puglisi again failed to obtain sufficient appropriate evidence to obtain reasonable assurance that Broker-Dealer A's ICOC related to the Customer Protection Rule were effective during, and as of the end of 2017, and that Broker-Dealer A had maintained compliance with the Reserve Requirements Rule as of the end of 2017. These repeated failures indicated that Citrin's system of quality control failed to provide it with reasonable assurance that the work performed by its engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality.

56. In addition to failing to provide Puglisi with sufficient support and resources, the Firm's system of quality control failed to ensure that work was assigned to personnel having the degree of technical training and proficiency required in the circumstances.[70] Specifically, during both 2016 and 2017, the Firm failed to perform evaluations of Puglisi's performance required by its quality control system and failed to adequately consider whether Puglisi possessed the degree of technical training and proficiency required to continue as the engagement partner for Broker-Dealer A.

57. Accordingly, Citrin violated PCAOB quality control standards in connection with the 2017 audit and examination.

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70 *See id*.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Citrin Cooperman & Company, LLP, Mark Schniebolk, and John Cavallone are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Joseph Puglisi is suspended, for one year from the date of this Order, from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act;[71]

C. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for one year following the suspension ordered in paragraph IV.B, Puglisi's role in any audit or attestation engagement shall be restricted as follows: Puglisi shall not serve, or supervise the work of another person serving, as either an "engagement partner" (as used in AS 1201), "engagement quality reviewer" (as used in AS 1220), or any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "concurring partner" or "concurring reviewer"), for clients that are brokers or dealers that are required to file a compliance report under Securities Exchange Act of 1934 Rule 17a-5, 17 C.F.R. § 240.17a-5, of the U.S. Securities and Exchange Commission and that carry customer or broker or dealer accounts and receive or hold funds or securities for those persons;

D. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date of this Order, Schniebolk's and Cavallone's

[71] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Joseph Puglisi, CPA. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

roles in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Schniebolk and Cavallone shall not (1) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220; or (2) serve, or supervise the work of another person serving, in any role that is equivalent to engagement quality reviewer, but differently denominated (such as "concurring partner");

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

1. Citrin Cooperman & Company, LLP, $200,000;

2. Joseph Puglisi, $25,000;

3. Mark Schniebolk, $15,000; and

4. John Cavallone, $15,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm or the person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

F. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Puglisi, Schniebolk, and Cavallone, are required to complete, within one year from the date of this Order, 20 additional hours of continuing professional education ("CPE") in subjects that are related to audits and examinations of broker-dealers under PCAOB auditing and attestation standards (such hours shall be in addition

to, and shall not be counted in, any CPE they are required to obtain in connection with any professional license); and

G. Pursuant to Sections 105(c)(4)(G) of the Act and PCAOB Rules 5300(a)(9), Citrin is required:

1. Within 90 days of the entry of this Order, to: (a) undertake a self-assessment of its system of quality control, including its quality control policies and procedures related to the Firm's audits and examinations of broker-dealers, to ensure its current policies and procedures are compliant with PCAOB quality control standards; and (b) establish, revise or supplement, as necessary, its quality control policies and procedures, including monitoring procedures, to provide reasonable assurance that work performed by engagement personnel complies with applicable PCAOB auditing and attestation standards;

2. Within 120 days of the entry of this Order, to provide a certification, signed by its Chief Executive Officer (or equivalent), to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.G.1 above. The certification shall identify the actions undertaken (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. Citrin shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 11, 2022

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Bo-Shiang Lien, CPA,

Respondent.

PCAOB Release No. 105-2022-009

May 24, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) barring Bo-Shiang ("Eric") Lien, CPA ("Lien" or "Respondent") from being associated with a registered public accounting firm;[1]

(2) imposing a $25,000 civil money penalty on Lien; and

(3) requiring that Lien complete 50 hours of continuing professional education ("CPE") (in addition to any CPE required in connection with any professional license) in subjects that are directly related to the audits of issuer financial statements under PCAOB standards.

The Board is imposing these sanctions on the basis of its findings that Lien violated PCAOB rules and auditing standards in connection with the audits by BF Borgers CPA PC ("BF Borgers" or the "Firm") of the financial statements of three issuers.[2]

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[1] Lien may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

[2] As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules,* PCAOB Rel. No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondent's conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[3]

III.

On the basis of Respondent's Offer, the Board finds that:[4]

A. Respondent

1. **Eric Lien** is a certified public accountant licensed by the state of Colorado (license no. 0030719). At all relevant times, Lien was an audit manager or director (non-equity partner) of BF Borgers and served as an engagement partner on issuer audits. Lien was, at all relevant times, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuers

2. Chineseinvestors.com, Inc. ("Chineseinvestors.com") is an Indiana corporation headquartered in San Gabriel, California. Its public filings disclose that, at all relevant times, it

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[3] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

was a provider of Chinese-language financial information and also sold, among other things, industrial hemp-infused cosmetics and liquor in China. At all relevant times, Chineseinvestors.com was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

3. United Cannabis Corporation ("United Cannabis") is a Colorado corporation headquartered in Golden, Colorado. Its public filings disclose that, at all relevant times, it was a company focused on developing therapeutics related to the endocannabinoid system. It also owned intellectual properties related to growth, production, manufacture, marketing, management, utilization, and distribution of medical and recreational marijuana, and marijuana-infused products in the United States and the Cayman Islands. At all relevant times, United Cannabis was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. China Pharma Holdings, Inc. ("China Pharma") is a Nevada corporation headquartered in Haikou, Hainan Province, China. Its public filings disclose that, at all relevant times, the company manufactured and marketed generic and branded pharmaceutical and biochemical products primarily to hospitals and private retailers in China. At all relevant times, China Pharma was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Respondent's violations of PCAOB rules and auditing standards on four audits of three issuers: the audit of the financial statements of Chineseinvestors.com for the fiscal year ("FY") ended May 31, 2019; the audit of the financial statements of United Cannabis for the FY ended December 31, 2018; and the audits of the financial statements of China Pharma for the FYs ended December 31, 2015 and 2016 (collectively, the "Audits"). Lien served as engagement partner on the Audits and authorized the issuance of the Firm's audit reports expressing unqualified opinions on those audits.

6. As detailed below, in performing the Audits, Lien failed to: (1) exercise due professional care and professional skepticism; (2) obtain sufficient appropriate audit evidence supporting significant accounts, including accounts designated as a fraud risk or a significant risk; and (3) comply with multiple other PCAOB auditing standards.[5]

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[5] An auditor's opinion that an issuer's financial statements are presented in conformity with the applicable reporting framework must be based on an audit performed in accordance with PCAOB standards. *See* AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending on or before December 14, 2017); AS 3101.02, *The Auditor's Report on an Audit of Financial*

D. Lien Violated PCAOB Rules and Standards in Performing the Audits

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[7]

8. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit.[8] Due professional care requires that the auditor exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[9]

9. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report, including obtaining reasonable assurance about whether the financial

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Statements When the Auditor Expresses an Unqualified Opinion (applicable to audits for fiscal years ending on or after December 15, 2017). PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to generally accepted accounting principles ("GAAP"). *See, e.g.*, AS 1001.01, *Responsibilities and Functions of the Independent Auditor*. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Securities and Exchange Commission ("Commission") has considered or made any determination concerning the issuer's compliance with GAAP.

6 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for fiscal years ending before December 31, 2016); PCAOB Rule 3200, *Auditing Standards* (applicable to audits for fiscal years ending on or after December 31, 2016).

7 *See* AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending on or before December 14, 2017); AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion* (applicable to audits for fiscal years ending on or after December 15, 2017).

8 *See* AS 1015.02, *Due Professional Care in the Performance of Work*.

9 *See id.* at .07; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 2401.13, *Consideration of Fraud in a Financial Statement Audit*.

statements are free of material misstatement, whether caused by error or fraud.[10] Auditors should design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[11] For significant risks, including fraud risks, the auditor should perform substantive procedures that are specifically responsive to the assessed risks.[12]

10. As described below, Lien violated these and other PCAOB standards in performing the Audits.

i. Lien Violated PCAOB Rules and Standards in the FY 2019 Chineseinvestors.com Audit

11. The Firm audited Chineseinvestors.com's FY 2019 financial statements and issued an audit report containing an unqualified audit opinion on those financial statements on August 29, 2019. Lien served as engagement partner and authorized the issuance of the audit report.

a. Lien Failed to Obtain Sufficient Appropriate Audit Evidence for Revenue

12. In FY 2019, Chineseinvestors.com disclosed that it adopted a new revenue recognition policy, and revised its accounting policies related to revenue recognition. Chineseinvestors.com reported total revenues for FY 2019 of approximately $6.5 million, which included approximately $4.2 million in revenue from sales of products, primarily liquor. During the audit, Lien and the engagement team became aware that Chineseinvestors.com's liquor sales had grown by over 1,000% from FY 2018 to FY 2019, with most of the FY 2019 sales occurring in the final months of the fiscal year. Lien and the engagement team assessed a significant risk and fraud risk related to improper revenue recognition. As described below, although Lien and the engagement team performed certain tests of details on a sample of Chineseinvestors.com's liquor sales, Lien violated multiple PCAOB standards in the Chineseinvestors.com audit with respect to addressing the fraud risk related to improper revenue recognition for liquor sales.

1. Lien Failed to Evaluate Whether Chineseinvestors.com's 2019 Liquor Sales Revenue Was Recognized in Accordance with GAAP

13. During FY 2019, Chineseinvestors.com recognized approximately $4 million in revenue from sales of liquor in China, which represented 62% of total revenues. Essentially all the company's liquor revenue was derived from sales to wholesale customers. When a

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10 *See* AS 1105.04, *Audit Evidence*; AS 2401.01.

11 *See* AS 2301.08.

12 *See id.* at .11, .13.

customer ordered liquor, Chineseinvestors.com purchased from its supplier the quantity of liquor to satisfy the customer's order and the supplier shipped the liquor directly to the company's customer. The company disclosed that it recognized revenue at the gross amount received for the liquor (*i.e.*, "gross basis"). In doing so, Chineseinvestors.com purported to be the principal seller of the liquor as opposed to an agent of the seller.

14. When another party is involved in an entity's provision of goods or services to a customer, the entity should determine whether the nature of its performance obligation is to provide the specified goods or services itself (that is, the entity is a principal) or to arrange for those goods or services to be provided by the other party (that is, the entity is an agent).[13] If a company acts in the capacity of an agent as opposed to a principal seller, it is only entitled to recognize revenue in the amount of any fee or commission earned for arranging for the product to be provided to the end customer.[14]

15. Lien and the engagement team failed to evaluate whether Chineseinvestors.com's revenue was presented fairly, in all material respects, in conformity with GAAP.[15] More specifically, Lien and the engagement team failed to evaluate whether Chineseinvestors.com's performance obligation under its contracts with its wholesale customers was to provide the liquor itself or arrange for the liquor to be provided by the liquor suppliers. Moreover, Lien knew from his review of the audit work papers that the liquor suppliers shipped the liquor ordered by the company's wholesale customers directly to those customers after Chineseinvestors.com placed an order, evidence suggesting that Chineseinvestors.com was, in fact, acting as an agent of its suppliers and not as a principal seller. Despite being aware of these facts, Lien failed to evaluate whether Chineseinvestors.com's application of accounting principles was in conformity with the applicable financial reporting framework, in violation of PCAOB standards.[16]

2. Lien Failed to Obtain Sufficient Appropriate Audit Evidence to Support Product Sales Revenue Because the Number of Transactions Tested Was Insufficient

16. Lien planned substantive tests of details procedures using the firm's sample size calculation worksheet, which calculated a minimum sample size of 84 sales transactions

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13 *See* FASB ASC 606-10-55-36, *Revenue from Contracts with Customers*.

14 *See* ASC 606-10-55-38; *see also* ASC 606-10-25-25.

15 *See* AS 2810.30, *Evaluating Audit Results*.

16 *See* AS 2810.30; AS 1015.07; AS 2110.12-.13, *Identifying and Assessing Risks of Material Misstatement*.

("planned sample size"). The planned sample size was calculated by taking into account the factors identified in AS 2315.23, *Audit Sampling*.[17]

17. However, Lien and the engagement team then decided to subject only 53 transactions, or 63% of the planned sample size, to potential tests of details ("actual sample size"). The actual sample size was not determined using any reasoned or informed basis. In determining the actual sample size, Lien and the engagement team failed to appropriately take into account the factors of AS 2315.23.

18. Moreover, 16 of the 53 transactions that Lien and the engagement team selected were recorded on Chineseinvestors.com's books at negative amounts (*i.e.*, a reduction to sales revenue). As Lien was aware, these transactions were sales returns. Lien and the engagement team failed to perform any audit procedures on the sales returns selections or evaluate the effect of these unexamined selections on the sample.[18] Excluding the unexamined sales returns, Lien and the engagement team performed tests of details on a sample of only 37 transactions, or 44% of the planned sample size ("effective sample size").

19. Lien reviewed the revenue testing work paper and, thus, knew the effective sample size was less than half of the planned sample size. Nevertheless, Lien failed to either (1) direct the engagement team to test additional transactions, or (2) evaluate whether the effective sample size provided sufficient audit evidence to meet the objective of the substantive tests of details procedures.[19] Lien thus failed to evaluate the audit evidence gathered by the engagement team with due professional care and professional skepticism.[20] Lien also failed to obtain sufficient appropriate audit evidence to support his conclusion that Chineseinvestors.com's product sales had occurred, in violation of PCAOB standards.[21]

3. Lien Failed to Obtain Sufficient Appropriate Audit Evidence that Liquor Sales Occurred

20. To test whether each sales transaction in the sample selected for testing was recorded in the proper period, Lien and the engagement team obtained third-party delivery

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17 Those factors include: (1) tolerable misstatement for the population; (2) allowable risk of incorrect assessment (based on assessments of inherent risk, control risk, and detection risk); and (3) the characteristics of the population, including the expected size and frequency of misstatements.

18 *See* AS 2315.25.

19 *See* AS 1105.22.

20 *See* AS 1015.07; AS 2301.07.

21 *See* AS 1015.07; AS 1105.04, .22; AS 2315.23, .25.

records (the "delivery notes"). The delivery notes did not include information about the title for the liquor shipped.

21. Lien knew that Chineseinvestors.com was not able to recognize revenue until it satisfied its contractual performance obligations. Based on management's representations, Lien believed Chineseinvestors.com's performance obligations were satisfied upon transfer of title from the company to the customer. However, as Lien was aware from his review of the work papers, audit evidence suggested Chineseinvestors.com never held the title of the liquor it sold to wholesale customers. Lien failed to resolve the inconsistent audit evidence and, therefore, violated PCAOB standards because he had no basis to conclude that Chineseinvestors.com's recorded wholesale liquor sales were recorded in the proper period.[22]

22. Further, for 25% of the sales transactions tested as part of the test of revenue details, the audit documentation identified the customer as a third-party shipping company, and not the actual customer. Lien reviewed the revenue test of details work paper, and thus knew that Chineseinvestors.com had identified a shipping company as the customer rather than the wholesale customer. However, Lien and the engagement team failed to perform any further procedures to understand who the ultimate wholesale customers were for these transactions or to validate that Chineseinvestors.com had contracts with those purported customers. Therefore, Lien and the engagement team had no basis to conclude that delivery notes were appropriate evidence to support revenue recognition. As a result, Lien failed to obtain sufficient appropriate audit evidence to support his conclusion that these sales transactions had occurred, in violation of PCAOB standards.[23]

4. Lien Failed to Obtain Sufficient Appropriate Audit Evidence that Chineseinvestors.com's Revenue from Product Sales Was Recorded at the Proper Value

23. To test whether each sales transaction in the sample selected for testing was recorded at the proper value, Lien and the engagement team relied on the third-party delivery notes. However, as Lien was aware, these delivery notes did not contain sales prices or any other evidence related to the amounts, or values, of the sales transactions. Lien and the engagement team failed to perform any procedures to determine whether the selected transactions were properly valued.

24. Lien reviewed the engagement team's tests of revenue details. Thus, he knew, or should have known, that he and the engagement team had failed to obtain any audit evidence to determine whether the selected revenue transactions were recorded at the proper value. As

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22 *See* AS 1105.29; AS 1015.07; AS 2805.04, *Management Representations.*

23 *See* AS 1015.07; AS 1105.04, .29.

a result, Lien failed to obtain sufficient appropriate audit evidence to support his conclusion that Chineseinvestors.com's FY 2019 sales were properly valued, in violation of PCAOB standards.[24]

b. Lien Failed to Obtain Sufficient Appropriate Audit Evidence Supporting Cost of Product Sales

25. With respect to the $4.2 million in product sales in FY 2019, Chineseinvestors.com reported $3.5 million in cost of product sales. Lien and the engagement team assessed a significant risk for these cost of sales. Thus, Lien and the engagement team were required to perform substantive procedures to test this account.[25]

26. The only substantive procedure Lien and the engagement team performed to test the cost of product sales was to send confirmation requests to Chineseinvestors.com's two suppliers requesting a confirmation of total purchases for the year. However, only one of the company's suppliers responded to the confirmation request. Lien and the engagement team failed to perform any alternative procedures to test the cost of liquor sold during the year that was purportedly purchased from the second supplier, which totaled $2.2 million and represented 60% of total purchases in the year under audit.[26]

27. Because Lien failed to substantively test $2.2 million in product purchases, he failed to perform sufficient procedures in response to a significant risk and failed to obtain sufficient appropriate audit evidence supporting the cost of sales account, in violation of PCAOB standards.[27]

ii. Lien Violated PCAOB Rules and Standards in the FY 2018 United Cannabis Audit

28. The Firm issued an audit report dated March 28, 2019, containing an unqualified audit opinion on United Cannabis's FY 2018 financial statements. Lien served as engagement partner and authorized the issuance of the audit report.

29. In its 2018 Form 10-K, United Cannabis reported total assets of $12.9 million, of which approximately $4.8 million consisted of goodwill. United Cannabis's goodwill was

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[24] *See* AS 1015.07; AS 1105.04; AS 2301.11, .13.

[25] *See* AS 2301.11.

[26] *See* AS 2310.31, *The Confirmation Process* ("When the auditor has not received replies to positive confirmation requests, he or she should apply alternative procedures to the nonresponses to obtain the evidence necessary to reduce audit risk to an acceptably low level.").

[27] *See* AS 1015.07; AS 1105.04; AS 2301.11; AS 2310.31.

primarily associated with the July 14, 2017 acquisition of Prana Therapeutics, Inc. ("PTI"), a company that develops therapeutics for the oncology, neurology, and orthopedic markets.

30. Goodwill should be tested for impairment by the issuer at least annually, and whenever there is an indication that the goodwill may be impaired.[28] As Lien was aware, at year-end 2018, United Cannabis performed a qualitative assessment of whether it was more likely than not that the carrying value of PTI exceeded its fair value.[29] Lien also understood that, to support its impairment determination, management relied on a valuation report prepared by a third-party specialist. Lien knew that the third-party specialist was engaged by United Cannabis management to estimate the fair value of PTI based on the present value of PTI's projected future cash flows, and that this estimated fair value was highly dependent on data and assumptions provided by United Cannabis management.

31. During the 2018 audit, Lien assessed the valuation of goodwill as a "high risk" due to the risk of material misstatement related to potential impairment, thereby designating it as an area that required more extensive audit procedures than non-high-risk areas. Lien, however, failed to gather sufficient appropriate audit evidence to address the high risk that goodwill was potentially impaired as of December 31, 2018.

a. Lien Failed to Perform Sufficient Audit Procedures to Evaluate Management's Qualitative Assessment of Goodwill Impairment

32. In its Form 10-K, United Cannabis reported significant operating losses and negative cash flows from operations during 2017 and 2018, and a steady and significant decline in its common stock price. Lien was also aware that PTI experienced a loss of approximately $653,000 in 2018. In addition, Lien and the engagement team concluded that there was substantial doubt about United Cannabis's ability to continue as a going concern due to its recurring losses, illiquidity, and accumulated deficit.

33. Despite being aware of these qualitative factors indicating that goodwill was potentially impaired, Lien accepted management's contradictory representation that there were no relevant events or changes in circumstances that indicated its goodwill may be

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[28] *See* FASB ASC 350-20-35-1, *Goodwill – Subsequent Measurement*.

[29] To comply with the annual impairment testing requirement under GAAP, an issuer is permitted to first assess certain qualitative factors to determine whether it is necessary to perform a two-step goodwill impairment test (*i.e.*, the qualitative assessment). If determined to be necessary, a two-step impairment test is then used to identify potential goodwill impairment and measure the amount of any impairment loss to be recognized. *See* ASC 350-20-35-3.

impaired.[30] Lien failed to perform any further procedures to investigate the basis for management's conclusion or evaluate its reasonableness.[31] As a result, Lien failed to perform sufficient appropriate audit procedures to address the risk that United Cannabis's goodwill was impaired.[32]

b. Lien Failed to Perform the Procedures Necessary to Use the Work of a Third-Party Specialist

34. To support its reported goodwill balance, United Cannabis management also relied on the valuation report prepared by a third-party specialist, which indicated there had been no significant changes in PTI's estimated fair value or underlying projections of future cash flows since the prior year. The report also stated that, to determine the fair value of PTI, the specialist relied on data and assumptions provided by United Cannabis management, namely the future cash flow projections, without the specialist performing any procedures to evaluate the reasonableness of this information.

35. PCAOB standards require the auditor to evaluate whether the significant assumptions used by management in measuring fair value, taken individually and as a whole, provide a reasonable basis for the fair value measurements and disclosures.[33] The auditor is also required to test the data used to develop the fair value measurements and disclosures and evaluate whether the fair value measurements have been properly determined from such data and management's assumptions.[34] PCAOB standards further require that when using the work of a specialist, auditors should: (1) obtain an understanding of the methods and assumptions used by the specialist; (2) make appropriate tests of data provided to the specialist; and (3) evaluate whether the specialist's findings support the related assertions in the financial statements.[35]

36. Though Lien obtained the valuation report, he failed to perform any procedures to understand the work performed or assumptions used by the third-party specialist in

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30 *See* AS 2805.04 ("If a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made.").

31 *See* AS 1015.07; AS 1105.29; AS 2805.04.

32 *See* AS 2301.08.

33 *See* AS 2502.28, *Auditing Fair Value Measurements and Disclosures* (applicable to audits for fiscal years ending on or before December 14, 2020).

34 *See id.* at .39.

35 *See* AS 1210.12, *Using the Work of a Specialist* (applicable to audits for fiscal years ending on or before December 14, 2020).

determining the fair value of United Cannabis's ownership interest in PTI, and to test the data provided by management and relied on by the specialist, including ten years of cash flow projections. As a result of these failures, Lien violated PCAOB standards.[36]

iii. Lien Violated PCAOB Rules and Standards in the FY 2015 and FY 2016 China Pharma Audits

37. The Firm audited China Pharma's FY 2015 and FY 2016 financial statements concurrently and issued an audit report containing an unqualified audit opinion on those financial statements on March 31, 2017. Lien served as engagement partner and authorized the issuance of the audit report.

a. Lien Failed to Obtain Sufficient Appropriate Audit Evidence for Intangible Assets

38. China Pharma's public filings disclosed that the largest asset on its 2015 and 2016 balance sheets was Advances for the Purchase of Intangible Assets ("Advances"), which represented cash payments made to independent laboratories for the patent rights and development costs of 20 medical formulas ("products"). Advances represented approximately $42 million (44%) and $35.5 million (45%) of China Pharma's total assets as of December 31, 2015 and 2016, respectively. Lien and the engagement team identified the valuation of Advances as a significant risk.

39. During the 2015 and 2016 audits, Lien knew that China Pharma had experienced delays in receiving Chinese government approval for its products purportedly because of uncertainties about new regulations. Lien also knew that China Pharma had suspended the development of its products in FY 2016 because of the uncertainties surrounding these new regulations. As a result, Lien knew that China Pharma was unable to determine when, if ever, any of its products would receive government approval.

40. Lien was required to evaluate the reasonableness of China Pharma's estimates related to the potential impairment of Advances as of both December 31, 2015 and December 31, 2016.[37] The procedures Lien and the engagement team performed, however, failed to provide sufficient appropriate audit evidence to support Lien's conclusions on the Advances.

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[36] *See* AS 1015.07; AS 1105.29; AS 2502.28 (as applicable to audits for fiscal years ending on or before December 14, 2020); AS 1210.12 (as applicable to audits for fiscal years ending on or before December 14, 2020).

[37] *See* AS 2501.04, .07, *Auditing Accounting Estimates* (as applicable to audits for fiscal years ending on or before December 14, 2017).

41. First, Lien and the engagement team knew that China Pharma had recognized full impairment on the Advances with at least three laboratories in FY 2016, but failed to sufficiently evaluate whether those impairments should have instead been recognized in FY 2015. China Pharma management represented to Lien and the engagement team that the impairments resulted from new Chinese regulations in FY 2016. Lien relied on this representation despite inconsistent information in China Pharma's accounting records suggesting the impairments in connection with at least two of the three laboratories were actually caused by concerns in 2015 about the financial insolvency of the laboratories.

42. Second, Lien and the engagement team failed to perform procedures necessary to resolve inconsistent audit evidence. Management's FY 2016 impairment analysis assumed that, although development of the products was suspended indefinitely, the suspension would not affect the valuation of the Advances because it would not have a significant impact on the projected future cash flows for the products. This assumption was inconsistent with three conditions of which Lien was aware at the time of the audit: (a) China Pharma's competitors were developing similar products and delays by the company could harm its future sales; (b) although the analysis assumed all medical formulas would receive government approval, this was not assured; and (c) the analysis ignored the risk that the laboratories developing the new products might become insolvent and be unable to fulfill their contractual obligations. Lien and the engagement team failed to perform audit procedures necessary to resolve these inconsistencies.[38]

43. Third, Lien and the engagement team failed to obtain and test an impairment analysis for FY 2015. Lien conducted the FY 2015 and FY 2016 audits concurrently and assessed a significant risk relating to the valuation of Advances for both years. Lien planned to address this risk in both years by testing China Pharma's impairment analyses. Although Lien obtained an analysis as of December 31, 2016, he failed to obtain one as of December 31, 2015. Lien's justification for this failure was a belief that the results of management's analyses as of December 31, 2015 and 2016 would be similar, despite the fact that China Pharma suspended the development of its products in 2016. Lien failed to obtain any audit evidence beyond management representation to support this belief.[39]

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38 *See* AS 1105.29.

39 *See id.* at .17, note.

44. As a result, Lien failed to obtain sufficient appropriate audit evidence in the 2015 and 2016 China Pharma audits to determine whether Advances were properly valued, in violation of PCAOB standards.[40]

b. Lien Failed to Obtain Sufficient Appropriate Evidence for Revenue

45. China Pharma reported revenue of approximately $15.6 million for the year ended December 31, 2016, and approximately $20.4 million for the year ended December 31, 2015. At the end of each year, the company also reported more than $15 million in outstanding customer receivables that were doubtful of collection. For both audits, Lien identified fraud risks related to improper revenue recognition.

46. Lien failed to evaluate in either audit whether China Pharma's revenue was presented fairly, in all material respects, in conformity with GAAP.[41] Specifically, Lien knew that, among other things, an issuer could not recognize revenue under GAAP until the seller's price to the buyer was fixed or determinable.[42] Lien also knew that China Pharma had a history of using a collection discount program under which outstanding invoices were discounted to encourage customer payments. Lien did not, however, address this evidence that the sales invoice price recognized as revenue by China Pharma might not be the actual price to the buyer. As a result, Lien failed to evaluate whether China Pharma's reported revenue was presented fairly, in conformity with GAAP.[43]

47. Additionally, in both audits, Lien and the engagement team's procedures to assess the valuation of revenue were limited to inspecting a selection of sales invoices. These procedures were flawed for two reasons. First, because of China Pharma's collection discount program, the invoices did not provide evidence of the actual price to the customer. Second, Lien and the engagement team had no basis to evaluate whether the selected invoices had been paid in full because, as they were aware, China Pharma used a first-in, first-out method to apply customer payments to the oldest outstanding invoice. As a result, Lien failed to obtain sufficient appropriate evidence to determine whether revenue was recorded at the appropriate value, in violation of PCAOB standards.[44]

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40 *See id.* at .04, .17, note, .29; AS 2301.11; AS 2501.04, .07 (as applicable to audits for fiscal years ending on or before December 14, 2017); AS 1015.07.

41 *See* AS 2810.30.

42 *See* FASB ASC 605-10, *Revenue Recognition* (superseded by FASB ASC 606, *Revenue from Contracts with Customers*, for public companies for annual periods beginning after December 15, 2017).

43 *See* AS 2810.30.

44 *See* AS 1015.07; AS 1105.04; AS 2301.11, .13.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Bo-Shiang ("Eric") Lien is barred from being an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[45]

B. After two years from the date of this Order, Bo-Shiang ("Eric") Lien may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed on Bo-Shiang ("Eric") Lien. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay the foregoing civil money penalty as follows: Respondent shall pay $5,000 within ten days of the issuance of this Order, an additional $2,500 within 90 days of the issuance of this Order, an additional $2,500 within 180 days of the issuance of this Order, an additional $2,500 within 270 days of the issuance of this Order, an additional $2,500 within 360 days of the issuance of this Order, an additional $2,500 within 450 days of the issuance of this Order, an additional $2,500 within 540 days of the issuance of this Order, an additional $2,500 within 630 days of the issuance of this Order, and an additional $2,500 within 720 days of the issuance of this Order, making each payment by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover

[45] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Lien. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm***; and

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Bo-Shiang ("Eric") Lien is required to complete, within two years from the date of this Order, 50 hours of professional education and training in subjects that are directly related to the audits of issuer financial statements (such hours shall be in addition to, and shall not be counted in, the continuing professional education he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 24, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Robert C. Duncan Accountancy Corp. and Robert C. Duncan, CPA,

Respondents.

PCAOB Release No. 105-2022-010
(Corrected Copy)

June 22, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) revoking the registration of Robert C. Duncan Accountancy Corporation (the "Firm"), a registered public accounting firm;[1]

(2) barring Robert C. Duncan, CPA ("Duncan") from being associated with a registered public accounting firm;[2] and

(3) imposing a $30,000 civil money penalty jointly and severally upon the Firm and Duncan (collectively, "Respondents").

The Board is imposing these sanctions on the Respondents on the basis of its findings that they violated PCAOB rules and standards in connection with three audit and attestation engagements by the Firm of a broker-dealer client for the fiscal years ended 2017, 2020, and 2021.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit

[1] The Firm may reapply for registration after two years from the date of this Order.

[2] Duncan may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **Robert C. Duncan Accountancy Corporation** is a corporation organized under the laws of the State of California, with headquarters in Roseville, California. The Firm was, at all relevant times, licensed in the state of California (License No. 6271). The Firm is, and at all relevant times was, registered with the PCAOB pursuant to Section 102 of the Act and PCAOB rules.

2. **Robert C. Duncan, CPA** is the Firm's president and sole shareholder. He is a certified public accountant licensed by the State of California (License No. 60174). Duncan is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Broker-Dealer

3. Seedchange Execution Services Inc. ("SESI") (a/k/a Yosemite Execution Partners, Inc.) was, at all relevant times, a Delaware corporation headquartered in San Francisco, California. SESI's public filings disclose that it is registered with the Commission as a broker-dealer. SESI also claimed an exemption from Rule 15c3-3 under the Securities Exchange Act of 1934 ("Exchange Act"), *Customer protection - reserves and custody of securities* ("Rule 15c3-3").[5] At all relevant times, SESI was a broker-dealer as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii).

C. Summary

4. This matter concerns the Firm's failure to comply with AS 1220, *Engagement Quality Review*, with respect to three audit and attestation engagements for SESI for the fiscal years ended 2017, 2020, and 2021. With respect to each of these broker-dealer audit and attestation engagements, the Firm failed to obtain an engagement quality review and concurring approval of issuance even though an engagement quality review was required pursuant to AS 1220.

5. This matter also concerns Duncan's direct and substantial contribution to the Firm's violations of PCAOB rules and standards concerning the requirements for engagement quality reviews. With respect to each of the audit and attestation engagements, Duncan took or omitted to take actions knowing, or recklessly not knowing, that his actions and omissions would directly and substantially contribute to the Firm's violations of AS 1220.

D. The Firm Violated PCAOB Rules and Auditing Standards Relating to Engagement Quality Reviews

6. In connection with the preparation or issuance of an audit report,[6] PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7]

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[5] 17 C.F.R. § 240.15c3-3.

[6] Rule 17a-5(d) of the Exchange Act, 17 C.F.R. § 240.17a-5(d), *Annual Filing of Audited Financial Statements*, requires every broker or dealer registered pursuant to Section 15 of the Exchange Act to file annually a report audited by an independent public accountant. Rule 17a-5(g) requires that audits of broker-dealers be performed in accordance with PCAOB standards.

[7] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

7. AS 1220 requires that an engagement quality review be performed on all audits, reviews of interim financial information, and certain attestation engagements conducted pursuant to PCAOB standards.[8] In addition, a firm may grant permission to a client to use an engagement report only after an engagement quality reviewer provides concurring approval of issuance.[9]

8. An engagement quality reviewer must be independent of the company, perform the engagement quality review with integrity, and maintain objectivity in performing the review.[10] To maintain objectivity, the engagement quality reviewer and others who assist the reviewer should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team.[11] The engagement partner remains responsible for the engagement and its performance, notwithstanding the involvement of the engagement quality reviewer and others who assist the reviewer.[12]

9. The Firm failed to obtain an engagement quality review that complied with AS 1220 for the three SESI audit and attestation engagements for fiscal years 2017, 2020 and 2021.[13] In each instance, the audit and attestation engagement was for a broker-dealer, as defined in Sections 110(3) and 110(4) of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii). And in each instance, the Firm improperly permitted the issuance of its audit report containing an unqualified opinion and review report without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm repeatedly violated AS 1220.

E. Duncan Contributed to the Firm's Violations of PCAOB Rules and Auditing Standards

10. PCAOB Rule 3502 states that "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that

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8 AS 1220.01.

9 AS 1220.13, .18C.

10 AS 1220.06.

11 AS 1220.07.

12 AS 1220.07.

13 Duncan represented that, while serving as the engagement partner on these audits and attestation engagements, he simultaneously acted as the engagement quality reviewer. However, Duncan could not serve as the engagement quality reviewer on these engagements while also serving as the engagement partner. *See* AS 1220.06-.08. As a result, no engagement quality review was performed for the 2017, 2020, and 2021 audit and attestation engagements.

the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[14]

11. Duncan was the Firm's principal and sole shareholder, as well as the engagement partner for all three of the SESI audits and attestation engagements at issue. Accordingly, Duncan was responsible for ensuring that the Firm complied with PCAOB rules and standards. Duncan knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of AS 1220, as described above. As a result, Duncan violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Robert C. Duncan Accountancy Corporation is revoked;

B. After two years from the date of this Order, Robert C. Duncan Accountancy Corporation may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Robert C. Duncan, CPA is barred from being an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[15]

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[14] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

[15] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Duncan. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable

D. After two years from the date of this Order, Robert C. Duncan, CPA may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed jointly and severally upon Robert C. Duncan Accountancy Corporation and Robert C. Duncan, CPA. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay the civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***By consenting to this Order, Respondents acknowledge that a failure to pay the civil money penalty described above may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b) or a reapplication for registration pursuant to PCAOB Rule 2101.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 22, 2022

care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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Order Making Findings and Imposing Sanctions

In the Matter of Kevin F. Pickard, CPA,

Respondent.

PCAOB Release No. 105-2022-011

June 22, 2022

By this Order Making Findings and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) barring Kevin F. Pickard, CPA ("Pickard" or "Respondent") from being an associated person of a registered public accounting firm, but allowing him, after two years, to file a petition for Board consent to associate with a registered firm;

(2) if the Board later consents to Pickard's association with a registered firm, limiting his activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for an additional period of one year following the termination of the bar;

(3) imposing a civil money penalty in the amount of $30,000 on Pickard; and

(4) requiring Pickard to complete 25 hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license, before filing any petition for Board consent to associate with a registered public accounting firm.

The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB rules and standards in connection with two issuer audits.[1]

[1] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audit discussed herein.

I.

On April 16, 2021, the Board instituted non-public disciplinary proceedings against Respondent.[2] Pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[3]

II.

On the basis of Respondent's Offer, the Board finds that:[4]

A. Respondent

1. **Kevin F. Pickard** was, at all relevant times, a certified public accountant, licensed by the state of California (license no. CPA 70205). Pickard served as the engagement quality reviewer for audits that a registered public accounting firm, AJ Robbins CPA, LLC, had performed with respect to the year-end April 30, 2017 financial statements of Soldino Group Corp ("Soldino" and the "Soldino Audit") and the year-end November 30, 2017 financial statements of Vado Corp. ("Vado" and the "Vado Audit"). Pickard was, at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[2] Section 105(c)(2) of the Act provides that litigated disciplinary proceedings shall not be public, "unless otherwise ordered by the Board for good cause shown, with the consent of the parties." Although the Board found good cause for making the proceedings public, Respondent did not consent to making the hearing public, as permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203.

[3] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Relevant Entity

2. AJ Robbins CPA, LLC ("AJR" or "Firm") is a professional corporation organized under the laws of the state of Colorado and headquartered in Denver, Colorado. It is licensed by the Colorado State Board of Accountancy (license no. FRM.5000243). The Firm was, at all relevant times, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm performed the Soldino and Vado Audits as those issuers' independent auditor.

C. Issuers

3. Soldino, at all relevant times, was a Nevada corporation headquartered in Treviso, Italy. Its public filings disclosed that, at the time of the Soldino Audit, it intended to commence operations in the business of work wear distribution, sewing and embroidery services. Soldino filed a Form S-1 registration statement with the U.S. Securities and Exchange Commission ("Commission") on June 14, 2017, which contained AJR's audit report for the Soldino Audit (dated May 31, 2017) and a consent from AJR (dated June 12, 2017) for that audit report to be included in the Form S-1 registration statement. With AJR's consent, Soldino also included the audit report in amended Forms S-1, including an amended Form S-1 filed on August 21, 2017. From the time that it filed its Form S-1, and at all relevant times thereafter, Soldino was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. Vado, at all relevant times, was a Nevada corporation headquartered in Nitra, Slovakia. Its public filings disclosed that, at the time of the Vado Audit, it was developing an embroidery business. Vado filed a Form S-1 registration statement with the Commission on January 18, 2018, which contained AJR's audit report for the Vado Audit (dated January 8, 2018) and a consent from AJR (dated January 16, 2018) for that audit report to be included in the Form S-1 registration statement. From the time that it filed its Form S-1, and at all relevant times thereafter, Vado was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

D. Summary

5. This matter concerns Respondent's violations of PCAOB rules and standards in connection with the Soldino and Vado Audits. While serving as the engagement quality reviewer for those audits, Pickard failed to comply with AS 1220, *Engagement Quality Review*. Pickard also failed to document his engagement quality reviews ("EQRs") as required by PCAOB standards.

6. In July 2018, after the documentation completion date for both the Soldino and Vado Audits, Pickard documented his EQRs by completing and signing two work papers that the Firm sent to Pickard for each audit. Pickard completed that documentation at the request of the audits' engagement partner, because of an upcoming PCAOB inspection of the Firm. When documenting his EQRs, Pickard falsely indicated that he had performed all of the procedures required by AS 1220. Pickard also backdated his signature on the forms to dates during or near the time of his EQRs. Although Pickard completed the forms well after the documentation completion date for both audits, Pickard did not document in the forms the date that he added information to the forms, or the reason for doing so after the documentation completion date, as required by AS 1215, *Audit Documentation*, and AS 1220.

E. Pickard Violated PCAOB Rules and Standards in Connection with the Soldino and Vado Audits

7. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An EQR is required for all audits and reviews conducted pursuant to PCAOB standards.[6] The EQR is intended to "serve as a meaningful check on the work performed by the engagement team."[7]

8. In an audit, the engagement quality reviewer is responsible for evaluating the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[8] Among other things, the engagement quality reviewer should: (1) evaluate the significant judgments that relate to engagement planning; (2) evaluate the engagement team's assessment of, and audit responses to, significant risks identified by the engagement team or the engagement quality reviewer; (3) review the engagement team's evaluation of the firm's independence in relation to the engagement; and (4) review the engagement completion document.[9] AS 1220 further provides that the engagement quality reviewer should evaluate whether appropriate matters have been communicated, or identified for communication, to

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[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[6] *See* AS 1220.01.

[7] PCAOB Rel. No. 2009-004 (July 28, 2009) at 2.

[8] *See* AS 1220.09.

[9] *See* AS 1220.10(a), (b), (d), (e).

the audit committee, management, and other parties, such as regulatory bodies.[10] The engagement quality reviewer should also evaluate whether the engagement documentation that he or she reviewed indicates that the engagement team responded appropriately to significant risks and supports the conclusions reached by the engagement team with respect to the matters reviewed.[11]

9. The engagement quality reviewer may provide concurring approval of issuance of an audit report only if, after performing the EQR with due professional care, he or she is not aware of a significant engagement deficiency.[12] "Due professional care requires the auditor to exercise professional skepticism. Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence."[13]

10. Documentation of an EQR should be included in the engagement documentation.[14] That documentation should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the engagement quality reviewer, including, but not limited to, the documents reviewed by the engagement quality reviewer.[15]

11. AS 1215's requirements related to retention of, and subsequent changes to, audit documentation apply to documentation of the engagement quality review.[16] For an audit, a complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*i.e.*, the "documentation completion date").[17] "Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[18]

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10 *See* AS 1220.10(i).

11 *See* AS 1220.11.

12 *See* AS 1220.12.

13 AS 1015.07, *Due Professional Care in the Performance of Work*.

14 *See* AS 1220.20.

15 *See* AS 1220.19.

16 *See* AS 1220.21.

17 *See* AS 1215.15.

18 AS 1215.16.

12. As described below, Pickard failed to comply with the foregoing rules and standards in connection with the Soldino and Vado Audits.

i. Soldino Audit

13. The Firm engaged Pickard to perform the EQR for the Soldino Audit on or about August 1, 2017—almost seven weeks after the Firm issued its audit report and permitted Soldino to include that report in a Form S-1 that it filed with the Commission on June 14, 2017. By the time Pickard performed the EQR on August 1, Soldino had already included the Firm's audit report in three Form S-1 registration statements and amendments filed with the Commission.

14. When performing his EQR in August 2017, Pickard received and reviewed only a draft copy of Soldino's financial statements and a signed copy of the audit report dated May 31, 2017. He did not receive any other documents related to the Soldino Audit.

15. Pickard failed to perform the EQR for the Soldino Audit with due professional care.[19] When performing his EQR, Pickard:

a. did not receive or review any planning documentation, and he failed to evaluate the significant judgments that related to engagement planning;[20]

b. did not receive or review any risk assessment documentation relating to the audit, and failed to evaluate the engagement team's assessment of, and responses to, significant risks identified by the engagement team;[21]

c. did not receive or review any documentation concerning the engagement team's evaluation of the Firm's independence, and failed to review the engagement team's evaluation of the Firm's independence;[22]

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19 *See* AS 1220.12; AS 1015.01.

20 *See* AS 1220.10(a).

21 *See* AS 1220.10(b).

22 *See* AS 1220.10(d).

d. did not receive or review the engagement completion document, and failed to confirm with the engagement partner that there were no significant unresolved matters;[23] and

e. did not receive or review documentation of any audit communications, and failed to evaluate whether appropriate matters were communicated, or identified for communication, to the audit committee, management, and other parties.[24]

16. Nevertheless, on August 1, 2017, Pickard provided concurring approval of issuance of the audit report for the Soldino Audit. On August 21, 2017, Soldino filed an amended Form S-1 registration statement containing the Firm's audit report for the Soldino Audit.

ii. Vado Audit

17. Pickard performed the EQR for the Vado Audit on or about January 16, 2018.

18. When performing his EQR for the Vado Audit, Pickard received a draft copy of Vado's financial statements. Pickard also received a general ledger document with some brief annotations from the audit engagement team, indicating that the engagement team had "traced" the transactions in that document to client-provided bank statements. Pickard did not receive any other documents related to the Vado Audit.

19. Pickard failed to perform the EQR for the Vado Audit with due professional care.[25] When performing his EQR for the Vado Audit, Pickard:

a. did not receive or review any planning documentation, and he failed to evaluate the significant judgments that related to engagement planning;[26]

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[23] *See* AS 1220.10(e).

[24] *See* AS 1220.10(i).

[25] *See* AS 1220.12; AS 1015.01.

[26] *See* AS 1220.10(a).

b. did not receive or review any risk assessment documentation relating to the audit, and failed to evaluate the engagement team's assessment of, and responses to, significant risks identified by the engagement team;[27]

c. did not receive or review any documentation concerning the engagement team's evaluation of the Firm's independence, and failed to review the engagement team's evaluation of the Firm's independence;[28]

d. did not receive or review the engagement completion document, and failed to understand the significant findings and issues from the audit or confirm with the engagement partner that there were no significant unresolved matters;[29]

e. did not review the audit report;[30] and

f. did not receive or review documentation of any audit communications, and failed to evaluate whether appropriate matters were communicated, or identified for communication, to the audit committee, management, and other parties.[31]

20. Nevertheless, on or about January 16, 2018, Pickard provided concurring approval of issuance of the audit report for the Vado Audit. On January 18, 2018, Vado filed a Form S-1 registration statement containing the Firm's audit report for the Vado Audit.

iii. Documentation of the Soldino and Vado Audits

21. Pickard failed to document his EQRs for the Soldino and Vado Audits as required by AS 1220 before the documentation completion date.[32] Although Pickard sent comments on the issuers' financial statements to the Firm via email at the time he performed the EQRs, he failed to document the EQRs with sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures he

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27 *See* AS 1220.10(b).

28 *See* AS 1220.10(d).

29 *See* AS 1220.10(e).

30 *See* AS 1220.10(f).

31 *See* AS 1220.10(i).

32 *See* AS 1220.19-.21.

performed to comply with AS 1220, including the documents he reviewed and the date he provided concurring approval of issuance.[33]

22. On July 14, 2018, Allan Jeffrie Robbins, CPA ("Robbins") the engagement partner for the Soldino and Vado Audits, sent Pickard an email, asking Pickard to document his EQRs for those audits. In his email to Pickard, Robbins explained that he needed the documentation for an upcoming inspection of the Firm by the PCAOB, which was scheduled for early August 2018. Pickard knew that he was being asked to document his EQRs several months after the documentation completion dates for both audits.

23. For each audit, Robbins sent Pickard two forms to complete to document his EQRs. The first was a "Supervision, Review and Approval Form," which contained a checklist for the engagement quality reviewer to complete, indicating whether he or she performed various steps required by AS 1220, and containing a space for the engagement quality reviewer's signature. The second was the "Engagement Completion Document," which also contained a space for the engagement quality reviewer's signature. Pickard had not previously received those forms from the Firm or completed them for either EQR.

24. Pickard knew that PCAOB standards required that audit documentation indicate the procedures performed and the date that they were completed.[34] Pickard also knew that, when adding information to audit documentation after the documentation completion date for an audit, PCAOB standards required that the documentation reflect the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.[35]

25. On July 26, 2018, Pickard completed the forms that Robbins had sent to him to document his EQRs, and returned those forms to the Firm via email. When completing the forms, Pickard backdated his signatures on the completed forms to dates contemporaneous with his EQRs (August 1, 2017 for the Soldino Audit, and January 21, 2018, for the Vado Audit), and failed to include any indication in the forms of the date he added his information to the forms or why the information was added. Pickard also falsely indicated in the forms that, at the time of the Soldino and Vado Audits, he had performed various procedures that he, in fact, had not performed, including:

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[33] *See* AS 1220.19.

[34] *See* AS 1215.06.

[35] *See* AS 1215.16; AS 1220.21.

a. evaluating the engagement team's assessment of, and responses to, significant risks, including fraud risks;

b. reviewing the engagement team's evaluation of the Firm's independence in relation to the audit engagements;

c. reviewing the engagement completion documents; and

d. evaluating whether appropriate matters had been communicated on a timely basis (or identified for communication) prior to the issuance of the audit reports to the audit committee, management, and other parties such as regulatory bodies.

Pickard also falsely documented that, for the Vado Audit, he had reviewed the audit report.

26. As a result of the foregoing, Pickard violated AS 1220 and AS 1215.

III.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Kevin F. Pickard, CPA, is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[36]

[36] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Pickard. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

B. After two years from the date of this Order, Kevin F. Pickard may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

C. If Kevin F. Pickard is permitted to associate again with a registered public accounting firm, pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date his bar is terminated, his role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Pickard shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, as a member of an engagement team; (4) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner, engagement quality reviewer, or engagement team member, but differently denominated (such as "lead partner," "practitioner-in-charge," "concurring partner," or "staff"); (5) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (6) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*; or (7) serve, or supervise the work of another individual serving, as a professional practice director;

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), civil money penalty in the amount of $30,000 is imposed on Kevin F. Pickard. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay the foregoing civil money penalty as follows: Respondent shall pay $10,000 within ten days of the issuance of this Order, an additional $6,667 by December 31, 2022, an additional $6,667 by June 30, 2023, and the remaining $6,666 by December 31, 2023, making each payment by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or

person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. *Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting* firm; and

E. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Kevin F. Pickard is required to complete, before filing a petition for Board consent to associate with a registered firm, 25 hours of professional education and training relating to PCAOB auditing standards and covering, among other topics, professional ethics, audit documentation in accordance with AS 1215, *Audit Documentation*, and the performance of engagement quality reviews in accordance with AS 1220, *Engagement Quality Review* (such hours shall be in addition to, and shall not be counted in, the continuing professional education he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 22, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG Samjong Accounting Corp.,

Respondent.

PCAOB Release No. 105-2022-012

August 16, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG Samjong Accounting Corp. ("KPMG Korea," the "Firm," or "Respondent");

(2) imposing a $350,000 civil money penalty upon the Firm; and

(3) requiring the Firm to undertake and certify the completion of certain improvements to its system of quality control.

In ordering these sanctions, the Board took into account the Firm's extraordinary cooperation in this matter, specifically the substantial assistance it provided to the PCAOB's investigation and the disciplinary action it took against individuals it determined had committed misconduct.

The Board is imposing these sanctions on the basis of its findings that: (1) KPMG Korea failed to comply with PCAOB standards after learning that certain procedures may not have been performed and certain evidence may not have been obtained in connection with an issuer audit; and (2) KPMG Korea's system of quality control failed to provide reasonable assurance that audit documentation would be appropriately assembled for retention and safeguarded from improper alteration.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG Samjong Accounting Corp.** is a limited liability corporation organized under the laws of the Republic of Korea and headquartered in Seoul, Republic of Korea. The Firm is licensed to practice public accountancy by the Korean Financial Services Commission (Registration No. 83). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is a member of the KPMG International Limited network of firms. KPMG Korea audited the financial information for five Korean components of Issuer A for the fiscal year ended September 30, 2017 ("Component Audit").

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

B. Relevant Entities and Individuals

2. The "Component Lead Partner" is a former partner of KPMG Korea. He was the partner responsible for the Firm's work on the Component Audit.[2]

3. The "Engagement Manager" was formerly employed as a director by KPMG Korea. He served as the engagement manager for the Component Audit.[3]

4. Issuer A was, at all relevant times, a Delaware corporation headquartered in Arizona. Issuer A's public filings disclose that it was a specialty materials manufacturer. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns KPMG Korea's failure to take required steps after learning that certain audit procedures may not have been performed and sufficient audit evidence may not have been obtained in connection with an issuer audit. Specifically, after the Component Audit had been completed and the Firm was preparing for a PCAOB inspection, senior KPMG Korea personnel learned that the engagement team for the Component Audit may have failed to perform certain planned procedures for accounts receivable and may have failed to obtain sufficient appropriate audit evidence. Indeed, senior members of the Firm learned that significant portions of the engagement team's documentation related to accounts receivable for the Component Audit consisted primarily of prior-year work papers, indicating that audit procedures may not have been performed, evidence may not have been obtained, or appropriate conclusions may not have been reached in the Component Audit. However, the Firm failed to take reasonable steps at the time to determine and demonstrate that sufficient procedures were performed, sufficient evidence was obtained, and appropriate conclusions were reached with respect to relevant assertions for accounts receivable. The Firm thereby violated PCAOB auditing standards.

6. This matter also concerns KPMG Korea's failure to establish and implement appropriate policies and procedures to provide reasonable assurance that: (1) personnel would assemble for retention ("archive") a complete and final set of audit documentation in connection with each issuer audit; and (2) archived audit documentation would be protected against improper alteration. In particular, the Firm failed to establish appropriate policies and

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2 *See Jin Tae Kim*, PCAOB Release No. 105-2022-013 (Aug. 16, 2022).

3 *See Se Woon Jung*, PCAOB Release No. 105-2022-014 (Aug. 16, 2022).

procedures to address the risk that hard-copy work papers might be improperly added to previously archived audit documentation.

D. Respondent Violated PCAOB Rules and Standards

i. Background

7. KPMG LLP ("KPMG US") performed an integrated audit of Issuer A for the fiscal year ending September 30, 2017. KPMG US instructed its Korean affiliate, KPMG Korea, to audit the financial information for five Korean components of Issuer A.[4] The Korean components constituted 27% of Issuer A's reported revenue and 23% of Issuer A's reported assets for fiscal year 2017.

8. KPMG US instructed KPMG Korea that, for the Component Audit, audit procedures should be performed and audit documentation should be prepared and retained in accordance with PCAOB standards. KPMG US further instructed the Firm that the five Korean components of Issuer A were, collectively, financially significant and identified revenue as a significant account for the Component Audit. In addition, KPMG US informed the Firm that there was a risk of fraud related to revenue cutoff.

9. At the conclusion of the Component Audit, KPMG Korea sent to KPMG US an interoffice report, which stated that the Component Audit was conducted in accordance with PCAOB standards. It also stated the engagement team had addressed the fraud risk related to revenue cutoff by performing accounts receivable confirmation procedures.

ii. The Firm Failed to Comply with PCAOB Auditing Standards

10. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm comply with the Board's auditing and related professional practice standards.[5] PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient audit evidence to provide a reasonable basis for the auditor's opinion.[6] PCAOB

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[4] *See* AS 1205, *Part of the Audit Performed by Other Independent Auditors*.

[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[6] *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*.

standards further require the auditor to document procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[7]

11. PCAOB standards also provide that if, after the documentation completion date for an audit,[8] "the auditor becomes aware, as a result of a lack of documentation or otherwise, that audit procedures may not have been performed, evidence may not have been obtained, or appropriate conclusions may not have been reached, the auditor must determine, and if so demonstrate, that sufficient procedures were performed, sufficient evidence was obtained, and appropriate conclusions were reached with respect to the relevant financial statement assertions."[9]

12. On or around September 20, 2018, KPMG Korea's Department of Professional Practice ("DPP") learned that the PCAOB would inspect the Firm and the inspection would include a review of the Component Audit. On or around October 4, 2018, the DPP learned that revenue and accounts receivable would be focus areas for the review of the Component Audit.

13. In preparing for the inspection, members of the DPP and the engagement team reviewed the archived audit documentation for the Component Audit. In the course of the review, members of the DPP learned that audit procedures may not have been performed, evidence may not have been obtained, or appropriate conclusions may not have been reached in connection with the Component Audit. Specifically, DPP members, including multiple partners, learned that, for three of the five Korean components of Issuer A, the accounts receivable documentation consisted primarily of prior-year work papers. The accounts receivable balance for these three components of Issuer A constituted 73% of accounts receivable recorded by the Korean components as of September 30, 2017. The leader of the Firm's DPP ("DPP Leader") was among those who were informed that accounts receivable work papers for the wrong year had been archived in the electronic audit documentation for the Component Audit.

14. Upon becoming aware of the lack of documentation related to accounts receivable, the DPP understood that the Firm needed to determine and, if so, demonstrate that sufficient procedures had been performed, sufficient evidence had been obtained, and appropriate conclusions had been reached with respect to accounts receivable during the

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7 *See* AS 1215.06, *Audit Documentation*.

8 *See id.* at .15 (defining documentation completion date as a date not more than 45 days after an auditor releases an audit report).

9 *Id.* at .09.

Component Audit (the "Determination and Demonstration"). Rather than participating in or monitoring the Determination and Demonstration, however, the DPP relied on the Component Audit engagement team to evaluate the sufficiency of the procedures and evidence, and did not adequately follow up with the engagement team. As a result, the DPP did not learn until *after* the PCAOB inspection that: (1) the Component Audit engagement team did not conduct an appropriate Determination and Demonstration; and (2) sufficient procedures had not been performed and sufficient audit evidence had not been obtained for accounts receivable during the Component Audit.[10]

15. Given the significance of the issues raised by the Component Audit engagement team's inclusion of prior-year work papers in the audit documentation, the DPP's decision to rely on the team to conduct the Determination and Demonstration, without adequate oversight and follow-up, was unreasonable. The Firm, therefore, violated PCAOB standards.[11]

iii. The Firm Failed to Comply with PCAOB Quality Control Standards

16. PCAOB rules require registered public accounting firms to comply with the Board's quality control standards.[12] PCAOB quality control standards, in turn, require each registered firm to effectively design, implement, and maintain a system of quality control for the firm's accounting and auditing practice.[13] The quality control system should include policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[14] Among other areas, a firm's policies and procedures should address the documentation of each engagement in accordance with applicable professional standards.[15]

17. PCAOB standards require an auditor to assemble for retention a complete and final set of audit documentation as of a date not more than 45 days after the report release

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[10] The Firm ultimately completed the requisite determination after the Component Audit engagement team's document alterations (described below) came to light during the Board inspection.

[11] *See* AS 1215.09.

[12] *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

[13] QC §§ 20.01 and 20.02, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[14] *See id.* at .17.

[15] *See id.* at .18.

date.[16] PCAOB standards also provide that "[a]udit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[17]

18. At the time of the Component Audit and the PCAOB's 2018 inspection, the Firm lacked sufficient policies and procedures to provide reasonable assurance that personnel would comply with PCAOB audit documentation requirements. In particular, the Firm's system of quality control failed to provide reasonable assurance that hard-copy work papers, once assembled for retention, would not be improperly altered. As described below, the Component Lead Partner and Engagement Manager exploited the deficiencies in the Firm's system of quality control and improperly added numerous hard-copy work papers to the documentation for the Component Audit shortly in advance of the PCAOB inspection.

19. Specifically, from October 15, 2018 through November 22, 2018, members of the Component Audit engagement team checked out various portions of the hard-copy work papers for the Component Audit on three separate occasions. While the hard-copy work papers were checked out, the Component Lead Partner and Engagement Manager improperly added documents to the archived audit documentation, including documents gathered by Component Audit engagement team members acting at their direction. The late-added documentation included work papers that described accounts receivable testing that was not performed at the time of the Component Audit and a management representation letter. The Component Lead Partner and Engagement Manager also created an independence confirmation that they, and other Component Audit engagement team members acting at the Component Lead Partner's direction, executed in a manner that made it appear as if the independence confirmation had been completed during the Component Audit. These documents were added to the audit documentation shortly before the inspection and more than ten months after the documentation completion date for the Component Audit. In violation of PCAOB standards, these documents did not indicate the date the information was added, the name of the person who prepared the additional documentation, or the reason for adding it.[18]

20. The Firm's quality control system failed to provide reasonable assurance that the work performed by engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality. Despite warning signs that document

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16 *See* AS 1215.14-.15.

17 *Id.* at .16.

18 *See id*.

manipulation might occur, including the multiple requests by the Component Audit engagement team to "check out" the hard-copy work papers shortly in advance of the PCAOB inspection, and the previously identified deficiencies in the accounts receivable documentation for the Component Audit, the Firm's system of quality control failed to detect or prevent this misconduct. Accordingly, the Firm violated PCAOB quality control standards.[19]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

In ordering these sanctions, the Board took into account the Firm's extraordinary cooperation in this matter. Specifically, the Firm: (a) provided assistance to the PCAOB's investigation, including by conducting its own internal investigation and sharing the results of that internal investigation with Board staff; and (b) separated from the Firm certain personnel identified by the Firm as responsible for the misconduct. Absent that extraordinary cooperation, the sanctions imposed on the Firm would have been greater.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), KPMG Korea is censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of US $350,000 upon KPMG Korea. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. KPMG Korea shall pay this civil money penalty within twenty days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter that identifies KPMG Korea as a respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office

[19] *See* QC §§ 20.17-.18.

of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

C. Pursuant to Sections 105(c)(4)(F) and (G) of the Act and PCAOB Rules 5300(a)(6) and (9), KPMG Korea is required:

1. within 30 days from the date of this Order, to provide an electronic or paper copy of this Order, together with a Korean language translation, to each of its associated persons;

2. within 90 days from the date of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that personnel comply with applicable audit documentation requirements and cooperate with PCAOB inspections;

3. within 90 days from the date of this Order, to ensure that all Firm professionals involved in any "audit," as that term is defined in Section 110(1) of the Act, have received 4 hours of additional training concerning compliance with: (i) AS 1215, *Audit Documentation;* and (ii) PCAOB Rule 4006, *Duty to Cooperate with Inspectors*;

4. Within 120 days from the date of this Order, to provide a certification, signed by the CEO and the DPP Leader of KPMG Korea, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraphs IV.C.1-.3, above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. KPMG Korea shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request;

5. For two years from the date of this Order, to promptly report to the Board any allegation of improper document alterations in connection with (i) the Firm's system of quality control, (ii) any audit subject to the PCAOB's jurisdiction, or (iii) any PCAOB inspection or investigation; and

6. For two years from the date of this Order, within one week after being notified that the PCAOB will inspect the Firm, to notify its personnel of the inspection and specifically instruct its personnel of their obligation to cooperate with PCAOB inspections, including by not preparing or making available to the PCAOB's inspectors documents containing misleading information, and by not making misleading statements to the PCAOB's inspectors.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 16, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Jin Tae Kim,

Respondent.

PCAOB Release No. 105-2022-013

August 16, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) barring Jin Tae Kim ("Kim" or "Respondent") from being associated with a registered public accounting firm;[1] and

(2) imposing a $50,000 civil money penalty upon Kim.

The Board is imposing these sanctions on the basis of its findings that Kim: (a) violated PCAOB rules and standards in connection with the audit of an issuer; and (b) failed to cooperate with a Board inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to

[1] Kim may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Kim and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Jin Tae Kim** is a member of the Korean Institute of Certified Public Accountants (registration no. 5358). Until March 8, 2019, and at all relevant times, Kim was a partner of KPMG Samjong Accounting Corp. ("KPMG Korea" or "Firm"). Kim was the lead partner for the audit of five Korean components of Issuer A for the fiscal year ended September 30, 2017 ("Component Audit"). At all relevant times, Kim was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities and Individuals

2. KPMG Korea is a limited liability corporation organized under the laws of the Republic of Korea and headquartered in Seoul, Republic of Korea.[4] The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] *See KPMG Samjong Accounting Corp.*, PCAOB Release No. 105-2022-012 (Aug. 16, 2022).

3. The "Engagement Manager" was formerly employed as a director by KPMG Korea. He served as the engagement manager for the Component Audit.[5]

4. Issuer A was, at all relevant times, a Delaware corporation headquartered in Arizona. Issuer A's public filings disclose that it was a specialty materials manufacturer. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Kim's violations of PCAOB rules and auditing standards in connection with the Component Audit, and the Board's subsequent review of portions of that audit as part of its 2018 inspection of KPMG Korea. First, Kim failed to properly plan, perform, and supervise the Component Audit. As a result, Kim did not identify that, for three of the five Korean components of Issuer A, the audit documentation that his engagement team prepared relating to accounts receivable confirmations consisted primarily of prior-year work papers.

6. Second, after learning that the complete and final set of audit documentation did not support the existence of accounts receivable and revenue for the three components, Kim failed to determine whether sufficient procedures were performed, sufficient evidence was obtained, and appropriate conclusions were reached with respect to accounts receivable.

7. Third, in advance of the Board's 2018 inspection, Kim, and others acting at his direction, improperly added documentation to the Component Audit work papers in an effort to mislead the Board's inspectors about the work performed at the time of the Component Audit.

8. Finally, Kim also provided misleading information to the Board's inspectors during inspection field work.

D. Respondent Violated PCAOB Rules and Standards in Connection with the Component Audit

9. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] Among other things, PCAOB

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[5] *See Se Woon Jung*, PCAOB Release No. 105-2022-014 (Aug. 16, 2022).

[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient audit evidence to provide a reasonable basis for the auditor's opinion.[7] As described below, Kim violated these and other PCAOB rules and standards in connection with the Component Audit and the Board's subsequent inspection of KPMG Korea.

i. Kim Failed to Properly Plan, Perform, and Supervise the Component Audit

10. KPMG LLP ("KPMG US") performed an integrated audit of Issuer A for the fiscal year ending September 30, 2017. KPMG US instructed its Korean affiliate, KPMG Korea, to audit the financial information for five Korean components of Issuer A.[8] The Korean components constituted 27% of Issuer A's reported revenue and 23% of Issuer A's reported assets for fiscal year 2017. Kim was the partner responsible for KPMG Korea's audit work on the Korean components of Issuer A.

11. KPMG US instructed Kim that audit procedures should be performed and audit documentation for the Component Audit should be prepared and retained in accordance with PCAOB standards. KPMG US further instructed Kim that the five Korean components of Issuer A were, collectively, financially significant and identified revenue as a significant account for the Component Audit. In addition, KPMG US informed Kim that there was a fraud risk related to revenue cutoff.

12. Kim was responsible for the proper supervision of the work of the Component Audit engagement team members and for compliance with PCAOB standards.[9] In fulfilling his responsibilities, Kim could seek assistance from appropriate engagement team members.[10] Kim—along with other engagement team members acting at his direction—was responsible for: informing engagement team members of their responsibilities; directing engagement team members to bring significant accounting and auditing issues to his attention; and reviewing the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work

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7 *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*.

8 *See* AS 1205, *Part of the Audit Performed by Other Independent Auditors*.

9 *See* AS 1201.04, *Supervision of the Audit Engagement*.

10 *Id*.

supported the conclusions reached.[11] Kim's performance and supervision of the Component Audit failed to comply with PCAOB standards.

13. Kim documented that the engagement team performed accounts receivable confirmation procedures to address the fraud risk related to revenue cutoff. Kim instructed the Engagement Manager to supervise that testing. The Engagement Manager and other engagement team members, however, failed to perform and document procedures sufficient to evaluate the existence of accounts receivable and revenue. In fact, the audit documentation for accounts receivable for three of the five Korean components of Issuer A consisted primarily of work papers from the prior year. The accounts receivable balance for these three components constituted 73% of accounts receivable recorded by Issuer A's Korean components as of September 30, 2017.

14. During the Component Audit, multiple engagement team members signed off as having prepared the accounts receivable audit documentation, and the Engagement Manager signed off as having reviewed that documentation, despite the documentation consisting of prior-year work papers. Kim did not review the engagement team's accounts receivable work, even though that work was intended to address a fraud risk in a significant account.

15. At the conclusion of the Component Audit, Kim sent to KPMG US an interoffice report, which stated that the Component Audit was conducted in accordance with PCAOB standards. It also stated Kim had addressed the fraud risk related to revenue cutoff by performing accounts receivable confirmation procedures. Because Kim and his engagement team had failed to perform the planned confirmation procedures and failed to obtain sufficient appropriate audit evidence to support the Korean components' accounts receivable balances, those statements were inaccurate.

16. In his role as lead partner for the Component Audit, Kim failed to "plan and perform the audit to obtain appropriate audit evidence that is sufficient to support the opinion expressed in the auditor's report."[12] Kim also failed "to evaluate the results of the audit to determine whether the audit evidence obtained [wa]s sufficient and appropriate to support the opinion to be expressed in the auditor's report."[13] Finally, Kim failed to supervise the

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11 *Id.* at .05.

12 AS 1105.03; *see also* AS 1015.01, .07.

13 AS 2810.33, *Evaluating Audit Results*.

Component Audit to ensure that work was performed as directed, and supported the conclusions reached.[14]

ii. Kim Failed to Make Required Determinations After Learning that Work May Not Have Been Performed

17. PCAOB standards provide that if, after the documentation completion date for an audit,[15] "the auditor becomes aware, as a result of a lack of documentation or otherwise, that audit procedures may not have been performed, evidence may not have been obtained, or appropriate conclusions may not have been reached, the auditor must determine, and if so demonstrate, that sufficient procedures were performed, sufficient evidence was obtained, and appropriate conclusions were reached with respect to the relevant financial statement assertions."[16]

18. On or around September 20, 2018, Kim learned that the PCAOB had selected the Component Audit as one of the engagements it would review as part of the 2018 inspection of KPMG Korea. On or around October 4, 2018, Kim learned that revenue and accounts receivable would be focus areas for the inspectors' review of the Component Audit.

19. In preparing for the inspection, Kim reviewed the complete and final set of audit documentation for the Component Audit. In the course of that review, he realized that, for three of the five Korean components of Issuer A, the accounts receivable documentation consisted primarily of prior-year work papers. After discovering the issue, Kim failed to take any steps to determine whether, during the Component Audit, sufficient procedures had been performed, sufficient evidence had been obtained, and appropriate conclusions had been reached with respect to accounts receivable. Accordingly, he violated PCAOB standards.[17]

iii. Kim Improperly Altered Audit Documentation and Failed to Cooperate with the Board's Inspection

20. PCAOB Rule 4006 states, in part: "Every registered public accounting firm, and every associated person of a registered public accounting firm, shall cooperate with the Board

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14 AS 1201.05.

15 *See* AS 1215.15, *Audit Documentation* (defining documentation completion date as a date not more than 45 days after auditor releases an audit report).

16 *Id.* at .09.

17 *See id.*

in the performance of any Board inspection."[18] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information" to the Board's inspectors.[19]

21. PCAOB standards require an auditor to assemble for retention a complete and final set of audit documentation as of a date not more than 45 days after the report release date.[20] PCAOB standards also provide that "[a]udit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[21]

22. As noted above, Kim conducted a review of the work papers for the Component Audit after learning that the engagement would be reviewed during the PCAOB inspection. As a result of that review, Kim noted the issue with the accounts receivable work; he also came to understand that the audit documentation did not include a management representation letter or an independence confirmation.

23. In response to those discoveries, Kim and the Engagement Manager improperly added work papers to the documentation for the Component Audit. First, with Kim's knowledge and approval, the Engagement Manager: (a) created work papers documenting accounts receivable testing that was not performed at the time of the Component Audit; and (b) improperly added those work papers to the audit documentation. Second, the Engagement Manager, acting at Kim's direction, improperly added a management representation letter to the audit documentation. Third, Kim and the Engagement Manager created an independence confirmation and executed it in a manner that made it appear as if the independence confirmation had been completed during the Component Audit. Kim then directed other available engagement team members to execute the independence confirmation and, to the extent that other engagement team members were unavailable, Kim and the Engagement Manager added signatures appearing to be from the unavailable engagement team members. Kim and the Engagement Manager improperly added the newly created independence confirmation to the audit documentation.

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18 PCAOB Rule 4006, *Duty to Cooperate with Inspectors.*

19 *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 Fed App'x 918 (9th Cir. 2018).

20 *See* AS 1215.14-.15.

21 *Id. at* .16.

24. None of these documents, which were added to the audit documentation shortly before the inspection and more than ten months after the documentation completion date for the Component Audit, indicated the date the information was added, the name of the person who prepared the additional documentation, or the reason for adding it, in violation of PCAOB standards.[22]

25. The Board's inspectors began field work in early December 2018. During field work, the inspectors met with Kim and other KPMG Korea auditors and asked about certain aspects of the audit documentation, including audit documentation that appeared to be for procedures performed in connection with the prior-year audit.

26. In response, Kim represented to the inspectors that additional accounts receivable work was documented and included in hard-copy work papers that had not yet been provided to the inspectors. Neither Kim nor anyone else on the engagement team, however, disclosed to the inspectors that they had improperly added accounts receivable work papers to the audit documentation shortly before the inspection.

27. Kim's actions—including instructing others to improperly add newly created and backdated work papers to the complete and final set of audit documentation, and providing misleading information to the Board's inspectors—violated PCAOB audit documentation standards and constituted a failure to cooperate with a PCAOB inspection.[23]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Kim is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[24]

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22 *See id*.

23 *See id.* and PCAOB Rule 4006.

24 As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Kim. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial

B. After three years from the date of this Order, Kim may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $50,000 upon Kim. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay this civil money penalty within twenty days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter that identifies Kim as a respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 16, 2022

management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Se Woon Jung,

Respondent.

PCAOB Release No. 105-2022-014

August 16, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) barring Se Woon Jung ("Jung" or "Respondent") from being associated with a registered public accounting firm;[1] and

(2) imposing a $40,000 civil money penalty upon Jung.

The Board is imposing these sanctions on the basis of its findings that Jung: (a) violated PCAOB rules and standards in connection with the audit of an issuer; and (b) failed to cooperate with a Board inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to

[1] Jung may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Jung and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Se Woon Jung** is a member of the Korean Institute of Certified Public Accountants (registration no. 10540). Until March 8, 2019, and at all relevant times, Jung was a director employed by KPMG Samjong Accounting Corp. ("KPMG Korea" or "Firm"). Jung served as the engagement manager for the audit of five Korean components of Issuer A for the fiscal year ended September 30, 2017 ("Component Audit"). At all relevant times, Jung was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities and Individuals

2. KPMG Korea is a limited liability corporation organized under the laws of the Republic of Korea and headquartered in Seoul, Republic of Korea.[4] The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] *See KPMG Samjong Accounting Corp.*, PCAOB Release No. 105-2022-012 (Aug. 16, 2022).

3. The "Component Lead Partner" is a former partner of KPMG Korea. He was the partner responsible for the Firm's work on the Component Audit.[5]

4. Issuer A was, at all relevant times, a Delaware corporation headquartered in Arizona. Issuer A's public filings disclose that it was a specialty materials manufacturer. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Jung's violations of PCAOB rules and auditing standards in connection with the Component Audit and the Board's subsequent review of portions of that audit as part of its 2018 inspection of KPMG Korea. First, during the Component Audit, Jung failed to properly perform and supervise the Firm's audit work on accounts receivable. As a result, Jung did not identify that, for three of the five Korean components of Issuer A, the audit documentation that the engagement team prepared related to accounts receivable confirmations consisted primarily of prior-year work papers.

6. Second, in advance of the Board's 2018 inspection, Jung improperly added documentation to the Component Audit work papers in an effort to mislead the Board's inspectors about the work performed at the time of the Component Audit.

7. Finally, Jung also provided misleading information to the inspectors during inspection field work.

D. Respondent Violated PCAOB Rules and Standards in Connection with the Audit Procedures for Accounts Receivable

8. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient audit evidence to provide a

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[5] *See Jin Tae Kim*, PCAOB Release No. 105-2022-013 (Aug. 16, 2022).

[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

reasonable basis for the auditor's opinion.[7] As described below, Jung violated these and other PCAOB rules and standards in connection with the Component Audit and the Board's subsequent inspection of KPMG Korea.

i. Jung Failed to Properly Perform and Supervise the Audit Procedures for Accounts Receivable

9. KPMG LLP ("KPMG US") performed an integrated audit of Issuer A for the fiscal year ending September 30, 2017. KPMG US instructed its Korean affiliate, KPMG Korea, to audit the financial information for five Korean components of Issuer A.[8] The Korean components constituted 27% of Issuer A's reported revenue and 23% of Issuer A's reported assets for fiscal year 2017. KPMG Korea's engagement team was led by the Component Lead Partner. Jung served as the engagement manager on the KPMG Korea engagement team.

10. KPMG US instructed KPMG Korea that audit procedures should be performed and audit documentation for the Component Audit should be prepared and retained in accordance with PCAOB standards. KPMG US further instructed KPMG Korea that the five Korean components of Issuer A were, collectively, financially significant and identified revenue as a significant account for the Component Audit. In addition, KPMG US informed KPMG Korea that there was a fraud risk related to revenue cutoff. Jung was aware of these instructions at the time of the Component Audit.

11. Engagement team members, including Jung, who assisted the Component Lead Partner with supervision of the work of other engagement team members, were required to comply with the supervision requirements of PCAOB standards with respect to their assigned responsibilities.[9] In the areas Jung was responsible for supervising, he was required to review the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[10] Jung's supervision of the audit procedures for accounts receivable failed to comply with PCAOB standards.

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7 *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*.

8 *See* AS 1205, *Part of the Audit Performed by Other Independent Auditors*.

9 *See* AS 1201.04, *Supervision of the Audit Engagement*.

10 *Id.* at .05.

12. KPMG Korea documented that it performed accounts receivable confirmation procedures to address the fraud risk related to revenue cutoff. The Component Lead Partner instructed Jung to supervise that testing. Jung and other engagement team members acting under his supervision, however, failed to perform and document procedures sufficient to evaluate the existence of accounts receivable and revenue. In fact, the audit documentation for accounts receivable for three of the five Korean components of Issuer A consisted primarily of work papers from the prior year. The accounts receivable balance for these three components constituted 73% of accounts receivable recorded by Issuer A's Korean components as of September 30, 2017.

13. During the Component Audit, multiple engagement team members working under Jung's supervision signed off as having prepared the accounts receivable audit documentation, and Jung signed off as having reviewed that documentation, despite the documentation consisting of prior-year work papers. Jung's acceptance of prior-year work papers to support current-year accounts receivable balances constituted a failure to exercise due professional care, a failure to obtain sufficient appropriate audit evidence, and a failure to appropriately fulfill his supervision responsibilities, in violation of PCAOB standards.[11]

14. At the conclusion of the Component Audit, Jung assisted in finalizing KPMG Korea's interoffice report. Jung then sent to KPMG US an interoffice report, which stated that the Component Audit was conducted in accordance with PCAOB standards. It also stated that the engagement team had addressed the fraud risk related to revenue cutoff by performing accounts receivable confirmation procedures. In light of Jung's violation of PCAOB standards, those statements were inaccurate.

ii. Jung Improperly Altered Audit Documentation and Failed to Cooperate with the Board's Inspection

15. PCAOB Rule 4006 states, in part: "Every registered public accounting firm, and every associated person of a registered public accounting firm, shall cooperate with the Board

[11] *See* AS 1015.01 and .07; AS 1105.04; AS 1201.05; *see also* AS 2810.33, *Evaluating Audit Results* (as part of evaluating audit results, the auditor must conclude on whether sufficient appropriate audit evidence has been obtained to support the audit opinion).

in the performance of any Board inspection."[12] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information" to the Board's inspectors.[13]

16. PCAOB standards require an auditor to assemble for retention a complete and final set of audit documentation as of a date not more than 45 days after the report release date.[14] PCAOB standards also provide that "[a]udit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[15]

17. In late September 2018, Jung learned that the Component Audit would be inspected by the PCAOB. On or around October 4, 2018, Jung learned that revenue and accounts receivable would be focus areas for the inspectors' review of the Component Audit.

18. To prepare for the inspection, Jung participated in a review of the work papers for the Component Audit. As a result of that review, Jung noted the issue with the accounts receivable work; he also came to understand that KPMG Korea's documentation for the Component Audit did not include a management representation letter or an independence confirmation.

19. In response to those discoveries, Jung and the Component Lead Partner improperly added work papers to the documentation for the Component Audit. First, Jung: (a) created work papers documenting accounts receivable testing that was not performed at the time of the Component Audit; and (b) improperly added those work papers to the audit documentation. Second, Jung improperly added a management representation letter to the audit documentation. Third, Jung and the Component Lead Partner created an independence confirmation and executed it in a manner that made it appear as if the independence confirmation had been completed during the Component Audit. The Component Lead Partner then directed other available engagement team members to execute the independence confirmation and, to the extent that other engagement team members were unavailable, Jung and the Component Lead Partner added signatures appearing to be from the unavailable

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12 PCAOB Rule 4006, *Duty to Cooperate with Inspectors.*

13 *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 Fed App'x 918 (9th Cir. 2018).

14 *See* AS 1215.14-.15, *Audit Documentation*.

15 *Id.* at .16.

engagement team members. Jung and the Component Lead Partner improperly added the newly created independence confirmation to the audit documentation.

20. None of these documents, which were added to the audit documentation shortly before the inspection and more than ten months after the documentation completion date for the Component Audit, indicated the date the information was added, the name of the person who prepared the additional documentation, or the reason for adding it, in violation of PCAOB standards.[16]

21. The Board's inspectors began field work in early-December 2018. During field work, the inspectors met with Jung and other KPMG Korea auditors and asked about certain aspects of the audit documentation, including audit documentation that appeared to be for procedures performed in connection with the prior-year audit.

22. In response, Jung represented to the inspectors that additional accounts receivable work was documented and included in hard-copy work papers that had not yet been provided to the inspectors. Neither Jung nor anyone else on the engagement team, however, disclosed to the inspectors that they had improperly added accounts receivable work papers to the audit documentation shortly before the inspection.

23. Jung's actions—including improperly adding newly created and backdated work papers to the complete and final set of audit documentation, and providing misleading information to the Board's inspectors—violated PCAOB audit documentation standards, and constituted a failure to cooperate with a PCAOB inspection.[17]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

16 *See id.*

17 *See id.* and PCAOB Rule 4006.

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jung is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[18]

B. After three years from the date of this Order, Jung may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $40,000 upon Jung. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay this civil money penalty within twenty days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter that identifies Jung as a respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***Respondent understands that failure to pay the civil money penalty described above may***

[18] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Jung. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 16, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG Inc., Cornelis Van Niekerk, and Coenraad Basson,

Respondents.

PCAOB Release No. 105-2022-015

August 29, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) imposing civil money penalties in the amounts of $200,000 on KPMG Inc. ("KPMG-SA"), $50,000 on Cornelis Van Niekerk ("Van Niekerk"),[1] and $25,000 on Coenraad Basson ("Basson");

(2) requiring KPMG-SA to undertake and certify the completion of certain improvements to its system of quality control;

(3) barring Van Niekerk from being an associated person of a registered public accounting firm;[2] and

(4) suspending Basson from being an associated person of a registered public accounting firm for a period of one year from the date of this Order.

In this Order, KPMG-SA, Van Niekerk, and Basson are collectively referred to as "Respondents." The Board is imposing these sanctions on the basis of Respondents' conduct in connection with KPMG-SA's use of audit work performed by KPMG Chartered Accountants Zimbabwe ("KPMG-Zimbabwe"), a firm that was not registered with the Board and played a

[1] Based on his conduct, Van Niekerk's civil money penalty in this settlement would have been $100,000. The Board determined to accept Van Niekerk's offer of settlement and impose a lower penalty after considering Van Niekerk's financial resources.

[2] Van Niekerk may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

substantial role in KPMG-SA's 2015 through 2017 audits of Issuer A. Specifically, the Board finds that KPMG-SA and Van Niekerk failed to reasonably supervise KPMG-Zimbabwe under the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and that Respondents violated PCAOB rules and standards in connection with the audits of Issuer A.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondents pursuant to Section 105(c) of the Act and PCAOB Rules 5200(a)(1) and (2).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents each consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. **KPMG Inc.** is an incorporated company organized under the laws of the Republic of South Africa with headquarters in Johannesburg, South Africa. KPMG-SA is a member firm of

[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

the KPMG global organization of independent member firms affiliated with KPMG International Limited ("KPMG International Network"). KPMG-SA registered with the Board on May 19, 2004.

2. **Cornelis Van Niekerk** was, at all relevant times, a partner of KPMG-SA and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). He served as the engagement partner for KPMG-SA's audits of Issuer A's 2015, 2016, and 2017 financial statements.

3. **Coenraad Basson** was, at all relevant times, a partner of KPMG-SA and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). He served as the engagement quality reviewer for KPMG-SA's audits of Issuer A's 2015, 2016, and 2017 financial statements.

B. Other Relevant Entities

4. KPMG Chartered Accountants Zimbabwe is a firm organized under the laws of Zimbabwe and headquartered in Harare, Zimbabwe. KPMG-Zimbabwe is a member firm in the KPMG International Network. KPMG-Zimbabwe has never been registered with the Board. At all relevant times, KPMG-Zimbabwe was a public accounting firm, as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii), and an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). At all relevant times, KPMG-Zimbabwe was also the statutory auditor of Subsidiary X (as defined below).

5. Issuer A was a Channel Islands corporation and an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Issuer A's largest subsidiary ("Subsidiary X") represented 100% of Issuer A's consolidated revenues and approximately 85-95% of its consolidated assets from 2015 through 2017.

C. Summary

6. KPMG-SA's use of an unregistered firm, KPMG-Zimbabwe, during the 2013 and 2014 audits of Issuer A was the subject of a U.S. Securities and Exchange Commission ("Commission") enforcement order against the firm, dated March 13, 2018. Despite being on notice that KPMG-Zimbabwe's participation in the Issuer A audits potentially implicated regulatory issues, Respondents failed to take appropriate steps to assure that KPMG-Zimbabwe's participation in the 2015 through 2017 audits of Issuer A would be consistent with PCAOB registration requirements.

7. Moreover, when it came to Respondents' attention near the end of the 2017 audit that KPMG-Zimbabwe's audit hours may have exceeded the threshold requiring registration with the Board, they responded by using a series of unreasonable adjustments to reduce KPMG-Zimbabwe's hours by 77%. KPMG-SA relied on the downward-adjusted hours to conclude that KPMG-Zimbabwe had not exceeded the PCAOB registration threshold.

8. KPMG-SA then reported KPMG-Zimbabwe's audit hours as 17% of the total audit hours in its Form AP filing with respect to the firm's 2017 Issuer A audit report.

9. Due to their failures to adequately supervise, plan, and review KPMG-Zimbabwe's participation in the 2015 through 2017 audits, Respondents failed to reasonably supervise an associated person under the Act and violated PCAOB rules and standards.

D. Background Concerning the Audits of Issuer A

10. KPMG-SA served as Issuer A's auditor for the 2013 through 2017 fiscal years. During those same years, KPMG-Zimbabwe served as the statutory auditor for certain subsidiaries of Issuer A, including Subsidiary X. KPMG-SA used KPMG-Zimbabwe's audit work with respect to Subsidiary X during its audits of Issuer A's 2013 through 2017 financial statements.

i. The 2013 and 2014 Audits

11. During the 2013 and 2014 Issuer A audits, KPMG-SA used the work and inter-firm reporting of KPMG-Zimbabwe, which audited the financial statements of Subsidiary X pursuant to AS 1205, *Part of Audit Performed by Other Independent Auditors* (formerly AU § 543).[5] KPMG-SA issued its 2013 and 2014 audit reports for Issuer A on May 15, 2014, and March 27, 2015, respectively.

12. In the months following its issuance of the 2014 audit report, KPMG-SA and KPMG-Zimbabwe learned that the Commission had commenced an investigation into the 2013

[5] As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See* Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules, PCAOB Release No. 2015- 002 (Mar. 31, 2015); *see also* PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering (January 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondents' conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

and 2014 audits of Issuer A. KPMG-SA and KPMG-Zimbabwe ultimately submitted offers of settlement in connection with the Commission's investigation in late 2017.

13. On March 13, 2018, the Commission issued: (1) an order sanctioning KPMG-SA for, *inter alia*, failing to comply with AS 1205 and AS 1015, *Due Professional Care in the Performance of Work* (formerly AU § 230),[6] in using the audit work of an unregistered firm, KPMG-Zimbabwe, that played a substantial role in the 2013 and 2014 audits of Issuer A;[7] and (2) an order sanctioning KPMG-Zimbabwe for playing a substantial role, without being registered with the Board (in violation of Section 102 of the Act), in the preparation of KPMG-SA's 2013 and 2014 Issuer A audit reports.[8]

ii. The 2015 Through 2017 Audits

14. KPMG-SA changed its approach to the audit of Issuer A beginning with the 2015 fiscal year.

15. KPMG-SA continued serving as Issuer A's auditor for the 2015 through 2017 fiscal years, and KPMG-Zimbabwe continued to be responsible for the statutory audit of Subsidiary X. KPMG-SA also continued to use KPMG-Zimbabwe's audit work with respect to Subsidiary X. However, KPMG-SA began supervising KPMG-Zimbabwe's work under AS 1201, *Supervision of the Audit Engagement* (formerly AS No. 10), instead of using the work and inter-firm reporting of KPMG-Zimbabwe under AS 1205.

16. With respect to the 2015 and 2016 audits, KPMG-SA's work papers documented that "KPMG Zimbabwe performed the audit of [Subsidiary X] under the direction and supervision of [KPMG-SA]." With respect to the 2017 audit, KPMG-SA documented that "KPMG Zimbabwe was engaged to assist [KPMG-SA] with the performance of the audit field work as part of KPMG Zimbabwe's engagement to audit the statutory annual financial statements as at 31 December 2017."

17. KPMG-SA's work papers further documented that engagement partner Van Niekerk and the KPMG-Zimbabwe engagement partner for the statutory audits of Subsidiary X ("Zimbabwe Partner") were the "responsible partner[s]" for the 2015 through 2017 Subsidiary X audits. In addition to the Zimbabwe Partner, a manager and several junior audit staff from

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[6] *See* discussion *supra*, at n.5, concerning this Order's citation of the Board's reorganized standards for purposes of clarity.

[7] *KPMG Inc.*, Exchange Act Release No. 82860, 2018 WL 1288628 (SEC Mar. 13, 2018).

[8] *KPMG*, Exchange Act Release No. 82862, 2018 WL 1288630 (SEC Mar. 13, 2018).

KPMG-Zimbabwe also worked on the 2015 through 2017 Subsidiary X audits, along with certain KPMG-SA personnel.

18. During each of these audits, KPMG-Zimbabwe prepared and reviewed most of the work papers with respect to the Subsidiary X audit. At least one KPMG-SA partner or manager then reviewed nearly all of the work papers prepared by KPMG-Zimbabwe.

19. KPMG-SA issued audit reports on Issuer A's 2015, 2016, and 2017 financial statements on March 30, 2016, March 30, 2017, and March 29, 2018, respectively. These audit reports were included in Form 20-Fs that Issuer A filed with the Commission.

a. KPMG-Zimbabwe's Substantial Role in the 2015 and 2016 Audits

20. KPMG-SA's 2015 and 2016 work paper files each included a memorandum, reviewed by Van Niekerk, that noted KPMG-Zimbabwe was not registered with the PCAOB and "if a component auditor plays a substantial role in the performance of the group [Issuer A] audit, that component auditor is required to be registered with the PCAOB."[9] The memorandum went on to state that KPMG-SA would perform "additional reviews" of KPMG-Zimbabwe's work and be involved in the "direction/planning, supervision and performance of

[9] Section 102(a) of the Act requires an accounting firm that "prepare[s] or issue[s], or [that] participate[s] in the preparation or issuance of, any audit report with respect to any issuer, broker, or dealer" to register with the Board. 15 U.S.C. § 7212(a). Section 106(a)(2) of the Act provides that "[t]he Board may, by rule, determine that a foreign public accounting firm (or a class of such firms) . . . plays such a substantial role in the preparation and furnishing of such reports for particular issuers, brokers, or dealers, that it is necessary or appropriate, in light of the purposes of this Act and in the public interest or for the protection of investors, that such firm (or class of firms) should be treated as a public accounting firm (or firms) for purposes of registration under, and oversight by the Board in accordance with, this subchapter." 15 U.S.C. § 7216(a)(2). PCAOB Rule 2100, *Registration Requirements for Public Accounting Firms*, requires an accounting firm that "plays a substantial role in the preparation or furnishing of an audit report with respect to any issuer" to register with the Board. Thus, by virtue of Section 106(a)(2) and Rule 2100, Section 102(a) is applicable to foreign accounting firms that play a substantial role in an issuer audit.

PCAOB Rule 1001(p)(ii) defines the phrase "play a substantial role in the preparation or furnishing of an audit report" to include, among other things, the performance of "material services that a public accounting firm uses or relies on in issuing all or part of its audit report." *See* PCAOB Rule 1001(p)(ii)(1). Note 1 to the rule defines "material services" to mean "services, for which the engagement hours or fees constitute 20% or more of the total engagement hours or fees, respectively, provided by the principal auditor in connection with the issuance of all or part of its audit report."

the [Subsidiary X] audit." The memorandum further stated that KPMG-SA would "take responsibility of the [Subsidiary X] audit file."

21. While they changed KPMG-SA's audit approach to supervise KPMG-Zimbabwe's work, KPMG-SA and Van Niekerk failed during the 2015 and 2016 audits to perform adequate analysis in support of their view that KPMG-SA's supervision of the Subsidiary X audit work performed by KPMG-Zimbabwe would obviate any substantial role issue.[10]

22. Specifically, during the 2015 and 2016 audits, KPMG-SA and Van Niekerk did not document any consideration of the "substantial role" definition in PCAOB Rule 1001(p)(ii) or the note thereto indicating that a firm plays a substantial role if it incurs more than 20% of the total audit hours or fees.

23. KPMG-SA and Van Niekerk also failed to adequately perform planning to ensure that KPMG-Zimbabwe's 2015 or 2016 audit hours and fees would be less than 20% of the total hours and fees. KPMG-SA and Van Niekerk failed to perform any analysis of the hours or fees that they expected to be, or that actually were, incurred by KPMG-Zimbabwe during the 2015 and 2016 audits.

24. KPMG-Zimbabwe's audit hours and fees in connection with the 2015 and 2016 audits of Issuer A ultimately exceeded 20% of the total audit hours and fees, respectively.

b. KPMG-Zimbabwe's Substantial Role in the 2017 Audit

25. On December 14, 2017, Basson sent Van Niekerk an excerpt of guidance concerning the 20% hours and fees threshold for substantial role purposes.

26. Van Niekerk forwarded Basson's email to the Zimbabwe Partner and stated that, in connection with the upcoming 2017 Issuer A audit, "the audit fees/hours of KPMG Zimbabwe should NOT exceed 20%." Van Niekerk proposed that KPMG-SA and KPMG-Zimbabwe should revise how they split the Issuer A audit fee such that KPMG-Zimbabwe's fee would fall below the 20% substantial role threshold.

27. KPMG-SA and Van Niekerk, however, did not take additional steps to estimate or project KPMG-Zimbabwe's expected audit hours. KPMG-SA and Van Niekerk did not otherwise

[10] In fact, neither the Act nor PCAOB rules exempt an unregistered firm from compliance with registration requirements simply because it is supervised by a registered firm.

perform specific planning procedures to ensure that KPMG-Zimbabwe's hours would remain below the 20% substantial role threshold.

28. On March 13, 2018, the Commission issued its orders sanctioning KPMG-SA and KPMG-Zimbabwe. The same day, Basson requested that Van Niekerk "prepare a final memo to conclude that KPMG Zim[babwe] did not play a substantial role on the [Issuer A] audit." Basson stated the "key criteria" was that KPMG-Zimbabwe's fees or hours could not exceed the 20% substantial role threshold. Basson further stated: "This is important as the AP forms are due soon after signing of the opinion and will require this year that the hours of all participating offices, ie KPMG Zim[babwe] be disclosed."

29. Three days later, Van Niekerk asked the Zimbabwe Partner to "provide us with the hours spent on [Subsidiary X], split between group reporting and statutory audit." The term "group reporting" referred to the consolidated Issuer A audit that was required to be performed in accordance with PCAOB standards, as opposed to the Subsidiary X statutory audit that was not performed under PCAOB standards.

30. At the time of Van Niekerk's March 16 email, the majority of the 2017 Issuer A audit had been completed.

31. On March 19, the Zimbabwe Partner sent Van Niekerk a spreadsheet showing an estimated allocation of 30% of KPMG-Zimbabwe's hours to the Issuer A audit and 70% to the Subsidiary X statutory audit, with minor adjustments made for certain individuals. The Zimbabwe Partner's spreadsheet resulted in an allocation of 463 hours to the Issuer A audit and 1,270 hours to the statutory audit. The Zimbabwe Partner's spreadsheet stated that the statutory audit allocation "reflect[ed] the hour[s] to complete the statutory audit," while the Issuer A hours allocation reflected "an incremental amount considered to be relevant for additional documentation" for the Issuer A audit. Thus, the Zimbabwe Partner's spreadsheet excluded from KPMG-Zimbabwe's Issuer A audit hours *any* work performed for the statutory audit, even though some of the statutory audit work also was used for the Issuer A audit.

32. On March 22, Van Niekerk sent the Zimbabwe Partner an email advising him that "[w]e are faced with a significant problem in that the hours worked by the Zimbabwe team members far exceed the 20% threshold even if we assume that only 30% of their time was spent on group reporting."

33. Later that same day, a KPMG-SA engagement team member sent Van Niekerk a new analysis, distinct from the hours allocation in the spreadsheet previously sent by the Zimbabwe Partner. The new analysis reduced KPMG-Zimbabwe's total hours based on several factors, including KPMG-SA's own estimates of time that KPMG-Zimbabwe spent on statutory

audit work that was outside the scope of the Issuer A audit and of purported "non-productive" time included in KPMG-Zimbabwe's recorded hours. This new analysis showed KPMG-Zimbabwe's hours at 26%, and the engagement team member told Van Niekerk that he would "work on it tomorrow morning and see if I can work out the last 6%."

34. The engagement team member next excluded time that he estimated KPMG-Zimbabwe had spent on audit procedures that were not required for the Issuer A audit. The engagement team member then updated Van Niekerk that he was "finding it difficult now, I have reduced the ZIM hours to 24% as it stands."

35. On March 26, Van Niekerk sent KPMG-SA's hours analysis to the Zimbabwe Partner, noting that KPMG-Zimbabwe's hours "should not be more than 20% (Currently 24%)." He noted that "[w]e are still 69 hours short."

36. Van Niekerk also advised the Zimbabwe Partner that he had adjusted KPMG-Zimbabwe's hours based on "the following arguments": (1) a reduction for statutory audit work on Issuer A affiliates that were "not relevant for group reporting"; (2) a reduction for all of the Zimbabwe Partner's non-tax hours; (3) a reduction for the "excess time" recorded by KPMG-Zimbabwe based on the difference in average time per work paper recorded by KPMG-Zimbabwe and the average time per work paper recorded by KPMG-SA; and (4) a reduction for "[c]ertain activities" that were completed only for purposes of the Subsidiary X statutory audit.

37. KPMG-SA subsequently removed the time charged by a KPMG-Zimbabwe manager who worked on the Subsidiary X statutory audit. On March 27, Van Niekerk sent the "updated" hours analysis to the Zimbabwe Partner. Van Niekerk wrote that "[w]e are within the 20% threshold based on the calculation . . . Can you please review and let me have you[r] approval."

38. On March 28, Van Niekerk emailed the KPMG-SA hours analysis to Basson. Van Niekerk told Basson that the Zimbabwe Partner "wants to discuss" because he "cannot seem to agree with the non-productive hours." The "non-productive hours" were calculated based on the assumption that it should have taken KPMG-Zimbabwe the same amount of time to prepare a work paper as KPMG-SA, regardless of the amount of testing performed or documentation involved in the preparation of each work paper.[11]

[11] KPMG-SA justified this assumption, in part, on the belief that the KPMG-Zimbabwe team had charged all of its weekend hours while located onsite at the client, potentially including hours that they may not have actually been working on the audit.

39. That same day, Van Niekerk, Basson, and the Zimbabwe Partner participated in a conference call concerning KPMG-SA's hours analysis. KPMG-SA issued its audit report for Issuer A the following day.

40. About two weeks later, on April 11, Van Niekerk emailed the Zimbabwe Partner, copying Basson, and asked that he "[p]lease let me have the [Subsidiary X] hours following your review and analysis as was resolved on the conference call. We need to submit the AP form by Tuesday next week."

41. The Zimbabwe Partner sent Van Niekerk a revised analysis that reclassified a portion of the non-productive hours adjustment to a new adjustment for KPMG-Zimbabwe's travel time in connection with the audit. The Zimbabwe Partner also attempted to justify the non-productive hours adjustment by noting that KPMG-Zimbabwe personnel were subject to "delays in receiving information" from Subsidiary X.

42. Based on the approach agreed to by Van Niekerk, Basson, and the Zimbabwe Partner on March 28 and the revised analysis provided by the Zimbabwe Partner, the KPMG-SA engagement team ultimately prepared a work paper calculating KPMG-Zimbabwe's percentage of the Issuer A audit hours. The work paper documented six categories of downward adjustments that Respondents used to effect a three-quarters reduction in the number of hours originally recorded by KPMG-Zimbabwe (from 1,733 hours to 402 hours).

43. Absent these adjustments, KPMG-Zimbabwe's audit hours would have significantly exceeded 20% of the total audit hours.

44. Respondents lacked an objectively reasonable basis for or means of calculating the adjustments that they used to reduce KPMG-Zimbabwe's audit hours.

45. Nevertheless, the KPMG-SA engagement team prepared, and Van Niekerk signed off on, a work paper concluding that KPMG-Zimbabwe did not perform material services, and thus did not "trigger the 'substantial role' definition," based on KPMG-SA's calculation that KPMG-Zimbabwe's adjusted hours and fees each fell below the 20% substantial role threshold.

46. On April 19, 2018, KPMG-SA filed a Form AP with respect to its 2017 Issuer A audit report and reported that KPMG-Zimbabwe had incurred 17% of the total 2017 Issuer A audit hours.[12]

E. KPMG-SA and Van Niekerk Failed to Reasonably Supervise KPMG-Zimbabwe and Violated PCAOB Rules and Standards During the 2015 Through 2017 Audits of Issuer A

47. During the 2015 and 2016 audits of Issuer A, KPMG-Zimbabwe incurred hours and fees that exceeded 20% of the total audit hours and fees. During the 2017 audit of Issuer A, KPMG-Zimbabwe again exceeded 20% of the total audit hours. Accordingly, KPMG-Zimbabwe played a substantial role in each of the 2015 through 2017 audits without being registered with the Board, in violation of Section 102(a) of the Act and PCAOB Rule 2100.

48. KPMG-SA and Van Niekerk failed to reasonably supervise or plan KPMG-Zimbabwe's participation in the 2015 through 2017 audits in a manner designed to avoid violations of Section 102(a) and PCAOB Rule 2100. Moreover, during his engagement quality review, Basson failed to appropriately evaluate the failure to adequately plan the 2017 audit, despite being aware of the reductions made to KPMG-Zimbabwe's hours. Their conduct fell short of their obligation to reasonably supervise KPMG-Zimbabwe and violated PCAOB rules and standards.

i. KPMG-SA and Van Niekerk Failed to Reasonably Supervise KPMG-Zimbabwe

49. Section 105(c)(6) of the Act provides that the Board may impose sanctions on a registered accounting firm or upon the firm's supervisory personnel, if the Board finds that (1) the firm has failed to reasonably supervise an associated person, either as required by the rules of the Board relating to auditing or quality control standards, or otherwise, with a view to preventing violations of the Act or the rules of the Board; and (2) such associated person commits a violation of the Act or Board rules.

50. Under Section 2(a)(9) of the Act, the term "person associated with a registered public accounting firm" includes "any . . . entity that, in connection with the preparation or issuance of any audit report—(i) shares in the profits of, or receives compensation in any other form from, that firm; or (ii) participates as agent or otherwise on behalf of such accounting firm in any activity of that firm." Because it performed audit work at the direction, and under the

[12] KPMG-SA did not separately calculate KPMG-Zimbabwe's participation in the Issuer A audit for Form AP reporting purposes, and relied, instead, on its calculation of audit hours for substantial role purposes.

supervision, of KPMG-SA, KPMG-Zimbabwe acted as an "entity that, in connection with the preparation or issuance of [the Issuer A] audit report[,] . . . participate[d] as agent or otherwise on behalf of [KPMG-SA]." Accordingly, KPMG-Zimbabwe was an "associated person" of KPMG-SA during the 2015 through 2017 audits.

51. KPMG-SA had a responsibility to reasonably supervise its associated persons during the 2015 through 2017 Issuer A audits. Likewise, Van Niekerk, as the engagement partner, had supervisory responsibility and was a supervisory person of KPMG-SA for those audits. KPMG-SA and Van Niekerk knew that the Commission was investigating KPMG-Zimbabwe's participation in the 2013 and 2014 audits.

52. KPMG-SA and Van Niekerk failed to reasonably supervise KPMG-Zimbabwe during the 2015 and 2016 audits of Issuer A with a view to preventing violations of the mandatory registration requirement set forth in Section 102(a) of the Act and PCAOB Rule 2100. Rather, they allowed KPMG-Zimbabwe, while unregistered, to play a substantial role in the 2015 and 2016 audits without performing an analysis of the mandatory registration requirement or taking adequate steps to ensure that KPMG-Zimbabwe's participation in the audit would not constitute a substantial role.

53. By the time of the 2017 audit of Issuer A, KPMG-SA and Van Niekerk knew that KPMG-SA had submitted an offer of settlement to the Commission that included sanctions against the firm for its reliance on KPMG-Zimbabwe's work in the 2013 and 2014 audits. During the 2017 audit, they also became aware that the Commission had issued an order accepting KPMG-SA's offer of settlement and imposing the sanctions. Yet KPMG-SA and Van Niekerk failed to reasonably supervise KPMG-Zimbabwe during the 2017 audit with a view to preventing violations of the registration requirement.

54. Specifically, KPMG-SA and Van Niekerk allowed KPMG-Zimbabwe to play a substantial role in the 2017 audit without taking adequate steps to conduct the audit in a manner that ensured KPMG-Zimbabwe would not violate PCAOB registration requirements. Moreover, upon becoming aware that KPMG-Zimbabwe's recorded hours exceeded the 20% substantial role threshold, KPMG-SA and Van Niekerk engaged in an outcome-driven exercise that yielded unreasonable downward adjustments to KPMG-Zimbabwe's hours.

55. Because KPMG-Zimbabwe incurred more than 20% of the total audit hours and fees during the 2015 and 2016 audits, and more than 20% of the total audit hours during the 2017 audit, KPMG-Zimbabwe performed material services used by KPMG-SA in issuing its audit reports. KPMG-Zimbabwe therefore violated Section 102(a) and Rule 2100 by playing a substantial role in the 2015 through 2017 audits without being registered with the Board.

56. Accordingly, KPMG-SA and Van Niekerk failed to reasonably supervise KPMG-Zimbabwe under Section 105(c)(6) of the Act with respect to the nature of KPMG-Zimbabwe's participation in the 2015 through 2017 audits of Issuer A.

ii. KPMG-SA and Van Niekerk Violated PCAOB Rules and Standards

57. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[13]

58. PCAOB standards provide that, as part of audit planning, the auditor should establish an overall audit strategy.[14] The auditor should take into account "[t]he factors that are significant in directing the activities of the engagement team" and "[t]he nature, timing, and extent of resources necessary to perform the engagement."[15] "The auditor should modify the overall audit strategy and the audit plan as necessary if circumstances change significantly during the course of the audit."[16] PCAOB standards require that "[d]ue professional care is to be exercised in the planning and performance of the audit and the preparation of the report."[17]

59. In establishing the overall audit strategy for the 2015 through 2017 audits, KPMG-SA and Van Niekerk failed to adequately take into account: (1) the significant fact that KPMG-Zimbabwe was an unregistered firm that was being investigated by the Commission for or had just been identified as having improperly played a substantial role for the same client; and (2) the nature of the resources necessary to perform the audit, insofar as those resources included the involvement of an unregistered firm. As a result of these failures, KPMG-SA and Van Nierkerk did not engage in adequate planning to ensure that KPMG-Zimbabwe would not violate PCAOB registration requirements.

60. When the extent of KPMG-Zimbabwe's participation came to light near the end of the 2017 audit, KPMG-SA and Van Niekerk exacerbated their initial planning failures by not modifying the audit strategy and audit plan to ensure compliance with the relevant regulatory

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[13] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[14] AS 2101.08, *Audit Planning*.

[15] AS 2101.09.

[16] AS 2101.15.

[17] AS 1015.01, *Due Professional Care in the Performance of Work*.

requirements.[18] Instead, they made unreasonable downward adjustments to KPMG-Zimbabwe's audit hours.

61. Accordingly, KPMG-SA and Van Niekerk violated AS 2101. KPMG-SA and Van Niekerk also violated AS 1015 by failing to exercise due professional care in planning KPMG-Zimbabwe's participation in the 2015 through 2017 Issuer A audits.

F. Basson Violated PCAOB Rules and Standards During the 2017 Audit of Issuer A

62. PCAOB standards provide that the engagement quality reviewer should "[e]valuate the significant judgments that relate to engagement planning."[19] Thus, the engagement quality reviewer should evaluate "[t]he consideration of the firm's recent engagement experience with the company."[20] The engagement quality reviewer must perform his or her responsibilities with due professional care.[21]

63. During the 2017 Issuer A audit, Basson knew that the Commission had issued a settled enforcement order sanctioning KPMG-SA for its use of KPMG-Zimbabwe's work in the 2013 and 2014 audits. Basson also knew or should have known that Van Niekerk and the engagement team had responded to hours calculations indicating that KPMG-Zimbabwe had played a substantial role in the 2017 audit by making unreasonable downward adjustments to KPMG-Zimbabwe's audit hours.

64. Basson failed to appropriately evaluate whether Van Niekerk and the engagement team had adequately planned to conduct the 2017 audit in a manner such that KPMG-Zimbabwe would not violate PCAOB registration requirements. Basson likewise failed to evaluate whether Van Niekerk and the engagement team appropriately responded during the course of the audit to circumstances indicating that KPMG-Zimbabwe had played a substantial role in the 2017 audit.

65. By failing to adequately evaluate these significant judgments relating to engagement planning, and by providing a concurring approval of issuance without performing

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18 *See* AS 2101.05 ("Planning is not a discrete phase of an audit but, rather, a continual and iterative process that . . . continues until the completion of the current audit").

19 AS 1220.10, *Engagement Quality Review*.

20 *Id*.

21 AS 1220.12.

his engagement quality review with due professional care as to such significant judgments, Basson violated AS 1220.

G. KPMG-SA Violated PCAOB Quality Control Standards

66. PCAOB quality control standards require that a firm "shall have a system of quality control for its accounting and auditing practice" and describes "elements of quality control and other matters essential to the effective design, implementation, and maintenance of the system."[22] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[23]

67. KPMG-SA failed to establish adequate policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel met applicable regulatory requirements when using other accounting firms. As discussed above, KPMG-SA's lack of adequate policies and procedures related to the use of other accounting firms' work resulted in KPMG-Zimbabwe's participation in the 2015 through 2017 audits of Issuer A exceeding the substantial role threshold, despite the firm and engagement team's knowledge that KPMG-Zimbabwe's participation in the audits presented a potential registration issue.

68. As demonstrated by its failure to remedy, in any of three subsequent audits, the regulatory violations caused by KPMG-Zimbabwe's participation in the 2013 and 2014 Issuer A audits, KPMG-SA failed to establish adequate policies to provide reasonable assurance that the work performed by engagement personnel would meet applicable regulatory requirements when using other accounting firms. Accordingly, KPMG-SA violated QC § 20 during the period of the 2015 through 2017 audits.

H. KPMG-SA Violated the Form AP Filing Rule

69. PCAOB Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form." The Form AP Instructions for "Part IV – Responsibility for the Audit Is Not Divided" provide that "[a]ctual audit hours should be used if available. If actual

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22 QC § 20.01.

23 QC § 20.17.

audit hours are unavailable, the Firm may use a reasonable method to estimate the components of this calculation."

70. On April 19, 2018, KPMG-SA filed a Form AP disclosing that KPMG-Zimbabwe had incurred 17% of the total 2017 Issuer A audit hours. KPMG-SA's disclosure was based on the unreasonable downward adjustments to KPMG-Zimbabwe's audit hours discussed above.

71. Because KPMG-SA's disclosure of the audit hours incurred by KPMG-Zimbabwe was based on unreasonable calculation methods, KPMG-SA violated Rule 3211.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Cornelis Van Niekerk is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[24]

B. Pursuant to PCAOB Rule 5302(b), Cornelis Van Niekerk may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Coenraad Basson is suspended, for one year from the date of this Order, from being an

[24] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Van Niekerk. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[25]

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

1. KPMG Inc., $200,000; and

2. Cornelis Van Niekerk, $50,000; and

3. Coenraad Basson, $25,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. KPMG Inc., Van Niekerk, and Basson shall pay these civil money penalties within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***Respondent Cornelis Van Niekerk understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm***.

E. Pursuant to Sections 105(c)(4)(G) of the Act and PCAOB Rules 5300(a)(9), the Board orders that:

1. Review by KPMG Inc. Within six months of the date of this Order, KPMG Inc. shall review and evaluate its quality control or other policies and procedures to provide the firm with reasonable assurance that its

[25] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act, discussed *supra*, at n.24, will apply with respect to Basson.

personnel and other associated persons comply with applicable regulatory requirements when the firm uses audit work performed or supervised by other accounting firms.

2. Reporting. Within six months of the date of this Order, KPMG Inc. shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the area specified in paragraph E.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG Inc. or, if KPMG Inc. concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the firm believes changes are not warranted. In addition, KPMG Inc. shall submit any additional information and evidence concerning the Report, the information in the Report, and KPMG Inc.'s compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within twelve months of the date of this Order, KPMG Inc.'s head of quality assurance shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that KPMG Inc. has implemented all of the modifications and additions to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG Inc.'s adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG Inc. shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. KPMG Inc. understands that a failure to satisfy these undertakings may constitute a violation of Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 29, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Hay & Watson and Essop Mia, CPA

Respondents.

PCAOB Release No. 105-2022-017

September 13, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Hay & Watson (the "Firm"), a registered public accounting firm, and Essop Mia, CPA ("Mia");

(2) revoking the registration of Hay & Watson;

(3) barring Mia from being associated with a registered public accounting firm; and

(4) imposing a $50,000 civil money penalty jointly and severally upon the Firm and Mia (collectively, "Respondents").

The Board is imposing these sanctions on the basis of its findings that Respondents violated PCAOB rules and standards by improperly altering work papers and then providing them to Board inspectors in connection with a Board inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **Hay & Watson** is the business name of three entities, including Essop Mia Limited, a public accounting firm headquartered in Vancouver, British Columbia. Essop Mia Limited (d/b/a Hay & Watson) is licensed to practice public accounting in, among other places, British Columbia, Canada (license no. C026186). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Essop Mia, CPA** is the owner and managing partner of Essop Mia Limited, a Chartered Professional Accountant under the laws of British Columbia, Canada (license no. C026186), and, at all relevant times was, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Mia served as the engagement partner on the Firm's audits and reviews of Issuer A for the fiscal years ended August 31, 2018 through August 31, 2021.

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[1] The findings herein are made pursuant to the Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (a) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (b) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Issuer

3. **Issuer A** is an Ontario, Canada corporation headquartered in Sherman Oaks, California. According to public filings, Issuer A is a holding company engaged in various aspects of the oil and gas industry. Issuer A was, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Issuer A was, at all relevant times, the Firm's only issuer audit client.

C. Summary

4. This matter concerns Respondents' failure to comply with PCAOB rules and standards related to audit documentation and the obligation to cooperate with a Board inspection.

5. Mia and the Firm failed to assemble a final set of audit documentation as of the documentation completion date in connection with the Firm's audit of Issuer A's August 31, 2019 financial statements ("2019 Audit"). Instead, Mia, and others acting at his direction, continued to improperly alter, add to, and backdate work papers months after the documentation completion date.

6. Respondents subsequently violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, by providing the altered work papers to the Board's inspectors without disclosing that they had been altered.

D. Respondents Violated PCAOB Rules and Standards

7. PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[3] As set out below, Respondents failed to comply with PCAOB rules and standards.

i. Documentation Violations

a. Alterations

8. PCAOB auditing standards require that an auditor assemble for retention as of a date not more than 45 days after the report release date ("documentation completion date") a complete and final set of audit documentation.[4] While information may be added to the work papers after the documentation completion date, the new documentation must disclose the

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[3] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[4] *See* AS 1215.15, *Audit Documentation*.

date the information was added, the name of the person who prepared the additional documentation, and the reason for adding the information to the work papers after the documentation completion date.[5]

9. The Firm issued its audit report for the 2019 Audit on December 15, 2019, which was included in Issuer A's Form 10-K filed on December 16, 2019. As a result, the 45-day period for the Firm to complete its documentation for the 2019 Audit ended no later than January 29, 2020.

10. Mia and the Firm, however, did not assemble a complete and final set of audit documentation for retention within 45 days following the report release date for the 2019 Audit. Instead, at Mia's direction, members of the Firm continued to modify the 2019 Audit work papers after the documentation completion date.

11. Mia, and members of the Firm acting at his direction, created or modified at least 68 documents after the documentation completion date for the 2019 Audit, including 42 in September 2020 and 18 in October 2020. Of these 68 documents, at least four documents were created after January 29, 2020 and added to the 2019 Audit file.

12. Notwithstanding the modifications and additions to the 2019 Audit file, Respondents failed to properly document who added the information to the work papers after the documentation completion date, as well as when and why the information was added.

b. Backdating

13. PCAOB rules require that audit documentation "contain sufficient information to enable an experienced auditor, having no previous connection with the engagement," to understand, among other things, the timing of the procedures performed, evidence obtained, and conclusions reached, and to determine not just who performed and reviewed the work but also "the date such work was completed" and "the date of such review."[6]

14. Members of the Firm, at Mia's direction, improperly backdated at least 30 work papers in the 2019 Audit file by adding signoffs in the Firm's audit documentation software during September and October 2020 that incorrectly indicated the work papers were prepared or completed before issuance of the 2019 Audit report. Also, although he did not backdate his own signoffs, Mia signed off on a total of 339 work papers in the 2019 Audit file after the

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5 *See id*. at .16.

6 *See id*. at .06.

documentation completion date, including 326 that were signed off on October 24, 2020, such that an experienced auditor would not understand when Mia completed his review.

ii. Noncooperation with a Board Inspection

15. PCAOB rules require that registered public accounting firms and associated persons "shall cooperate with the Board in the performance of any Board inspection."[7] This cooperation obligation includes an obligation not to provide misleading documents or information in connection with, or otherwise to interfere with, the Board's inspection processes.[8] An auditor provides misleading information if he or she fails to disclose that documentation presented to inspectors as having existed at the time of the audit was, in fact, subsequently altered or created.[9]

16. On August 3, 2020, Board inspectors contacted Mia, the Firm's designated Board contact, to inform him that the Firm had been identified for inspection as part of the Board's triennial inspection program. A few days later, Board inspectors informed Mia that the 2020 inspection of the Firm would take place remotely during the week of November 2, 2020, and that Mia should plan to make audit work papers available to Board inspectors the week of October 26, 2020.

17. Respondents received formal notice of the inspection on August 14, 2020, in a letter reiterating that field work would begin on November 2, 2020. On October 13, 2020, Board inspectors informed Mia that they had selected Issuer A (the Firm's only issuer client) for inspection and identified the areas of focus for that engagement.

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[7] PCAOB Rule 4006.

[8] *See, e.g., Kabani & Co., Inc.,* Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 Fed App'x 918 (9th Cir. 2018) (sustaining Board finding that respondents failed to cooperate with inspection where improper work paper alterations "interfered with the PCAOB's ability to fulfill its regulatory function of ensuring that auditors comply with their professional responsibilities"); *Dale Arnold Hotz, CPA, Jyothi Nuthulaganti Manohar, CPA, and Michael Jared Fadner, CPA*, PCAOB Rel. No. 105-2012-008, ¶ 7 (Nov. 13, 2012) (Rule 4006 "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes." (internal quotation omitted)).

[9] *See, e.g., Elliot D. Kim, CPA,* PCAOB Rel. No. 105-2018-010 (May 23, 2018) (respondent failed to cooperate with inspection when he remained silent during discussion with inspectors of document that he had improperly altered); *José Fernandez Alves*, PCAOB Rel. No. 105-2016-039 (Dec. 5, 2016) (respondent failed to cooperate when he failed to disclose during meeting with inspectors that he had learned that certain documents had been improperly altered); *Renata Coelho de Sousa Castelli*, PCAOB Rel. No. 105-2016-040 (Dec. 5, 2016) (same).

18. On October 25, 2020, Mia provided the 2019 Audit file to Board inspectors in connection with the inspection. During the inspection, Board inspectors identified that the 2019 Audit file contained work paper modifications after the documentation completion date, and Mia provided inspectors with a written explanation, prepared during the inspection, for why the changes had occurred. Mia's explanation addressed changes made to the 2019 Audit file between January 29, 2020 and May 11, 2020, but failed to address the changes made in September and October 2020.

19. As a result, Mia did not identify the existence of, or include any explanation in the 2019 Audit file for, the work papers that had been modified in September and October 2020. Nor did Mia inform Board inspectors that signoffs on numerous work papers had been backdated in September and October 2020 to falsely indicate that the signoffs had occurred prior to issuance of the audit report.

20. Accordingly, by providing the improperly altered work papers to Board inspectors, Respondents violated PCAOB Rule 4006.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Hay & Watson and Essop Mia are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Hay & Watson is revoked;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Essop Mia is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[10] and

[10] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Mia. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed jointly and severally upon Hay & Watson and Essop Mia. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm or the person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***By consenting to this Order, Hay & Watson and Essop Mia acknowledge that a failure to pay the civil money penalty described above may alone be grounds to deny any request for leave to file an application for registration or a petition to terminate a bar pursuant to PCAOB Rule 5302(c).***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 13, 2022

management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Yarel + Partners,

Respondent.

PCAOB Release No. 105-2022-019

October 4, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring Yarel + Partners, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $35,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Yarel + Partners** is a general partnership located in Tel-Aviv, Israel. The Firm is the Israeli affiliate of BKR International, an association of independent accounting and business advisory firms. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

3. The Firm audited the financial statements of Enlivex Therapeutics Ltd. ("Enlivex") as of and for the years ended December 31, 2017, 2018, 2019, and 2020. For Enlivex's 2017 and 2018 financial statements, the Firm issued an audit report dated March 28, 2019, which was included in Enlivex's Form 20-F filed with the SEC on April 30, 2019. For Enlivex's 2018 financial statements, the Firm issued an audit report dated January 23, 2020, which was included in Enlivex's Form 20-F/A filed with the SEC on January 23, 2020 and January 31, 2020. For Enlivex's 2018 and 2019 financial statements, the Firm issued an audit report dated April 2, 2020, which was included in Enlivex's Form 20-F filed with the SEC on April 30, 2020. For Enlivex's 2019 and 2020 financial statements, the Firm issued an audit report dated April 20, 2021, which was included in Enlivex's Form 20-F filed with the SEC on April 30, 2021. For Enlivex's 2020 and 2021 financial statements, the Firm issued an audit report dated April 25, 2022, which was included in Enlivex's Form 20-F filed with the SEC on April 29, 2022.

4. The Firm audited the financial statements of Todos Medical Ltd. as of and for the year ended December 31, 2021. The Firm issued an audit report dated March 31, 2022, which was included in Todos Medical Ltd.'s Form 10-K filed with the SEC on March 31, 2022.

5. Over a three-year period, the Firm failed to file six required Form APs for the above filings by the 35th day after the date the audit reports were first included with the filings made with the SEC, in violation of PCAOB Rule 3211.

6. The Firm belatedly filed the aforementioned Form APs on June 12, 2022, after receiving notice of deficiencies from the Division of Enforcement and Investigations.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determined it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $35,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United

States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a)***;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including PCAOB Rule 3211 and that Form APs are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***The Firm understands that the failure to satisfy these undertakings may***

constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 4, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Shanghai Perfect C.P.A. Partnership,

Respondent.

PCAOB Release No. 105-2022-020

October 4, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring Shanghai Perfect C.P.A. Partnership, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $20,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Shanghai Perfect C.P.A. Partnership** is a partnership located in Shanghai, People's Republic of China. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm audited the financial statements of ChinaCache International Holdings Ltd. as of and for the year ended December 31, 2020, for which the Firm issued an audit report dated May 17, 2021, which was included in ChinaCache International Holdings Ltd.'s Form 20-F filed with the SEC on May 17, 2021.

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

4. The Firm audited the financial statements of Mercurity Fintech Holding Inc. ("Mercurity") as of and for the years ended December 31, 2017, 2018, 2019 and 2020. For Mercurity's 2017, 2018, and 2019 financial statements, the Firm issued an audit report dated June 12, 2020, which was included in Mercurity's Form 20-F filed with the SEC on June 12, 2020. For Mercurity's 2020 financial statements, the Firm issued an audit report dated April 28, 2021, which was included in Mercurity's Form 20-F filed with the SEC on April 28, 2021.

5. Over a two-year period, the Firm failed to file three required Form APs for the above filings by the 35th day after the date the audit reports were first included with the filings made with the SEC, in violation of PCAOB Rule 3211.

6. The Firm belatedly filed the aforementioned Form APs on June 17, 2022, after receiving notice of the deficiencies from the Division of Enforcement and Investigations.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determined it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***Respondent understands that its failure to pay the civil money penalty described above may***

result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a);

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including PCAOB Rule 3211 and that Form APs are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 4, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of James Pai CPA PLLC,

Respondent.

PCAOB Release No. 105-2022-021

October 4, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring James Pai CPA PLLC, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $20,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **James Pai CPA PLLC** is a limited liability corporation located in New York, New York. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm audited the financial statements of Sino United Worldwide Consolidated Ltd. ("Sino United") as of and for the years ended December 31, 2018, 2019, 2020, and 2021. For Sino United's 2018 and 2019 financial statements, the Firm issued an audit report dated May 25, 2020, which was included in Sino United's Form 10-K filed with the SEC on May 26, 2020. For Sino United's 2019 and 2020 financial statements, the Firm issued an audit report

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

dated March 30, 2021, which was included in Sino United's Form 10-K filed with the SEC on March 30, 2021. For Sino United's 2020 and 2021 financial statements, the Firm issued an audit report dated March 31, 2022, which was included in Sino United's Form 10-K filed with the SEC on March 31, 2022.

4. Over a two-year period, the Firm failed to file three required Form APs for the above filings by the 35th day after the date the audit reports were first included with the filings made with the SEC, in violation of PCAOB Rule 3211.

5. The Firm belatedly filed the aforementioned Form APs on July 29, 2022, after receiving notice of the deficiencies from the Division of Enforcement and Investigations.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a)***;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including PCAOB Rule 3211 and that Form APs are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 4, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Liebman Goldberg & Hymowitz LLP,

Respondent.

PCAOB Release No. 105-2022-022

October 4, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring Liebman Goldberg & Hymowitz LLP, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $20,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Liebman Goldberg & Hymowitz LLP** is a limited liability partnership located in Garden City, New York. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm audited the financial statements of RetinalGenix Technologies Inc. ("RetinalGenix") as of and for the years ended December 31, 2019, 2020, and 2021. For RetinalGenix's 2019 and 2020 financial statements, the Firm issued an audit report dated June 24, 2021, which was included in RetinalGenix's Form S-1 filed with the SEC on August 5, 2021, Form S-1/A filed with the SEC on October 1, 2021, Form S-1 filed with the SEC on January 21, 2022, and Form S-1/A filed with the SEC on January 26, 2022. For RetinalGenix's 2020 and 2021

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

financial statements, the Firm issued an audit report dated April 15, 2022, which was included in RetinalGenix's Form 10-K filed with the SEC on April 15, 2022.

4. The Firm audited the financial statements of Fuel Doctor Holdings, Inc. as of and for the year ended December 31, 2021, for which the Firm issued an audit report dated April 18, 2022, which was included in Fuel Doctor Holdings, Inc.'s Form 10-K filed with the SEC on April 18, 2022.

5. The Firm failed to file the required Form AP for the above Form S-1 and S-1/A filings by the 10th day after the date the audit report was first included with the filings made with the SEC, in violation of PCAOB Rule 3211. The Firm also failed to file the two required Form APs for the above Form 10-K filings by the 35th day after the date the audit reports were first included with the filing made with the SEC, in violation of PCAOB Rule 3211.

6. The Firm belatedly filed the aforementioned Form APs on June 14, 2022, July 7, 2022, and July 28, 2022, after receiving notice of deficiencies from the Division of Enforcement and Investigations.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting

Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a)***;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including PCAOB Rule 3211 and that Form APs are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 4, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Spielman Koenigsberg & Parker, LLP,

Respondent.

PCAOB Release No. 105-2022-024

October 18, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Spielman Koenigsberg & Parker, LLP ("SKP" or "Respondent"), a registered public accounting firm;

(2) revoking SKP's registration;[1]

(3) imposing on SKP a $150,000 civil money penalty; and

(4) requiring SKP to undertake remedial measures concerning quality control and training directed toward satisfying requirements applicable to audits and reviews of issuers before filing, and to provide evidence of such measures with, any future registration application.

The Board is imposing these sanctions on SKP on the basis of its findings that SKP violated PCAOB rules and standards, including quality control standards, in connection with the audits of two issuer audit clients from 2018 to 2021.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit

[1] SKP may reapply for registration after five years from the date of this Order.

reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Spielman Koenigsberg & Parker, LLP** is a partnership organized under the laws of the state of New York and located in New York, New York. At all relevant times, SKP was registered with the state of New York (Certified Public Accountancy Partnership No. 041869). SKP registered with the Board, pursuant to Section 102 of the Act and PCAOB rules, on May 30, 2006.

B. Issuers

2. PVH Associates Investment Plan and PVH Associates Investment Plan for Residents of the Commonwealth of Puerto Rico (collectively, the "PVH Plans") are defined contribution plans covering certain salaried and hourly employees of PVH Corp., a Delaware

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (a) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (b) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

corporation headquartered in New York, New York. The PVH Plans were each, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). SKP's audits of the PVH Plans included audits of their financial statements as of and for the years ended December 31, 2017, 2018, 2019, and 2020 (respectively, the "2017 Audits," "2018 Audits," "2019 Audits," and "2020 Audits"). The PVH Plans are the only issuer clients that SKP has ever audited.

C. Relevant Person

3. Jonathan B. Taylor, CPA ("Taylor"), is a partner of SKP. Taylor served as the engagement partner for SKP's audits of the financial statements of the PVH Plans as of and for the years ended December 31, 2017 through 2020. At all relevant times, Taylor also served as SKP's partner in charge of technical and quality review.[4]

D. Summary

4. This matter concerns SKP's failure to comply with PCAOB quality control standards during 2018-2021, including with respect to audit documentation. Among other failures, SKP's system of quality control failed to prevent or detect efforts by Taylor and other SKP personnel to improperly alter approximately half of the work papers for the 2019 Audits after they learned of an upcoming PCAOB inspection (the "Inspection"). These improperly altered work papers were then provided to the inspectors.

5. SKP also failed to obtain engagement quality reviews ("EQRs") of its audits of the PVH Plans for multiple years. Moreover, the firm failed to timely file several Form APs, and filed several materially inaccurate Form 2s, with the PCAOB.

E. SKP Violated PCAOB Rules and Standards

6. PCAOB rules require that registered public accounting firms comply with applicable auditing and related professional practice standards.[5] As set out below, SKP failed to comply with PCAOB rules and standards.

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[4] *See Jonathan B. Taylor, CPA*, PCAOB Rel. No. 105-2022-025 (Oct. 18, 2022).

[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

i. Quality Control

7. PCAOB rules require that a registered firm comply with PCAOB quality control standards, which require that a firm "shall have a system of quality control for its accounting and auditing practice" and describe "elements of quality control and other matters essential to the effective design, implementation, and maintenance of the system."[6] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[7]

8. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[8] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[9] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[10]

9. As noted above, the PVH Plans are the only issuer clients the firm has ever audited. Having decided to perform audits of issuers, however, SKP was obligated to design and implement policies and procedures, including monitoring procedures, to provide reasonable assurance of compliance with regulatory requirements applicable to issuer audits. SKP failed to do so.

10. Prior to 2020, SKP documented its audit quality control policies and procedures using a questionnaire received by the firm in connection with an audit peer review program. Taylor populated that questionnaire with certain cursory descriptions of SKP's audit practice. As implemented by SKP, the policies and procedures described in the completed questionnaire did not comply with PCAOB quality control standards. In 2020, SKP put into place a set of "SKP Quality Control Policies and Procedures," assembled by Taylor, which were also deficient and failed to provide the necessary reasonable assurance.

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6 PCAOB Rule 3400T; QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

7 QC § 20.17.

8 QC § 20.08.

9 *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; see also QC § 20.20.

10 *See* QC § 20. 20.c-.d; QC § 30.02.c-.d.

11. Significantly, SKP's quality control policies and procedures in 2018-2021 were not suitably designed and effectively applied to provide reasonable assurance that the work performed by its engagement personnel met PCAOB audit documentation requirements. For example, SKP's quality control policies and procedures did not address whether or how its engagement personnel could add, modify, or delete audit documentation following the documentation completion date.[11] SKP's quality control policies and procedures did not address the need to retain records relevant to the audit for a seven-year period after conclusion of an issuer audit.[12] SKP also failed to design or implement other policies and procedures to prevent or detect improper alterations of audit documentation after the documentation completion date.[13] These quality control failures increased the risk that work papers might be improperly altered after the documentation completion date.[14]

12. In anticipation of the Inspection and after the documentation completion date, Taylor coordinated an extensive effort involving several SKP professionals to improperly alter and backdate the work papers for the 2019 Audits before providing them to the PCAOB inspectors. This effort, which lasted over a period of months in 2020 and 2021, and which directly interfered with the integrity of the PCAOB's Inspection, involved substantial revisions to multiple work papers—including changes to existing key work papers and the addition of audit programs and other work papers—in violation of PCAOB audit documentation requirements.

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[11] *See* AS 1215.15-.16, *Audit Documentation* ("A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Circumstances may require additions to audit documentation after the report release date. Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it." (italics in original)).

[12] Regulation S-X, Rule 2-06, 17 C.F.R. § 210.2-06.

[13] Starting with the 2018 Audits, SKP personnel prepared, assembled, and kept the work papers for audits of the PVH Plans in electronic form as part of a software database file. Though the software database file had a feature that, when activated, made the database file "read-only"—allowing it to be opened and viewed but not modified—SKP audit personnel did not routinely use that software feature, and did not activate that feature for the work papers assembled for the 2018-2020 Audits.

[14] *See Galaz, Yamazaki, Ruiz Urquiza, S.C.*, PCAOB Rel. No. 105-2016-044 (Dec. 5, 2016) at 7 ("Not only did those failures to timely archive work papers for PCAOB Audits violate AS3 [AS 1215], they also increased the risk that the work papers might be improperly altered after the documentation completion date.").

13. As part of this effort, Taylor contacted members of management at PVH Corp. to request and obtain additional audit evidence related to the 2019 Audits. Taylor, as well as the other SKP professionals whose efforts he was coordinating, documented the additional client information that they obtained, and the results of additional procedures performed—without complying with PCAOB audit documentation requirements—before making work papers available to the inspectors. Taylor and the other SKP professionals improperly added or altered approximately half of the work papers for the 2019 Audits in anticipation of the inspection, without ever disclosing those changes to the inspectors

14. SKP's failure to detect this extensive effort to improperly alter and backdate audit documentation reflects the deficient nature of SKP's quality control monitoring policies and procedures.

15. SKP's quality control policies and procedures with respect to EQRs in 2018-2021 were also deficient. Specifically, those policies and procedures failed to provide reasonable assurance that EQRs were performed for the audits of the PVH Plans in multiple consecutive years (see below section E.ii, "Engagement Quality Reviews"). SKP's failure to identify the repeated failure over several years to obtain EQRs reflects the deficient nature of SKP's quality control monitoring policies and procedures.

16. In addition, SKP's repeated failure to ensure timely filed Form APs and accurately filed Form 2s (see below section E.iii, "PCAOB Reporting") demonstrates that the firm lacked adequate policies and procedures to obtain reasonable assurance of compliance with regulatory requirements.[15] Once again, SKP's failure to identify the repeated failure to timely and accurately file required Form APs and Form 2s, respectively, reflects the deficient nature of SKP's quality control monitoring policies and procedures.

17. Accordingly, SKP failed to comply with QC §§ 20-30.

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[15] *See WWC, P.C.*, PCAOB Rel. No. 105-2022-006 (Apr. 19, 2022) at 13 ("WWC's repeated Form AP and annual report violations—which ranged from the omission of required information to late filings and failures to file at all—demonstrate that the firm lacked sufficient policies and procedures to ensure that these forms would be accurate and timely filed, in compliance with applicable regulatory requirements.").

ii. Engagement Quality Reviews

18. PCAOB standards require that EQRs be performed on all audits.[16] A firm "may grant permission to the client to use the engagement report only after the engagement quality reviewer provides concurring approval of issuance."[17]

19. SKP failed to obtain EQRs in the 2017-2020 Audits of the PVH Plans. In each instance, SKP improperly permitted the issuance of its audit reports without obtaining concurring approval of issuance. As a result, SKP violated AS 1220.

iii. PCAOB Reporting

20. SKP has repeatedly failed to timely file Form APs with the PCAOB and, moreover, has filed several materially inaccurate Form 2s with the PCAOB.

a. Form APs

21. PCAOB rules require that a registered firm file a Form AP for "each audit report it issues for an issuer."[18] A Form AP is timely filed if the form is "filed by the 35th day after the date the audit report is first included in a document filed with the Commission."[19]

22. SKP's audit reports for the 2019 Audits were first included in documents filed with the Commission on June 24, 2020, when the PVH Plans filed their Form 11-Ks for 2019. SKP accordingly was required to file Form APs for the 2019 Audits by July 29, 2020, but failed to file them until February 4, 2021—more than six months late—and only after PCAOB inspectors alerted the firm to the fact those forms had not been filed.

23. SKP's audit reports for the 2017 Audits and 2018 Audits were first included in documents filed with the Commission on June 29, 2018, and June 27, 2019, respectively. SKP accordingly was required to file Form APs by August 3, 2018, for the 2017 Audits and by August 1, 2019, for the 2018 Audits. But SKP failed to file Form APs for those audits until February 16, 2022—over three-and-half years late for the 2017 Audits and over two-and-a-half years late for the 2018 Audits.

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16 AS 1220.01, *Engagement Quality Review*.

17 AS 1220.13.

18 PCAOB Rule 3211(a), *Auditor Reporting of Certain Audit Participants*.

19 PCAOB Rule 3211(b).

24. As a result, SKP violated PCAOB Rule 3211.

b. Form 2s

25. PCAOB rules require that a registered firm "file with the Board an annual report on Form 2 by following the instructions to that form."[20] The Form 2 Instructions for "Part V – Offices and Affiliations" require that a registered firm state in response to Item 5.2.a.1. of Form 2 whether it has any "Membership or affiliation in or with any network, arrangement, alliance, partnership or association that licenses or authorizes . . . the use of a name in connection with the provision of audit services or accounting services."[21]

26. SKP has filed a Form 2 each year for several years, including in 2018-2021. In each of the Form 2s that SKP filed in 2018-2021, SKP answered "No" in response to Item 5.2.a.1.

27. SKP knew or should have known that answer was inaccurate. SKP, since January 2015, has been a member of Russell Bedford International ("RBI"), which publicly describes itself—and is described by SKP—as a network of independent or independently owned firms. SKP entered into an agreement with RBI in January 2015 that, among other things, licensed SKP to use the RBI name in connection with SKP's audit and accounting services. SKP understood that RBI not only authorized, but encouraged, use of the RBI name and branding in connection with those services.

28. As a result, SKP violated PCAOB Rule 2200.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Spielman Koenigsberg & Parker, LLP is hereby censured;

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[20] PCAOB Rule 2200, *Annual Report*.

[21] *Form 2 – Annual Report Form, General Instructions*, https://pcaobus.org/about/rules-rulemaking/rules/form_2, Part V – Offices and Affiliations, Item 5.2.

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Spielman Koenigsberg & Parker, LLP is revoked;

C. After five years from the date of this Order, Spielman Koenigsberg & Parker, LLP may reapply for registration by filing an application for registration pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $150,000 is imposed on Spielman Koenigsberg & Parker, LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Spielman Koenigsberg & Parker, LLP shall pay the civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Spielman Koenigsberg & Parker, LLP as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***By consenting to this Order, Spielman Koenigsberg & Parker, LLP acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any reapplication for registration pursuant to PCAOB Rule 2101. Spielman Koenigsberg & Parker, LLP shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional(s) or any payment made pursuant to any insurance policy, with regard to any amounts that Spielman Koenigsberg & Parker, LLP shall pay pursuant to this Order.***

E. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Spielman Koenigsberg & Parker, LLP is required:

1. before filing with the Board any future registration application, (a) to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing SKP with reasonable assurance of compliance with regulatory requirements applicable to audits and

reviews of issuers;[22] (b) to establish a policy of ensuring training of personnel, whether internal or external, on an annual or more frequent regular basis, concerning requirements applicable to audits and reviews of issuers; and (c) to ensure training pursuant to that policy on at least one occasion; and

2. to provide with any future registration application a written certification of compliance with the above undertakings, written evidence of compliance in the form of a narrative, exhibits sufficient to demonstrate compliance, and such additional evidence of and information concerning compliance as the staff of the Division of Registration and Inspections may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 18, 2022

[22] *See* PCAOB Rule 1001(i)(iii), *Definitions of Terms Employed in Rules* ("The term 'issuer' means an issuer (as defined in Section 3 of the Exchange Act), the securities of which are registered under Section 12 of that Act, or that is required to file reports under Section 15(d) of that Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn.").

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Jonathan B. Taylor, CPA,

Respondent.

PCAOB Release No. 105-2022-025

October 18, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Jonathan B. Taylor, CPA ("Taylor" or "Respondent");

(2) barring Taylor from being associated with a registered public accounting firm; and

(3) imposing a $150,000 civil money penalty on Taylor.

The Board is imposing these sanctions on Taylor on the basis of its findings that Taylor violated PCAOB rules and standards, including ethics standards, in connection with two PCAOB inspections, a PCAOB investigation, and several audits of two issuers. Taylor also directly and substantially contributed to violations by a registered public accounting firm of PCAOB reporting requirements and quality control standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) and (3) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Jonathan B. Taylor, CPA** is, and at all relevant times was, a certified public accountant licensed by the state of New York (license no. 072733). Taylor is a partner at registered public accounting firm Spielman Koenigsberg & Parker, LLP ("SKP") and served as the engagement partner for SKP's audits of the financial statements of PVH Associates Investment Plan and PVH Associates Investment Plan for Residents of the Commonwealth of Puerto Rico (collectively, the "PVH Plans"). At all relevant times, Taylor also served as SKP's partner in charge of technical and quality review. Taylor is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entity

2. Spielman Koenigsberg & Parker, LLP is a partnership organized under the laws of the state of New York and located in New York, New York. At all relevant times, SKP was registered with the state of New York (Certified Public Accountancy Partnership No. 041869). The firm registered with the Board, pursuant to Section 102 of the Act and PCAOB rules, on May 30, 2006.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (a) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (b) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

C. Issuers

3. PVH Associates Investment Plan and PVH Associates Investment Plan for Residents of the Commonwealth of Puerto Rico are defined contribution plans covering certain salaried and hourly employees of PVH Corp., a Delaware corporation headquartered in New York, New York. The PVH Plans were each, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). SKP's audits of the PVH Plans included audits of their financial statements as of and for the years ended December 31, 2015, 2016, 2017, 2018, 2019, and 2020 (respectively, the "2015 Audits," "2016 Audits," "2017 Audits," "2018 Audits," "2019 Audits," and "2020 Audits"). At all relevant times, the PVH Plans were SKP's only issuer clients.[3]

D. Summary

4. In anticipation of a PCAOB inspection in 2021 ("2021 Inspection"), Taylor coordinated a months-long effort involving other SKP professionals to alter and backdate audit work papers, and then made those work papers available to the inspectors. Taylor made false statements to the inspectors about whether those work papers had been improperly altered, even after they pointed out modification dates appearing in the firm's audit software that suggested the contrary. Following commencement of a PCAOB investigation regarding this conduct, Taylor provided false and misleading information to PCAOB investigators. Taylor misled investigators regarding whether engagement quality reviews ("EQRs") were performed, when and what kinds of alterations were made to work papers, and whether SKP had certain documents in its possession. Taylor also represented that his productions on SKP's behalf in response to document demands from the investigators were complete—while withholding thousands of responsive documents, including documents that evidenced Taylor's misconduct.

5. This matter also concerns misconduct by Taylor in the audits reviewed by the inspectors, as well as in earlier and later audits of the PVH Plans. Taylor knew that EQRs of those audits had not been performed, yet repeatedly authorized the issuance of audit reports without concurring approval. Taylor also misrepresented to inspectors during the 2021 Inspection, as well as during a separate PCAOB inspection three years earlier, that EQRs had been performed.

6. In addition, Taylor was responsible for audit quality control at SKP. Yet SKP's audit quality control policies and procedures were deficient in a number of respects, including with respect to monitoring, audit documentation, EQRs, and compliance with regulatory

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[3] *See Spielman Koenigsberg & Parker, LLP*, PCAOB Rel. No. 105-2022-024 (Oct. 18, 2022).

requirements. Taylor directly and substantially contributed to SKP's failure to maintain an adequate quality control system with respect to issuer audits.

E. Taylor Violated PCAOB Rules and Standards

7. PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[4] As set out below, Taylor failed to comply with PCAOB rules and standards.

i. Audit Documentation

a. Alterations

8. PCAOB standards state that "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[5] They also state that audit documentation "must not be deleted or discarded after" that date, and that documentation added after that date "must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[6]

9. The audit report dates and report release dates for the 2019 Audits were June 23, 2020. The documentation completion date for the 2019 Audits was August 7, 2020. Consequently, SKP and Taylor were required to assemble a final set of audit documentation by August 7, 2020, and, thereafter, could not add audit documentation without disclosing in writing why, when, and by who each addition was made, and could not delete audit documentation for any reason.

10. Though the 2019 Audits consisted of two individual audits, one for each of the PVH Plans, SKP personnel assembled a single set of documentation for the two audits. They did so because a significant portion of the audit planning and procedures was common to both audits. SKP personnel prepared, assembled, and kept the work papers for the 2019 Audits in electronic form as part of a software database file. Though the software database file had a feature that, when activated, made the database file "read-only"—allowing it to be opened and viewed but not modified—Taylor and other SKP audit personnel did not routinely use that

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[4] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*; PCAOB Rule 3500T, *Interim Ethics and Independence Standards*.

[5] AS 1215.15, *Audit Documentation* (italics in original).

[6] AS 1215.16.

software feature, and did not activate that feature for the work papers assembled for the 2018-2020 Audits.[7]

11. Taylor improperly altered the work papers for the 2019 Audits after the documentation completion date in violation of AS 1215. He and other SKP professionals did so during three separate periods of time. The first occurred between late August 2020 and October 2020, when an SKP audit staff person working with Taylor ("SKP Professional #1") added key work papers to the database file, including a "Supervision, Review and Approval" form, engagement acceptance and continuance forms, and work papers reflecting materiality calculations and internal control walkthroughs. SKP Professional #1 also took 13 completed audit programs from an entirely unrelated audit and, after swapping the name of that unrelated client with one or both of the names of the PVH Plans, replaced text in those programs with descriptions of purported work related to the 2019 Audits.

12. Taylor knew that the documentation for the 2019 Audits was not complete and that SKP Professional #1 continued to make additions and modifications to the audit file after the documentation completion date. On September 3, 2020, for example, Taylor emailed SKP Professional #1, writing, "Please let me know what you are working [on]. How much is left for PVH AIP plans[?]" Taylor, appreciating the extent of the alteration work, reminded SKP Professional #1 that the two of them needed to start work on a different audit engagement the following week. These alterations and communications occurred almost a month after the August 7, 2020 documentation completion date.

13. On December 7, 2020, the PCAOB's Division of Registration and Inspections ("DRI") notified Taylor that it would inspect SKP's issuer audit practice. Between that date and February 2021—when the PCAOB inspectors completed their fieldwork—Taylor and other SKP professionals communicated with, answered queries from, and made documentation available to PCAOB inspectors. It was during this period that Taylor and other SKP personnel undertook a second series of alterations, and that Taylor coordinated a sustained effort over a period of months to add and modify work papers for the 2019 Audits. Those alterations included extensive revisions to multiple work papers, including changes to the 13 audit programs added in the first period of alterations; the addition of other key work papers, such as a going concern checklist and a signed management representation letter obtained from the client for the first time in February 2021; the addition of work papers to reflect the performance of additional

[7] The 2018 Audits were the earliest audits of the PVH Plans for which SKP prepared and assembled electronic work papers. The work papers for prior audits of the PVH Plans were paper documents.

testing, including in audit areas identified by the inspectors as focus areas; and the addition of preparation and completion signoffs by SKP Professional #1 and review signoffs by Taylor.

14. During this second period, Taylor contacted members of management at PVH Corp. to request and obtain additional audit evidence. That evidence included the signed management representation letter, management explanations for certain variances in plan investment income and plan participant payments, and access to a PVH Corp. database so that SKP professionals could perform additional testing. Taylor and the SKP professionals incorporated certain of these client-supplied items into the audit work papers, and used others to perform and document new audit procedures, so that they could then make available the recently prepared documentation to PCAOB inspectors. On February 1, 2021, for example, after a telephone call with management at PVH Corp., Taylor prepared a written summary of management's explanations for the variances in income and participant payments, emailed that summary to an SKP professional ("SKP Professional #2"), and directed SKP Professional #2 to "document [it] in the workpapers" as SKP's "analytical review."

15. Taylor coordinated this effort to transform the audit work papers in advance of the PCAOB inspection. He frequently requested updates and participated in numerous email exchanges and discussions with other SKP personnel about the alterations. Taylor also sent emails directing next steps—at times to all the participating personnel in a group message, and at other times to specific individuals about specific tasks.

16. The improper alterations made following notification of the PCAOB inspection were so extensive that the work papers provided to the inspectors effectively reflected a different audit than the one originally performed. As these efforts came to a close, an SKP professional ("SKP Professional #3") emailed Taylor: "There are a lot of changes being made but I think we are as good as were [sic] are going to get without redoing the entire audit." Taylor replied by emphasizing that SKP Professional #3 and the other professionals should take the time needed to complete the alterations: "Based on my discussions with the PCAOB, I think we can get through Wednesday if we need additional time." In all, Taylor and the other SKP professionals improperly added or altered approximately half of the work papers for the 2019 Audits.

17. In the third period, following inspection fieldwork, eight more workpapers were added or modified on two occasions. The first involved one work paper and occurred in April 2021, around the time SKP was arranging for and submitting work papers for a peer review of its audits by another firm. The second involved seven work papers and occurred in September 2021, just before SKP provided the work papers to the PCAOB's Division of Enforcement and Investigations ("DEI") in response to a request to produce the final set of audit documentation for the 2019 Audits.

18. Following the alterations over all three periods, approximately 76 of 145 total work papers had been added after the documentation completion date, and approximately 12 other work papers that had existed as of the documentation completion date had been modified after that date.

19. As a result, Taylor violated AS 1215.

b. Backdating

20. PCAOB rules require that audit documentation "contain sufficient information to enable an experienced auditor, having no previous connection with the engagement," to understand, among other things, the timing of the procedures performed, evidence obtained, and conclusions reached, and to determine not just who performed and reviewed the work but also "the date such work was completed" and "the date of such review."[8] PCAOB ethics standards also require that, in the performance of any professional service, an associated person maintain integrity and "not knowingly misrepresent facts," which includes any instance in which such a person "[s]igns, or permits or directs another to sign, a document containing materially false and misleading information."[9]

21. Taylor and other SKP professionals backdated multiple work papers for the 2019 Audits in violation of AS 1215 and PCAOB ethics standards. Even though Taylor and other SKP professionals created or modified most of the work papers for the 2019 Audits between late August 2020 and September 2021, approximately 80 of the 145 work papers bear false signoffs indicating that they were prepared or completed before the June 23, 2020 report date, and approximately 79 bear false signoffs indicating that they were reviewed before that date. The backdated documentation include dates on a database index page ("Index Page") indicating when SKP Professional #1 and Taylor, respectively, had prepared and reviewed each work paper, as well as dates typed as part of the text in certain work papers indicating when the two professionals had completed and reviewed the work papers.

22. Taylor and other SKP professionals backdated many of these signoffs in February 2021, as they knew the work papers would soon be provided to the PCAOB inspectors. On

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[8] *See* AS 1215.06.

[9] ET § 102.01, *Integrity and Objectivity* ("In the performance of any professional service, a member shall maintain objectivity and integrity, shall be free of conflicts of interest, and shall not knowingly misrepresent facts or subordinate his or her judgment to others."); ET § 102.02 ("A member shall be considered to have knowingly misrepresented facts in violation of rule 102 [ET section 102.01] when he or she knowingly . . . c. Signs, or permits or directs another to sign, a document containing materially false and misleading information.").

February 8, 2021, for example, SKP Professional #3 emailed Taylor, "I may need you to sign off on some workpapers mostly 7000.01, 7000.05, and the internal control section with the narrative/walkthroughs." Taylor subsequently did so.

23. As a result, Taylor violated AS 1215 and ET § 102.

ii. Inspection Noncooperation

24. PCAOB rules require that "every associated person of a registered public accounting firm, shall cooperate with the Board in the performance of any Board inspection."[10] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information" to the PCAOB's inspectors.[11] In violation of that cooperation obligation, as well as PCAOB ethics standards, Taylor provided false and misleading information to the PCAOB's inspectors in connection with two different inspections.

25. In 2018, DRI conducted an inspection of SKP and reviewed the 2016 Audits. Taylor stated in an "Issuer Information Form" submitted to DRI that EQRs had been performed for the 2016 Audits, when he knew no EQR had been performed for either of the 2016 Audits. In the same form, Taylor identified another SKP partner as having performed the two EQRs and, where the form called for the number of hours spent performing those EQRs, falsified time increments to indicate that the EQRs had been performed.

26. During the 2021 Inspection, Taylor again provided false information to PCAOB inspectors about EQRs. Taylor prepared and provided to DRI six different documents wherein he stated falsely that EQRs had been performed for the 2019 Audits: an Issuer Information Form, two successively revised versions of that form, a "Data Request Form," a response to a comment form issued by the inspectors, and a different version of a Supervision, Review and Approval form for the 2019 Audits than the one contained in the assembled work papers. Five of those six documents falsely named another SKP partner as having performed EQRs, and three of them contained fabricated time increments supposedly spent by that partner in performing the EQRs.

27. Later during the 2021 Inspection, Taylor submitted to the inspectors an Additional Information Form that contained the same false statements about EQRs, but this time about the 2018 Audits. As with the 2019 Audits, Taylor falsely stated that EQRs had been

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[10] PCAOB Rule 4006, *Duty to Cooperate With Inspectors*.

[11] *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), petition for review denied, *Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018).

performed in the 2018 Audits, that the same other SKP partner had performed them, and that this partner had spent a specified number of hours performing each of them.

28. During the 2021 Inspection, Taylor repeatedly provided other false and misleading information to the PCAOB's inspectors. As noted above, Taylor knew the work papers for the 2019 Audits had been improperly altered and backdated. But he made those work papers available to the inspectors without disclosing the alterations or backdating. Indeed, on February 23, 2021, Taylor supplied screenshots of the Index Page to the inspectors that showed the backdated signoffs, yet failed to inform them that those signoffs had been backdated.

29. In addition, Taylor made or supplied several false statements to the inspectors about the integrity of the work papers for the 2019 Audits and the signoff dates they contained. Taylor signed and made available to inspectors the Supervision, Review and Approval form for the 2019 Audits, which stated (emphasis added): "The audit documentation evidences which elements of the audit work I reviewed *and when my review occurred*." Taylor also completed and submitted to the inspectors on SKP's behalf a Data Request Form stating that there had been no "changes made to the audit documentation subsequent to the documentation completion date." Similarly, Taylor stated during a quality control interview with the inspectors that no modifications had been made to the work papers for the 2019 Audits after the documentation completion date.

30. Moreover, when the inspectors reviewed the Index Page, they saw that it displayed not only the dates on which each work paper was purportedly prepared and reviewed, but also the date on which each work paper was "Last Modified." They also noted that many of these Last Modified dates fell after the August 7, 2020 documentation completion date. In a separate discussion with Taylor following the quality control interview, the inspectors asked Taylor why that was so. They also asked him, specifically, whether the corresponding work papers had been altered after that date. Taylor told the inspectors that he did not know why any of the Last Modified dates post-dated the documentation completion date and that none of the work papers had been altered after August 7, 2020.

31. Furthermore, Taylor made false and misleading statements to the inspectors about SKP's failure to timely file Form APs (see below section F.ii, "PCAOB Reporting"). Taylor told the inspectors that SKP had prepared and kept a Form AP for the 2019 Audits but merely never filed it, and that SKP "was relying on an administrative professional to timely file the Form AP" but that "this administrator did not properly file the form." In fact, SKP's records at the time did not contain a copy of any Form AP for the 2019 Audits, nor had SKP tasked any administrative professional—or anyone other than Taylor—with filing Form APs.

32. As a result, Taylor violated PCAOB Rule 4006 and ET § 102.

iii. Enforcement Noncooperation

33. PCAOB rules state that the Board may institute a disciplinary proceeding if it appears that an associated person "may have failed to comply with an accounting board demand," "may have knowingly made any false material declaration or made or used any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration," "may have abused the Board's processes for the purpose of obstructing an investigation," or "may otherwise have failed to cooperate with an investigation."[12]

34. Taylor repeatedly provided false and misleading information to PCAOB investigators about improper alterations to the work papers for the 2019 Audits. In response to questions in an accounting board demand ("ABD"), he stated that no work papers had been added—and that no "material/significant adjustments" had been made—to the final set of work papers for the 2019 Audits after August 7, 2020.

35. Taylor also provided false and misleading information to PCAOB investigators about what documents SKP maintained and how it maintained them. Taylor told investigators that SKP did not maintain any location where work papers were saved or stored other than the audit software database, when in fact Taylor knew that he and other audit personnel regularly saved, stored, worked with, and communicated with each other about large numbers of work papers on a computer drive at SKP known as the N Drive. Moreover, Taylor told investigators that draft work papers for the 2019 Audits did not exist, when in fact they did exist on the N Drive, which Taylor knew or should have known when he made that misrepresentation.

36. Taylor also provided false and misleading information to PCAOB investigators about EQRs. In the investigation, he identified another partner at SKP as having performed the EQRs of the 2019 Audits, when he knew that partner had never done any work concerning the PVH Plans. He also told the investigators that he had asked that same partner if he had documents responsive to an ABD, when—at the time Taylor made those statements—that partner was not even aware of a PCAOB investigation concerning SKP.

37. Taylor also identified another accounting firm as having performed EQRs for the 2017 and 2020 Audits, when he knew that firm (the "Inspecting Firm") had performed post-issuance inspections as part of a peer review program and not EQRs for the purpose of providing concurring approval of issuance in accordance with PCAOB requirements. Faced with

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[12] PCAOB Rule 5110, *Noncooperation with an Investigation*.

an ABD that called for documents and information concerning EQRs, when he knew none had been performed, Taylor contacted the Inspecting Firm, obtained from the Inspecting Firm what he knew were post-issuance inspection documents for the 2015 and 2020 Audits of the PVH Plans, and produced these to PCAOB investigators claiming they were documents evidencing EQRs for, respectively, the 2017 and 2020 Audits.

38. In addition, Taylor made misrepresentations to PCAOB investigators about the Form APs for the 2019 Audits substantially similar to those he had made to PCAOB inspectors. Specifically, he asserted that although Form APs for the 2019 Audits had not been submitted, "there was a copy of the form in the SKP records," and that the reason for SKP's failure to file Form APs was "the misunderstanding of the specific filing procedures by the administrative professional that was tasked with filing the form."

39. Moreover, Taylor failed to produce thousands of emails related to the PVH Plans and the 2021 Inspection that were responsive to an ABD. Those emails included many that made clear the scope of the effort to alter work papers in advance of the 2021 Inspection. Even after PCAOB investigators asked Taylor why the only inspection-related emails he had produced on SKP's behalf were ones for which he was a sender or recipient, and asked him to search for additional inspection-related communications, Taylor represented to the investigators that "SKP has completed a search of all communications and not found any additional correspondence or electronic communications other than what was . . . previously provided to the PCAOB."

40. In February 2022, having still failed to produce thousands of emails and relevant time entries called for by an ABD, Taylor provided investigators with a false written certification that SKP had produced all responsive documents in its possession.

41. As a result, Taylor violated PCAOB Rule 5110 and ET § 102.

F. Taylor Contributed to SKP's Violations of PCAOB Rules and Standards

42. In addition to Taylor's improper actions in connection with the PCAOB's inspections and investigation of SKP, Taylor also directly and substantially contributed to various violations by SKP of PCAOB requirements concerning EQRs, reporting, and quality control.

i. Engagement Quality Reviews

43. PCAOB standards require that EQRs be performed on all audits.[13] A firm "may grant permission to the client to use the engagement report only after the engagement quality reviewer provides concurring approval of issuance."[14] PCAOB rules also state that an associated person of a registered firm "shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation" by that firm of applicable law, rules, or professional standards.[15]

44. SKP failed to obtain EQRs of its audits of the PVH Plans, including the 2017-2020 Audits. In each instance, SKP released its audit report for use by one of the PVH Plans without concurring approval of issuance. As a result, SKP repeatedly violated AS 1220.

45. Taylor knew in connection with each of the 2017-2020 Audits that he had taken no steps to arrange for an EQR and that he had authorized the issuance of SKP's audit report without concurring approval of issuance. Accordingly, Taylor took and omitted to take actions knowing that those acts and omissions would directly and substantially contribute to violations by SKP of AS 1220. As a result, Taylor violated PCAOB Rule 3502.

ii. PCAOB Reporting

46. Taylor repeatedly violated PCAOB Rule 3502 by directly and substantially contributing to SKP's repeated failures to timely file Form APs, and to the firm's repeated filings of materially inaccurate Form 2s, with the PCAOB.

a. Form APs

47. PCAOB rules require that a registered firm file a Form AP for "each audit report it issues for an issuer."[16] A Form AP is timely filed if the form is "filed by the 35th day after the date the audit report is first included in a document filed with the Commission."[17]

48. SKP's audit reports for the 2019 Audits were first included in documents filed with the Commission on June 24, 2020. But Taylor did not file Form APs for the 2019 Audits on

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13 AS 1220.01, *Engagement Quality Review*.

14 AS 1220.13.

15 PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

16 PCAOB Rule 3211(a), *Auditor Reporting of Certain Audit Participants*.

17 PCAOB Rule 3211(b).

SKP's behalf until February 4, 2021, more than six months late, and only after PCAOB inspectors alerted Taylor to the fact those forms had not been filed.

49. Similarly, Taylor, on SKP's behalf, filed Form APs for the 2017 Audits more than three-and-a-half years late and for the 2018 Audits more than two-and-a-half years late. He did so only after receiving from DEI an ABD addressed to SKP calling for a written statement of whether SKP intended to file Form APs for the 2017 and 2018 Audits.

50. As a result, SKP repeatedly violated PCAOB Rule 3211, and Taylor directly and substantially contributed to those violations. Taylor knew of the Form AP requirement, having signed and caused SKP to timely file Form APs for the 2016 Audits. Indeed, Taylor prepared or caused to be prepared, signed on SKP's behalf, and caused SKP to file, every form filed by SKP with the PCAOB since the firm's registration. Moreover, Taylor was SKP's only partner with audits subject to Form AP filing requirements and bore responsibility for PCAOB form filings by virtue of his role as engagement partner.[18] Accordingly, Taylor knowingly or recklessly caused SKP's violations, and thus violated PCAOB Rule 3502.

b. Form 2s

51. PCAOB rules require that a registered firm "file with the Board an annual report on Form 2 by following the instructions to that form."[19] The Form 2 Instructions for "Part V – Offices and Affiliations" require that a registered firm state in response to Item 5.2.a.1. of Form 2 whether it has any "Membership or affiliation in or with any network, arrangement, alliance, partnership or association that licenses or authorizes . . . the use of a name in connection with the provision of audit services or accounting services."[20]

52. In each of the Form 2s that Taylor filed on SKP's behalf in 2018-2021, SKP answered "No" in response to Item 5.2.a.1. SKP and Taylor knew or should have known that

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[18] Quality control policies and procedures in place at SKP since January 1, 2020, impose responsibility for complying with "applicable legal and regulatory requirements" in connection with audit engagements on the engagement partner—and thus Taylor, with respect to audits of the PVH Plans. Furthermore, an inspection comment form response prepared and submitted by Taylor to inspection staff that described remedial actions purportedly adopted by SKP as of March 2021 identified the "Engagement Partner" as responsible for monitoring "the applicable due date" of Form APs and for reviewing Form APs before filing.

[19] PCAOB Rule 2200, *Annual Report*.

[20] *Form 2 – Annual Report Form, General Instructions*, https://pcaobus.org/about/rules-rulemaking/rules/form_2, Part V – Offices and Affiliations, Item 5.2.

answer was inaccurate. Since January 2015, SKP has been a member of Russell Bedford International ("RBI"), which publicly describes itself—and is described by SKP—as a network of independent or independently owned firms. SKP entered into an agreement with RBI in January 2015 that, among other things, licensed and authorized SKP to use the RBI name in connection with SKP's audit and accounting services. SKP understood that RBI not only authorized, but encouraged, use of the RBI name and branding in connection with those services.

53. As a result, SKP repeatedly violated PCAOB Rule 2200, and Taylor directly and substantially contributed to those violations. As noted above, Taylor prepared, signed on SKP's behalf, and caused SKP to file every form—including every Form 2—filed by SKP with the PCAOB since the firm's registration. Accordingly, Taylor knowingly or recklessly caused SKP's violations, and thus violated PCAOB Rule 3502.

iii. Quality Control

54. Taylor directly and substantially contributed to SKP's violations of PCAOB quality control standards from 2018 to 2021.

55. PCAOB rules require that a registered firm comply with PCAOB quality control standards, which require that a firm "shall have a system of quality control for its accounting and auditing practice" and describe "elements of quality control and other matters essential to the effective design, implementation, and maintenance of the system."[21] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[22]

56. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[23] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[24] Under

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21 PCAOB Rule 3400T; QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

22 QC § 20.17.

23 QC § 20.08.

24 *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[25]

57. Prior to 2020, SKP documented its audit quality control policies and procedures using a questionnaire received by the firm in connection with an audit peer review program. Taylor populated that questionnaire with certain cursory descriptions of SKP's audit practice. As implemented by SKP, the policies and procedures described in the completed questionnaire did not comply with PCAOB quality control standards. In 2020, SKP put into place a set of "SKP Quality Control Policies and Procedures" assembled by Taylor, which were also deficient and failed to provide the necessary reasonable assurance.

58. Significantly, SKP's quality control policies and procedures in 2018-2021 were not suitably designed and effectively applied to provide reasonable assurance that the work performed by its engagement personnel met PCAOB audit documentation requirements. For example, SKP's quality control policies and procedures did not address whether or how its engagement personnel could add, modify, or delete audit documentation following the documentation completion date.[26] SKP's quality control policies and procedures did not address the need to retain records relevant to the audit for a seven-year period after conclusion of an issuer audit.[27] SKP also failed to design or implement other policies and procedures to prevent or detect improper alterations of audit documentation after the documentation completion date. These quality control failures increased the risk that work papers might be improperly altered after the documentation completion date.[28]

59. Moreover, SKP's failure to detect multiple rounds of improper work paper alterations by Taylor and other SKP professionals, including an effort lasting several weeks in advance of a PCAOB inspection and encompassing the performance and documentation of additional procedures months after the documentation completion date, reflects the deficient nature of SKP's quality control monitoring policies and procedures.

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25 *See* QC § 20. 20.c-.d; QC § 30.02.c-.d.

26 *See id.* .16.

27 Regulation S-X, Rule 2-06, 17 C.F.R. § 210.2-06.

28 *See Galaz, Yamazaki, Ruiz Urquiza, S.C.*, PCAOB Release No. 105-2016-044 (Dec. 5, 2016) at 7 ("Not only did those failures to timely archive work papers for PCAOB Audits violate AS3 [AS 1215], they also increased the risk that the work papers might be improperly altered after the documentation completion date.").

60. SKP's quality control policies and procedures with respect to EQRs in 2018-2021 were also deficient. Specifically, those policies and procedures failed to provide reasonable assurance that EQRs were performed for the audits of the PVH Plans in multiple consecutive years (see above section F.i, "Engagement Quality Reviews"). SKP's failure to identify the repeated failure over several years to obtain EQRs reflects the deficient nature of SKP's quality control monitoring policies and procedures.

61. In addition, SKP's repeated failure to ensure timely filed Form APs and accurately filed Form 2s (see above section F.ii, "PCAOB Reporting") demonstrates that the firm lacked adequate policies and procedures to obtain reasonable assurance of compliance with regulatory requirements.[29] Once again, SKP's failure to identify the repeated failure to timely and accurately file required Form APs and Form 2s reflects the deficient nature of SKP's quality control monitoring policies and procedures.

62. As the firm's partner in charge of technical and quality review, Taylor was responsible for audit quality control and knew or should have known of SKP's obligations under PCAOB quality control standards. That role, as described in the questionnaire that addressed SKP's pre-2020 quality control policies and procedures, included "providing guidance, answering questions, monitoring compliance, and resolving matters with respect to independence, integrity, and objectivity." Notwithstanding his responsibilities, Taylor failed to take steps to design and implement an adequate system of quality control for SKP's issuer audits. As a result, Taylor knowingly or recklessly caused SKP's quality control violations, and thus violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

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[29] *See WWC, P.C.*, PCAOB Release No. 105-2022-006 (Apr. 19, 2022) at 13 ("WWC's repeated Form AP and annual report violations—which ranged from the omission of required information to late filings and failures to file at all—demonstrate that the firm lacked sufficient policies and procedures to ensure that these forms would be accurate and timely filed, in compliance with applicable regulatory requirements.").

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Jonathan B. Taylor, CPA, is censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jonathan B. Taylor, CPA, is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[30]

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $150,000 is imposed on Jonathan B. Taylor, CPA. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Taylor shall pay the civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Taylor as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***By consenting to this Order, Taylor acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any request for leave to petition to terminate a bar pursuant to PCAOB Rule 5302(c). Taylor shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional(s) or any payment made pursuant to any***

[30] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Taylor. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

insurance policy, with regard to any amounts that Taylor shall pay pursuant to this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 18, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG S.p.A. (Italy),

Respondent.

PCAOB Release No. 105-2022-026

October 19, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG S.p.A. ("KPMG Italy," the "Firm," or "Respondent"); and

(2) imposing a civil money penalty in the amount of $75,000 upon the Firm.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to file an accurate Form AP concerning the Firm's audit of Natuzzi S.p.A. ("Natuzzi") for the fiscal year ended December 31, 2017, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG Italy has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of

these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG S.p.A. (Italy)** is a corporation headquartered in Milan, Italy. It is a member firm of the KPMG International Limited global network of firms ("KPMG Global"). At all relevant times, KPMG Italy was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for one issuer client—Natuzzi.

B. Issuer

2. Natuzzi S.p.A. ("Natuzzi") is an Italian corporation headquartered in Santeramo in Colle, Italy. Its public filings disclose that it is a producer and designer of luxury furniture. Natuzzi was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG Italy issued audit reports that Natuzzi included in its Form 20-Fs filed with the U.S. Securities and Exchange Commission ("Commission") for fiscal years ended December 31, 2017, 2018 and 2019 (the "Natuzzi Audits").

C. Other Relevant Entities

3. KPMG Romania SRL ("KPMG Romania") is a limited liability company headquartered in Bucharest, Romania. It is a member firm of KPMG Global. At all relevant times, KPMG Romania was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, it was licensed by the Romanian Chamber of Chartered Accountants (Lic. No. 000151/26.01.2000), but not licensed to perform local statutory audits in Romania.

4. KPMG Audit SRL ("KPMG Audit") is a limited liability company headquartered in Bucharest, Romania. It is also a member firm of KPMG Global. At all relevant times, KPMG Audit was the sole KPMG-affiliated firm that performed statutory and non-statutory audits in Romania, including international engagements pursuant to PCAOB standards. At all relevant times, it was registered with the Camera Auditorilor Financiari Din Romania

[1] The findings herein are made pursuant to KPMG Italy's Offer and are not binding on any other person or entity in this or any other proceeding.

(autorizatie/certificat No. 9). KPMG Audit is not now, and never has been, registered with the Board.

D. Respondent Failed to File an Accurate Form AP in Violation of PCAOB Rule 3211

5. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.

6. In particular, Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

7. The Form AP Instructions for "Part IV – Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm" that incurs more than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP.[2]

8. During the Natuzzi Audits, KPMG Italy used the work of KPMG Audit each year to perform a portion of the audit. Following each of the Natuzzi Audits, KPMG Italy filed a Form AP pursuant to Rule 3211.

9. In the Form AP for the FY 2017 Natuzzi audit, KPMG Italy failed to identify KPMG Audit as a participant in the audit. Instead, KPMG Italy incorrectly identified PCAOB registrant KPMG Romania as an other participating accounting firm even though KPMG Romania played no role in the audit.

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[2] In the adopting release for Rule 3211, the Board indicated that information provided on Form AP was intended to "help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

10. Accordingly, KPMG Italy violated PCAOB Rule 3211 in connection with the FY 2017 Natuzzi audit.

11. Ten months later, in March 2019, in connection with the FY 2018 Natuzzi audit, KPMG Italy made inquiries of KPMG Audit in connection with its upcoming Form AP filing. In response to those inquiries, KPMG Italy was informed that although KPMG Romania was registered with the PCAOB, it had not used its PCAOB registration in ten years and was not performing any audit work. Further, KPMG Italy was informed that KPMG Audit was the operational entity in Romania and had, in fact, provided the services in connection with the FY 2018 Natuzzi audit.

12. Consequently, KPMG Italy correctly identified KPMG Audit as the participating other accounting firm in the Form AP for the FY 2018 Natuzzi audit, and again the following year in connection with the FY 2019 Natuzzi audit.

13. KPMG did not, however, promptly correct its earlier Form AP filing for the FY 2017 Natuzzi Audit in which it has misidentified KPMG Romania as an other participating accounting firm. It was not until February 15, 2021, nearly two years after being informed that KPMG Romania had not used its PCAOB registration for ten years, that KPMG Italy filed an amended Form AP for the FY 2017 Natuzzi audit and identified the unregistered firm KPMG Audit as the participating other accounting firm in Romania.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $75,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight

Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 19, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG Accountants N.V. (Netherlands),

Respondent.

PCAOB Release No. 105-2022-027

October 19, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG Accountants N.V. ("KPMG Netherlands," the "Firm," or "Respondent"); and

(2) imposing a civil money penalty in the amount of $50,000 upon the Firm.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to file an accurate Form AP concerning the Firm's audit of ING Groep N.V. ("ING") for fiscal year ended December 31, 2018, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG Netherlands has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG Accountants N.V. (Netherlands)** is a limited liability corporation headquartered in Amstelveen, Noord-Holland, Netherlands. It is a member firm of the KPMG International Limited global network of firms ("KPMG Global"). At all relevant times, KPMG Netherlands was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for six issuer clients.

B. Issuer

2. ING Groep N.V. ("ING") is a Dutch public limited liability company headquartered in Amsterdam, Netherlands. Its public filings disclose that it provides retail and wholesale banking services. ING was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG Netherlands issued an audit report that ING included in its Form 20-F filed with the U.S. Securities and Exchange Commission ("Commission") for the year ended December 31, 2018 ("FY 2018").

C. Other Relevant Entities

3. KPMG Audyt Sp. z o.o. ("KPMG Audyt ZOO") is a limited liability corporation company headquartered in Warsaw, Poland. It is a member firm of KPMG Global. At all relevant times, KPMG Audyt ZOO was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

4. KPMG Audyt spółka z ograniczoną odpowiedzialnością sp.k. ("KPMG Audyt SPK") is a limited liability partnership headquartered in Warsaw, Poland. It is also a member firm of KPMG Global. KPMG Audyt SPK is not now, and never has been, registered with the Board.

[1] The findings herein are made pursuant to KPMG Netherlands' Offer and are not binding on any other person or entity in this or any other proceeding.

D. Respondent Failed to File an Accurate Form AP in Violation of PCAOB Rule 3211

5. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.

6. In particular, Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

7. The Form AP Instructions for "Part IV – Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm" that incurs more than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP.[2]

8. During the FY 2018 ING audit, KPMG Netherlands used the work of unregistered firm KPMG Audyt SPK to perform a portion of the audit. Following the audit, KPMG Netherlands filed a Form AP pursuant to Rule 3211.

9. In the Form AP for the FY 2018 ING audit, KPMG Netherlands failed to identify KPMG Audyt SPK as a participant in the audit. Instead, KPMG Netherlands incorrectly identified PCAOB registrant KPMG Audyt ZOO as an other participating accounting firm, even though KPMG Audyt ZOO played no role in the audit.

10. Accordingly, KPMG Netherlands violated PCAOB Rule 3211 in connection with the FY 2018 ING audit.

11. KPMG Netherlands eventually corrected the above-described error by filing an amended Form AP on April 7, 2020 for the FY 2018 ING audit, but not until nearly a year after

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[2] In the adopting release for Rule 3211, the Board indicated that information provided on Form AP was intended to "help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

its original Form AP filing. The amended filing identified the unregistered firm KPMG Audyt SPK as an other participating accounting firm on the audit.[3]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 19, 2022

[3] The Form AP/A reported KPMG Audyt SPK as "KPMG Auditing Spółka z ograniczoną odpowiedzialnością Sp.k."

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG LLP (Canada),

Respondent.

PCAOB Release No. 105-2022-028

October 19, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG LLP ("KPMG Canada," the "Firm," or "Respondent"); and

(2) imposing a civil money penalty in the amount of $150,000 upon the Firm.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to file accurate Form APs concerning the Firm's audits of Celestica Inc. ("Celestica") for fiscal years ended December 31, 2017, 2018, and 2019, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*. Specifically, in its Form AP submissions relating to its audits of Celestica for those years, the Firm misidentified a component auditor that performed 5% or more of the work on the relevant audits.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG Canada has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG LLP (Canada)** is a limited liability partnership headquartered in Toronto, Ontario, Canada. It is a member firm of the KPMG International Limited global network of firms ("KPMG Global"). At all relevant times, KPMG Canada was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for more than 65 issuer clients.

B. Issuer

2. Celestica Inc. ("Celestica") is a Canadian corporation headquartered in Toronto, Ontario, Canada. Its public filings disclose that it is a manufacturer and supply chain service provider in various industry sectors, including aerospace, defense, and communications. Celestica was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG Canada issued audit reports that Celestica included in its Form 20-Fs filed with the U.S. Securities and Exchange Commission ("Commission") for fiscal years 2017, 2018 and 2019.

C. Other Relevant Entities

3. KPMG Romania SRL ("KPMG Romania") is a limited liability company headquartered in Bucharest, Romania. It is a member firm of KPMG Global. At all relevant times, KPMG Romania was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, it was licensed by the Romanian Chamber of Chartered Accountants (Lic. No. 000151/26.01.2000), but not licensed to perform local statutory audits in Romania.

4. KPMG Audit SRL ("KPMG Audit") is a limited liability company headquartered in Bucharest, Romania. It is also a member firm of KPMG Global. At all relevant times, KPMG Audit was the sole KPMG-affiliated firm that performed statutory and non-statutory audits in Romania, including international engagements pursuant to PCAOB standards. At all relevant

[1] The findings herein are made pursuant to KPMG Canada's Offer and are not binding on any other person or entity in this or any other proceeding.

times, it was registered with the Camera Auditorilor Financiari Din Romania (autorizatie/certificat No. 9). KPMG Audit is not now, and never has been, registered with the Board.

D. Respondent Failed to File Accurate Form APs in Violation of PCAOB Rule 3211

5. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.

6. In particular, Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

7. The Form AP Instructions for "Part IV – Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm" that incurs more than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP.[2]

8. In connection with KPMG Canada's audits of Celestica's 2017, 2018, and 2019 financial statements (the "Celestica Audits"), KPMG Canada used the work of KPMG Audit each year to perform a portion of the audit. Following each of the Celestica Audits, KPMG Canada filed a Form AP pursuant to Rule 3211.

9. In each Form AP filing for the Celestica Audits, KPMG Canada failed to identify KPMG Audit as a participant in the audits. Instead, KPMG Canada incorrectly identified PCAOB registrant KPMG Romania as an other participating accounting firm, even though KPMG Romania played no role in any of the Celestica Audits.

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[2] In the adopting release that included proposed Rule 3211, the Board indicated that information provided on Form AP was intended to "help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

10. Accordingly, KPMG Canada repeatedly violated PCAOB Rule 3211 in connection with the Celestica Audits.

11. On March 18, 2021, nearly three years after making its first incorrect Form AP filing for the Celestica Audits, KPMG Canada filed three amended Form APs (on Form AP/A)—one for each of the Celestica Audits. Each Form AP/A identified the unregistered firm KPMG Audit as the participating other accounting firm in Romania.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $150,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 19, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Hall & Company Certified Public Accountants & Consultants, Inc. and Anthony J. Price, CPA,

Respondents.

PCAOB Release No. 105-2022-029

November 3, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Hall & Company Certified Public Accountants & Consultants, Inc. ("Hall & Co." or "Firm") and Anthony J. Price, CPA ("Price") (collectively, "Respondents");

(2) imposing civil money penalties in the amounts of $30,000 on Hall & Co.[1] and $25,000 on Price;

(3) in the event Hall & Co. submits any future registration application[2] and as a condition to the Board granting such an application, requiring the Firm to undertake certain remedial measures, including that it establish quality control policies and procedures to give the Firm reasonable assurance that issuer audits and reviews are conducted in accordance with applicable professional standards; and

(4) limiting Price's activities, for a period of two years from the date of this Order, by prohibiting him from administering a registered firm's system of quality control, including responsibilities for the design and maintenance of its policies and procedures.

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[1] Based on its conduct, Hall & Co.'s civil money penalty in this settlement would have been $150,000. The Board determined to accept the Firm's offer of settlement and impose a lower penalty after considering the Firm's financial resources, and the fact that it ceased operations as of December 31, 2020.

[2] The Firm has filed a Form 1-WD seeking leave to withdraw from registration with the Board, which the Board has determined to grant as of the date of this Order.

The Board is imposing these sanctions on the basis of its findings that: (1) the Firm violated PCAOB rules and quality control standards by failing to implement and maintain quality control procedures to ensure that its personnel complied with applicable professional standards; and (2) Price violated PCAOB Rule 3502 by directly and substantially contributing to the Firm's violations of PCAOB rules and quality control standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondents pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted Offers of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents each consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **Hall & Company Certified Public Accountants & Consultants, Inc**., is an S Corporation organized under the laws of the State of California, and headquartered in Irvine,

[3] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

California. At all relevant times, the Firm was licensed in the State of California (License No. 5034). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Anthony J. Price, CPA**, is a certified public accountant licensed by the State of California (License No. 82793). At all relevant times, Price was Director of Audit and Quality Control for the Firm, a member of its client acceptance and continuance committee, and an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). He also served as the engagement quality review partner for Hall & Co.'s audits of The Crypto Company, as described below.

B. Issuer

3. **The Crypto Company** ("TCC") was, at all relevant times, a Nevada corporation headquartered in California. TCC's public filings disclose that it created products to facilitate investing in digital assets, such as cryptocurrencies, and also that it invested and traded in cryptocurrencies. At all relevant times, TCC was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).[5]

C. Summary

4. This matter concerns the Firm's failure to comply with PCAOB rules and quality control standards requiring the Firm to establish appropriate quality control policies and procedures with respect to acceptance and continuance of clients and engagements, personnel management, and engagement performance. Specifically, the Firm's system of quality control did not provide reasonable assurance that: (1) the Firm undertook only those engagements that the Firm could reasonably expect to be completed with professional competence, and appropriately considered the risks associated with providing professional services in the particular circumstances; (2) work was assigned to personnel having the degree of technical training and proficiency required in the circumstances, and Firm personnel participated in general and industry-specific continuing professional education and other professional development activities that enabled them to fulfill responsibilities assigned; and (3) the work performed by engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality.

5. This matter also concerns Price's direct and substantial contribution to the Firm's violations of PCAOB rules and quality control standards. As the partner in charge of the audit department and the partner responsible for quality control, Price had primary responsibility for

[5] The Board has made no determination concerning whether TCC's financial statements were presented, in all material respects, in conformity with generally accepted accounting principles.

maintaining quality control policies and procedures applicable to the Firm's accounting and auditing practice. Price also had a direct role in the client acceptance and continuance approval process for TCC and in the assignment of personnel to the audit of TCC.

D. Background

6. The Firm registered with the Board in September 2013, but did not issue a public company audit opinion until March 2016. In February 2016, staff from another audit firm, including Price, joined Hall & Co. to build its public issuer audit practice, whereupon the Firm had approximately ten issuer audit clients. During 2017, the Firm accepted four new issuer audit clients, including TCC, and had approximately fourteen issuer audit clients in total.

7. Upon his arrival at Hall & Co. in February 2016, Price was responsible for developing the Firm's quality control manual applicable to issuer audits. He prepared the documentation of the Firm's quality control policies and procedures, merging policies and procedures from his old firm with those existing at Hall & Co. Although the stated approach of the Firm was to be selective and accept issuer audit clients for which the Firm would be able to perform quality audits, Hall & Co. failed to have policies and procedures sufficient to provide reasonable assurance that the Firm undertook only those engagements that it could reasonably expect to complete with professional competence. In addition, although the Firm's quality control policies and procedures noted the Firm's use of certain standardized practice aids, the policies did not adequately address circumstances, such as in audits requiring specialized skills and knowledge, where relevant practice aids did not exist or needed to be supplemented.

8. On June 9, 2017, Croe, Inc., an issuer that was a fitness apparel manufacturer, completed a reverse merger with TCC, which had been a private company. In late July 2017, Hall & Co. accepted TCC as an audit client, and on August 25, 2017, the Firm consented to the inclusion of its audit report on TCC's pre-merger financial statements for the period from March 9, 2017 to June 7, 2017 in a Form 8-K filing with the U.S. Securities and Exchange Commission ("SEC" or "Commission"). On September 20, 2017, TCC engaged Hall & Co. to audit TCC's post-merger financial statements for the period ending December 31, 2017 ("2017 Audit"). On April 2, 2018, Hall & Co. issued an audit report containing its unqualified opinion on TCC's financial statements for the period ended December 31, 2017, in TCC's Form 10-K filing with the Commission. At that time, TCC was one of the Firm's largest audit engagements.

9. At the time of the 2017 Audit's acceptance and continuance, TCC's only business operations related to the acquisition, holding, and trading of a portfolio of cryptocurrency. Digital assets, including cryptocurrencies, and distributed ledgers were emerging technologies.

Cryptocurrency ownership, and parties to its transfer, were relatively anonymous, and organizations providing cryptocurrency services were largely unregulated.[6]

10. TCC, whose market capitalization was, at one point, approximately $12 billion,[7] reported in its post-merger financial statements that it held more than eleven different cryptocurrencies, which were significant to its assets and revenue, and that its mission was to provide investors with a diversified exposure to cryptocurrency markets. These cryptocurrencies were purchased or traded using various types of software and hardware-based wallets on various unregulated cryptocurrency trading platforms, often called cryptocurrency "exchanges." TCC did not maintain accounting records of its cryptocurrency transactions, and instead relied on a third-party service website that maintained records of all transactions carried out on unregulated cryptocurrency exchange trading platforms. In late December 2017, the SEC suspended trading of TCC's stock due to, among other things, questions concerning potentially manipulative transactions in TCC's stock.[8]

E. The Firm Violated PCAOB Rules and Quality Control Standards

11. PCAOB rules require a registered public accounting firm and its associated persons to comply with PCAOB quality control standards.[9] These standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice.[10] A firm's system of quality control provides a critical foundation and infrastructure for a firm's audit quality as it should "ensure that services are competently delivered and adequately supervised."[11] "A system of quality control is broadly defined as a

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6 *See generally* SEC Chair Jay Clayton, *Statement on Cryptocurrencies and Initial Coin Offerings* (Dec. 11, 2017), https://www.sec.gov/news/public-statement/statement-clayton-2017-12-11; SEC, *Investor Alert: Bitcoin and Other Virtual Currency-Related Investments* (May 7, 2014), https://www.investor.gov/introduction-investing/general-resources/news-alerts/alerts-bulletins/investor-alerts/investor-39.

7 TCC's stock traded at approximately $18 per share on December 1, 2017, and rose to approximately $575 per share on December 18, 2017, when the SEC suspended TCC's stock trading.

8 *See* Order of Suspension of Trading, *In the Matter of The Crypto Company*, File No. 500-1 (SEC Dec. 18, 2017), https://www.sec.gov/litigation/suspensions/2017/34-82347-o.pdf.

9 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

10 *See* Quality Control Standard 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

11 QC § 20.02.

process to provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality."[12]

12. As described below, the Firm failed to meet the quality control standards that required policies and procedures to provide reasonable assurance concerning competence and proficiency in client acceptance and continuance, personnel management, and engagement performance.

i. Hall & Co.'s System of Quality Control Failed to Provide Reasonable Assurance with Respect to Acceptance and Continuance of Clients and Engagements

13. PCAOB quality control standards require that a registered public accounting firm establish quality control policies and procedures for deciding whether to accept or continue a client relationship and whether to perform a specific engagement for that client.[13] Such policies and procedures should provide reasonable assurance that the firm undertakes only those engagements that the firm can reasonably expect to be completed with professional competence, and appropriately considers the risks associated with providing professional services in the particular circumstances.[14]

14. Throughout the relevant time period, the Firm failed to have in place adequate policies and procedures to decide whether to accept or continue a client relationship and whether to perform a specific engagement for that client. Specifically, the Firm's policies and procedures failed to provide reasonable assurance that the Firm undertook only those engagements that it could reasonably expect to be completed with professional competence. In addition, the Firm's policies and procedures failed to provide reasonable assurance that it appropriately considered the risks associated with providing professional services in the particular circumstances.

15. The Firm executed an engagement letter with TCC in connection with the 2017 Audit in September 2017, more than two months prior to the approval of continuance of that specific engagement by the Firm's client acceptance and continuance committee and in violation of the Firm's quality control procedures and policies. Price learned about this within two days of the execution of the engagement letter with TCC—months before the committee, on which he served, decided in December 2017 to perform the 2017 Audit of TCC's post-merger financial statements.

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12 QC § 20.03.

13 QC § 20.14.

14 QC § 20.15.

16. In addition, the Firm's engagement acceptance procedures appeared perfunctory and failed to appropriately demonstrate that it considered the risks associated with providing professional services in these particular circumstances. For example, to support its acceptance and continuance decision for the 2017 Audit, the Firm documented the factors it considered in a standardized client acceptance evaluation form. The factors to be addressed in the form included whether the Firm could reasonably expect the 2017 Audit to be completed with professional competence. Although the Firm checked the boxes and provided "yes" or "no" responses to the standard questions in the form, the Firm did not consider the risks associated with providing professional services to TCC in light of the fact that cryptocurrencies were significant to TCC's assets and revenue. There was no indication that the Firm considered whether it could reasonably expect to complete the TCC engagement with professional competence, or the risks associated with providing audit services to TCC in the specific circumstances despite the complex issues that would require specialized skills and knowledge to audit. Instead, the Firm summarily concluded it had the required technical skills and expertise in TCC's business model and that it had sufficient competent professional staff available to perform the engagement, even though it did not.

17. The Firm therefore violated PCAOB rules and quality control standards by failing to have adequate policies and procedures related to (1) client acceptance and continuance sufficient to provide reasonable assurance that it undertook only those engagements that it could reasonably expect to be completed with professional competence, and (2) appropriately considering the risks associated with providing professional services in the particular circumstances. These failures resulted in, or contributed to, the Firm's acceptance of a client relationship with TCC, an issuer engaged in a new, complex business, even though the Firm's public auditing practice was relatively new and its personnel lacked prior experience or training in audits involving similarly complex, unusual, or unfamiliar transactions.

ii. Hall & Co.'s System of Quality Control Failed to Provide Reasonable Assurance with Respect to Personnel Management

18. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that work is assigned to personnel having the degree of technical training and proficiency required in the circumstances, and its personnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned.[15] A firm's quality control policies and procedures should ordinarily address certain competencies

[15] QC § 20.13.

for the practitioner-in-charge of an engagement, including technical proficiency, familiarity with the industry, and understanding of the organization's information technology ("IT") systems.[16]

19. At all relevant times, the Firm failed to maintain effective policies and procedures to provide it with reasonable assurance that work was assigned to personnel with the required technical training and proficiency, or that personnel assigned to the engagement would develop appropriate proficiency in relevant matters to fulfill their assigned responsibilities.

20. These failures resulted in, or contributed to, the Firm's failure during the acceptance and continuance process regarding the 2017 TCC Audit to assess whether any of its audit personnel had experience auditing digital assets, including cryptocurrencies or cryptography, or adequate knowledge concerning the cryptocurrency exchange trading platforms for these types of digital assets or the distributed ledger technology, itself.

21. Despite the known risks concerning the TCC engagement, Price and the Firm assigned an engagement partner and other personnel to the 2017 Audit, including Price as the engagement quality review partner, all of whom did not have the requisite degree of technical training and proficiency required under the circumstances. Moreover, the engagement partner had limited experience as an engagement partner on issuer audits prior to the 2017 Audit. Under these circumstances, it was not reasonable for the Firm and Price to assign an engagement partner to this audit who also had little previous experience serving as the practitioner-in-charge of issuer audits.

22. The engagement team also lacked expertise relevant to gaining an understanding of cryptocurrency transactions, or to gaining an understanding of organizations' IT systems, in order to adequately perform audit services for a company like TCC with substantial investments in cryptocurrency. The only personnel assigned to the 2017 Audit who had any cryptocurrency experience was the engagement team's most junior staff member, an individual who was not a certified public accountant and had minimal public company audit experience. That staff member's experience with cryptocurrencies was limited to internet-based searches and personal trading of cryptocurrencies that he commenced during the 2017 Audit.

23. The Firm's policies and procedures also failed to provide it with reasonable assurance that personnel participated in general and industry-specific continuing professional education and other professional development activities that enabled them to fulfill

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[16] QC § 40.08, *The Personnel Management Element of a Firm's System of Quality Control-Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

responsibilities assigned.[17] As a result, the engagement team for the 2017 Audit did not participate in any specific training or professional development activities related to cryptocurrency. Moreover, the personnel assigned to the 2017 Audit neither obtained adequate training nor developed sufficient proficiency related to cryptocurrency before issuing the audit report for TCC's 2017 financial statements.

iii. Hall & Co.'s System of Quality Control Failed to Provide Reasonable Assurance with Respect to Engagement Performance

24. A registered public accounting firm should also establish quality control policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[18] Quality control policies and procedures for engagement performance encompass all phases of the design and execution of an engagement.[19] Such policies and procedures provide reasonable assurance that personnel refer to appropriate authoritative literature or other sources and consult, on a timely basis, with individuals within or outside the firm, including when dealing with complex, unusual, or unfamiliar issues.[20]

25. At all relevant times, the Firm failed to establish policies and procedures sufficient to provide it with reasonable assurance that the work performed by its engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality. These failures resulted in, or contributed to, the Firm not meeting applicable professional standards and not consulting when appropriate with individuals within or outside the Firm during the 2017 Audit.

26. The engagement team for the 2017 Audit identified many risks of material misstatement in TCC's financial statements.[21] The engagement team documented fraudulent financial reporting opportunities arising from the unregulated nature of cryptocurrency exchanges and the lack of formal policies or procedures on recording gains or losses, along with traders' ability to adjust transaction records. It further identified fraud risks from an entity (such as TCC) recording in its financial statements cryptocurrency that it did not own, and trading

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17 QC § 20.13.

18 QC § 20.17.

19 QC § 20.18.

20 QC § 20.19; *see also* AS 2101.04 and .16 (in planning the audit, the auditor "should determine whether specialized skill or knowledge is needed to perform appropriate risk assessments, plan or perform audit procedures, or evaluate audit results").

21 *See* AS 2110.04, *Identifying and Assessing Risks of Material Misstatement.*

cryptocurrency "off-exchange" without generating any records of such transactions. As a result, the engagement team identified fraud risks for the amount recorded from realized and unrealized gains and losses on sales and holdings of cryptocurrency. It also identified significant risks relating to whether TCC's investments in cryptocurrency existed, were owned, and were properly valued.

27. However, the flaws in the Firm's quality control policies and procedures resulted in, or contributed to, the engagement team not establishing an overall audit strategy and developing an audit plan in the 2017 Audit to obtain a sufficient understanding of TCC and its environment in order to design sufficient audit responses to address the significant and fraud risks it had identified. For example, the Firm's audit methodology did not sufficiently consider circumstances requiring specialized skills and knowledge; thus, the engagement team's efforts to understand the business were limited to obtaining an article giving a general overview of the evolution of cryptocurrency and a TCC-prepared market research presentation. The engagement team also determined that no consultation outside of the Firm was required with respect to planning and performing procedures in the 2017 Audit, notwithstanding the Firm's lack of experience in auditing issuers engaged in cryptocurrency transactions.

28. Furthermore, the engagement team's planning documentation and related communications to the audit committee for the 2017 Audit concluded no specialized skills or knowledge were needed, despite being aware that TCC's investment activities in cryptocurrencies, which relied on new technology, required specialized skills. In addition, notwithstanding the engagement team's identification of significant risks of material misstatement related to the digital nature of cryptocurrency, and its lack of experience in auditing cryptocurrencies, the engagement team unreasonably concluded no specialized IT skills were needed to address those risks.[22] Consequently, the engagement team inappropriately concluded no service organization's services were a part of TCC's information system to account for its cryptocurrency despite TCC's use of exchange trading platforms to provide custodial services and its reliance on the third-party website to maintain its records. The engagement team also failed to gain a sufficient understanding of TCC's internal control over financial reporting to appropriately plan its audit, including TCC's use of service organizations for cryptocurrency investments.[23]

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[22] *See id.*; *see also* AS 2110.18.

[23] *See* AS 2110.18, .28, and .B1; AS 2601.07, *Consideration of an Entity's Use of a Service Organization*.

F. Price Directly and Substantially Contributed to Hall & Co.'s Violations

29. A person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.[24]

30. As described above, Price directly and substantially contributed to the Firm's violations of PCAOB rules and quality control standards. As the Director of Audit and Quality Control for the Firm, Price was principally responsible for developing and maintaining quality control policies and procedures applicable to the Firm's auditing practice. At the time of the 2017 Audit, Price knew or was reckless in not knowing that his role, which involved leading the quality control function for a new and inexperienced public auditing practice, required greater attention to the risks inherent in performing engagements involving complex, unusual, or unfamiliar issues outside the Firm's prior experience or professional competence.

31. Price had a central role in the Firm's approval of TCC as a client and in the Firm's decision to perform the 2017 Audit, failing to identify and evaluate the risks of undertaking the audit, and assigning to the audit personnel without requisite technical training and experience. Specifically, Price learned within two days that the Firm had executed an engagement letter for the 2017 Audit in September 2017, long before the Firm's client acceptance and continuance committee, on which he served, approved the continued engagement of TCC to perform the 2017 Audit. Thus, Price was on notice that the Firm had executed the engagement letter without having performed the evaluation called for by the Firm's policies and procedures. Price also contributed to accepting TCC as an audit client, despite having failed to implement or maintain effective quality control procedures, as Director of Audit and Quality Control, to ensure the Firm had personnel with sufficient technical training and proficiency to complete the audit. Indeed, Price assigned the engagement partner and himself as the engagement quality reviewer to the 2017 Audit, although neither he nor the assigned engagement partner had any experience relevant to auditing issuers transacting in cryptocurrencies. Price also failed to understand whether engagement team personnel had participated in professional development activities that could enable them to fulfill the responsibilities he assigned to them.

32. In connection with these responsibilities, Price took, or omitted to take, actions knowing, or recklessly not knowing, that those acts or omissions would directly and

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[24] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

substantially contribute to the Firm's violations of PCAOB rules and quality control standards for its issuer auditing practice, in violation of PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Hall & Co. and Anthony J. Price are hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $30,000 on Hall & Co., and a civil money penalty on Anthony J. Price of $25,000. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

C. Respondents shall each pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Hall & Co. or Anthony J. Price as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

1. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of

compensatory damages in any private action brought against any Respondent based on substantially the same facts as set out in the findings in this Order.

2. By consenting to this Order, Hall & Co. understands that failure to pay the civil money penalty imposed upon it may alone be grounds to deny any application, pursuant to PCAOB Rule 2106, for registration with the Board.

3. By consenting to this Order, Anthony J. Price understands that failure to pay the civil money penalty imposed upon him may result, pursuant to PCAOB Rule 5304(b), in summary suspension, following written notice to Respondent at the address on file with the PCAOB at the time of the issuance this Order, and a summary bar, if the civil money penalty is not paid within 90 days of such notice.

D. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Hall & Co. is required:

1. before filing with the Board any future registration application, to (a) establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing Hall & Co. with reasonable assurance of compliance with regulatory requirements applicable to audits and reviews of issuers, brokers, and dealers;[25] (b) to establish a policy of ensuring training of personnel, whether internal or external, on an annual or more frequent regular basis, concerning requirements applicable to audits and reviews of issuers; and (c) to ensure training pursuant to that policy on at least one occasion; and

2. to provide with any future registration application a written certification of compliance with the above requirements, written evidence of compliance in the form of a narrative, exhibits sufficient to demonstrate compliance, and such additional evidence of and information concerning compliance as the staff of the Division of Registration and Inspections may reasonably request.

E. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two years from the date of this Order, Anthony J. Price will not have

[25] *See* PCAOB Rule 1001(b)(iii) (defining "broker"); Rule 1001(d)(iii) (defining "dealer"); Rule 1001(i)(iii) (defining "issuer").

responsibilities for the design or maintenance of a registered firm's quality control policies and procedures under PCAOB standards, including, but not limited to, (1) deciding whether to accept or continue a client relationship and whether to perform a specific engagement for that client; and (2) assigning personnel to particular engagements.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 3, 2022

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG LLP (United Kingdom),

Respondent.

PCAOB Release No. 105-2022-031

December 6, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG LLP ("KPMG UK," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $600,000 on KPMG UK; and

(3) requiring KPMG UK to undertake and certify the completion of certain improvements to its system of quality control.

The Board is imposing these sanctions on the basis of its findings that, in connection with four audits of an issuer from 2017 through 2020, KPMG UK used audit work performed by KPMG Audit SRL, a Romanian KPMG affiliate that was not registered with the Board yet played a substantial role in each of the four audits. Specifically, the Board finds that KPMG UK failed to reasonably supervise KPMG Audit SRL, failed to comply with the Board's requirements for communicating with audit committees, and violated the Board's quality control standards. In addition, in connection with audits of multiple issuers, the Firm made numerous inaccurate Form AP filings with the Board, several of which indicated that PCAOB-registered firms had participated in KPMG UK audits when in fact unregistered firms had participated.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rules 5200(a)(1) and (2).

I.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG UK has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

II.

On the basis of KPMG UK's Offer, the Board finds that:

A. Respondent

1. **KPMG LLP** is a limited liability partnership organized under the laws of the United Kingdom and headquartered in London, United Kingdom. It is a member firm of the KPMG International Limited global network of firms ("KPMG Global"). At all relevant times, KPMG UK was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for 13 or more issuer audit clients.

B. Issuers

2. Endava PLC ("Endava," formerly "Endava Ltd.") is a public limited company incorporated under the laws of England and Wales with its principal place of business in London, United Kingdom. Endava's public filings disclose that it is a software and technology services provider. At all relevant times, Endava was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG UK issued audit reports that Endava included in a Form F-1 filed with the U.S. Securities and Exchange Commission ("Commission") for the fiscal year ("FY") ended June 30, 2017, and Form 20-Fs for FY 2018, 2019, and 2020, respectively (collectively, the "Endava Audits").

3. Barclays Bank PLC ("Barclays Bank") is a public limited company incorporated under the laws of England and Wales with its principal place of business in London, United Kingdom. Barclays Bank's public filings disclose that it is a wholly-owned subsidiary of Barclays PLC, and is a banking and financial services provider. At all relevant times, Barclays Bank was an

[1] The findings herein are made pursuant to KPMG UK's Offer and are not binding on any other person or entity in this or any other proceeding.

issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG UK issued an audit report that Barclays Bank included in its Form 20-F filed with the Commission for the fiscal year ended December 31, 2019.

4. Barclays PLC is a public limited company incorporated under the laws of England and Wales with its principal place of business in London, United Kingdom. Barclays PLC's public filings disclose that it is a global financial services provider engaged in wholesale, retail, and investment banking, and wealth and investment management services. At all relevant times, Barclays PLC was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG UK issued an audit report that Barclays PLC included in its Form 20-F filed with the Commission for the fiscal year ended December 31, 2019.

5. British American Tobacco p.l.c. ("BAT") is a public limited company incorporated under the laws of England and Wales with its principal place of business in London, United Kingdom. BAT's public filings disclose that it manufactures and sells cigarettes, tobacco, and other nicotine products. At all relevant times, BAT was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG UK issued an audit report that BAT included in its Form 20-F filed with the Commission for the fiscal year ended December 31, 2019.

6. Micro Focus International plc ("Micro Focus") is a public limited company incorporated under the laws of England and Wales with its principal place of business in Newbury, United Kingdom. Micro Focus' public filings disclose that it is a global enterprise software provider. At all relevant times, Micro Focus was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG UK issued an audit report that Micro Focus included in its Form 20-F filed with the Commission for the fiscal year ended October 31, 2020.

C. Other Relevant Entities

7. KPMG Romania SRL ("KPMG Romania") is a limited liability company headquartered in Bucharest, Romania. At all relevant times, KPMG Romania was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, it was licensed by the Romanian Chamber of Chartered Accountants (Lic. No. 000151/26.01.2000), but not licensed to perform local statutory audits in Romania.

8. KPMG Audit SRL ("KPMG Audit") is a limited liability company headquartered in Bucharest, Romania. At all relevant times, KPMG Audit was the sole KPMG-affiliated firm that performed statutory and non-statutory audits in Romania, including international engagements pursuant to PCAOB standards. At all relevant times, it was registered with the Camera

Auditorilor Financiari Din Romania (autorizatie/certificat No. 9). KPMG Audit is not now, and never has been, registered with the Board.[2]

9. KPMG ("KPMG India," a/k/a KPMG Assurance and Consulting Services LLP) is a limited liability partnership headquartered in Mumbai, India. At all relevant times, KPMG India was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

10. KPMG India Private Limited ("KPMG India Private") is a company limited by shares headquartered in Mumbai, India. KPMG India Private provided assurance services on estimates of fair value to KPMG UK during the FY 2018 Endava audit. KPMG India Private is not now, and never has been, registered with the Board.

11. B S R & Co. LLP ("B S R & Co.") is a limited liability partnership headquartered in Mumbai, India. At all relevant times, B S R & Co. was registered with the Board pursuant to Section 102 of the Act and PCAOB Rules.

12. B S R & Associates LLP ("B S R & Associates") is a limited liability partnership headquartered in Bengaluru, India. B S R & Associates provided assurance services to KPMG UK during the FY 2020 Micro Focus Audit. B S R & Associates is not now, and never has been, registered with the Board.

13. KPMG Romania, KPMG Audit, KPMG India, KPMG India Private, B S R & Co., and B S R & Associates are all member firms of KPMG Global.

D. Summary

14. This matter concerns KPMG UK's repeated violations of PCAOB rules and standards in connection with its use of, and reporting on, the work of other accounting firms.

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[2] KPMG Audit submitted a registration application to the Board in late 2021, which was subsequently disapproved by Board order. *See In re Registration Application of KPMG Audit SRL*, PCAOB Rel. No. 101-2022-002 (July 7, 2022). In the order, the Board found that the firm had violated Section 102(a) of the Act and PCAOB Rule 2100 by playing a substantial role in the Endava Audits. The Board's order provided that with respect to any new application for registration after the longer of one year from the date of the order, or a six-month period following the date upon which a cooperative agreement is entered into between the PCAOB and Autoritatea pentru Supravegherea Publica a Activitatii de Audit Statutar ("ASPAAS") (or any relevant Romanian regulator) that allows for PCAOB inspections in Romania, the Board will not issue a notice of hearing to determine whether to approve or disapprove such application based solely on the violations that are the subject of the findings in the order.

15. *First*, KPMG UK improperly allowed its unregistered Romanian affiliate, KPMG Audit, to play a substantial role in four consecutive audits of the financial statements of issuer client Endava from 2017 through 2020. KPMG UK knew that KPMG Audit was required to register with the Board before it played a substantial role in any issuer audits. KPMG UK, however, failed to take adequate steps to ensure that KPMG Audit's participation in the Endava Audits was consistent with PCAOB registration requirements, that is, that KPMG Audit did not "play a substantial role" in the Endava Audits.[3]

16. KPMG Audit's participation in the Endava Audits far exceeded the substantial role threshold each year from 2017 through 2020, including one year in which KPMG Audit incurred 74% of the total audit hours. Due to its inadequate planning and oversight of KPMG Audit's participation in the Endava Audits, KPMG UK failed to reasonably supervise an associated person pursuant to Section 105(c)(6) of the Act and failed to comply with PCAOB rules and standards concerning due professional care and audit planning.

17. *Second*, in each audit year at issue, KPMG UK failed to communicate to Endava's audit committee that KPMG Audit had played a substantial role in the Endava Audits despite not being registered with the PCAOB. In fact, during the FY 2020 audit of Endava, KPMG UK incorrectly communicated to Endava's audit committee that KPMG Romania, not KPMG Audit, had participated in the audit. Due to its inaccurate communications, KPMG UK violated PCAOB standards governing communications with audit committees.

18. *Third*, the repeated violations described above demonstrate that, from 2017 through 2020, KPMG UK failed to establish and implement adequate quality control policies and procedures, including monitoring procedures, concerning the use of the work of other accounting firms, in violation of PCAOB quality control standards.

19. *Finally*, KPMG UK failed to file accurate Form APs in connection with audits of multiple issuers from 2017 through 2020, in violation of PCAOB rules. Specifically, the Firm failed to report KPMG Audit's participation in the FY 2017 through FY 2019 audits of Endava and its FY 2019 BAT audit. Instead, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*, KPMG UK incorrectly reported that PCAOB-registered firm KPMG Romania, not KPMG Audit, had participated in those audits.[4] In addition, KPMG UK's Form APs for its FY 2018 Endava and FY 2019 Barclays Bank and Barclays PLC audits identified KPMG India, a PCAOB-registered firm, as having participated in the audits when it had not done so. Further, in

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[3] *See* PCAOB Rule 1001(p)(ii), *Play a Substantial Role in the Preparation or Furnishing of an Audit Report* (defining what it means to play a substantial role).

[4] With respect to the FY 2020 audit of Endava, KPMG UK identified KPMG Audit as the other participating accounting firm in its 2020 Form AP, filed October 15, 2020, at a 30% to 40% level.

its Form AP for the FY 2020 Micro Focus audit, KPMG UK incorrectly attributed to PCAOB registrant B S R & Co. work that was in fact performed by B S R & Associates, a firm not registered with the PCAOB. KPMG UK ultimately corrected these errors by filing amended Form APs.

E. Requirements Related to Playing a Substantial Role in an Audit

20. Section 102(a) of the Act makes it "unlawful" for an accounting firm that is not registered with the Board "to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any issuer, broker, or dealer."[5]

21. In addition, Section 106(a)(2) of the Act states:

> The Board may, by rule, determine that a foreign public accounting firm (or a class of such firms) that does not issue audit reports nonetheless plays such a substantial role in the preparation and furnishing of such reports for particular issuers, brokers, or dealers, that it is necessary or appropriate, in light of the purposes of this Act and in the public interest or for the protection of investors, that such firm (or class of firms) should be treated as a public accounting firm (or firms) for purposes of registration under, and oversight by the Board in accordance with, this subchapter.[6]

22. In furtherance of these provisions, the Board adopted Rule 2100, *Registration Requirements for Public Accounting Firms*, which requires any accounting firm, foreign or domestic, that "plays a substantial role in the preparation or furnishing of an audit report with respect to any issuer, broker, or dealer" to register with the Board.

23. PCAOB Rule 1001(p)(ii) defines the phrase "play a substantial role in the preparation or furnishing of an audit report" to mean, among other things, "perform[ing] material services that a public accounting firm uses or relies on in issuing all or part of its audit report." The phrase "material services" means "services, for which the engagement hours or fees constitute 20% or more of the total engagement hours or fees, respectively, provided by the principal auditor in connection with the issuance of all or part of its audit report."[7]

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5 15 U.S.C. § 7212(a).

6 15 U.S.C. § 7216(a)(2).

7 Rule 1001(p)(ii), at Note 1.

F. Background

24. In connection with each of the Endava Audits, KPMG UK and KPMG Audit entered into a Multi-Firm Engagement ("MFE") agreement that governed KPMG Audit's participation in those audits. The MFE agreements made clear both the identity of the Romanian firm that would be participating in the Endava Audits and the significance of that participation.

25. For example, an MFE agreement, dated November 8, 2018, detailed that KPMG Audit personnel who would work on the FY 2019 Endava audit included an audit partner, director, manager, senior in charge, and any other personnel deemed necessary by KPMG UK. That MFE agreement also expressly stated that KPMG Audit "is performing [the] audit of significant elements of the Endava Limited group consolidated accounts" and estimated that KPMG Audit would receive €175,000 in fees for its work.

26. The MFE agreements between KPMG UK and KPMG Audit did not indicate that any Romanian affiliate of KPMG other than KPMG Audit would participate in the Endava Audits.

27. Pursuant to the MFE agreements, KPMG Audit participated in the Endava Audits and invoiced KPMG UK for services rendered. For the FY 2017, 2018, and 2019 audits of Endava, KPMG Audit exceeded the 20% substantial role threshold in terms of both total hours and total fees. For the FY 2020 Endava audit, KPMG Audit exceeded the 20% substantial role threshold for total hours. As shown in the table below, KPMG Audit's hours incurred on the Endava Audits ranged from 36% to 74% of the total audit hours and KPMG Audit's fees ranged from 16% to 34% of the total audit fees.[8]

[8] During the Endava Audits, KPMG UK structured the Endava Audits so that its engagement team was required to directly supervise the work of KPMG Audit pursuant to AS 1201, *Supervision of the Audit Engagement*.

Substantial Role Audit	% Total Audit Hours Incurred by KPMG Audit	% Total Audit Fees Apportioned to KPMG Audit
Audit of Endava's FY 2017 financial statements	63%	34%
Audit of Endava's FY 2018 financial statements	74%	22%
Audit of Endava's FY 2019 financial statements	61%	21%
Audit of Endava's FY 2020 financial statements	36%	16%

28. With respect to the Endava Audits, KPMG UK failed to take adequate steps to plan or supervise the audits in a manner that would ensure that only firms registered with the PCAOB played a substantial role in the audits. To the extent any personnel at KPMG UK believed that KPMG Romania, a PCAOB-registered firm, was the entity providing services in connection with the Endava Audits, any such belief was contradicted by the MFE agreements that KPMG UK had entered into with KPMG Audit, by the invoices that KPMG Audit sent to KPMG UK for its work, and by various other communications between the two firms. Moreover, even after KPMG Audit personnel put KPMG UK on notice in October 2019 that KPMG UK had been identifying the wrong Romanian affiliate in its Form AP filings with the PCAOB, KPMG UK still failed to take any steps to determine whether KPMG Audit was eligible to play a substantial role on the Endava Audits.

G. KPMG UK Failed to Reasonably Supervise KPMG Audit and Violated PCAOB Rules and Standards

29. During each of the Endava Audits, KPMG Audit incurred more than 20% of the total engagement hours. KPMG Audit's fees also amounted to more than 20% of the total engagement fees in the FY 2017, 2018, and 2019 audits of Endava. Accordingly, KPMG Audit played a substantial role in each of the Endava Audits without being registered with the Board, in violation of Section 102(a) of the Act and PCAOB Rule 2100.

30. KPMG UK failed to reasonably supervise KPMG Audit's participation in the Endava Audits in a manner designed to avoid violations of Section 102(a) of the Act and PCAOB Rule 2100, and KPMG UK likewise failed to properly plan the audits.

i. KPMG UK Failed to Reasonably Supervise KPMG Audit

31. Section 105(c)(6) of the Act provides that the Board may impose sanctions on a registered public accounting firm if the Board finds that (1) the firm has failed reasonably to

supervise an associated person, either as required by the rules of the Board relating to auditing or quality control standards, or otherwise, with a view to preventing violations of the Act or the rules of the Board; and (2) such associated person commits a violation of the Act or Board rules.

32. Under Section 2(a)(9) of the Act, the term "person associated with a registered public accounting firm" includes "any . . . entity that, in connection with the preparation or issuance of any audit report—(i) shares in the profits of, or receives compensation in any other form from, that firm; or (ii) participates as agent or otherwise on behalf of such accounting firm in any activity of that firm."

33. KPMG Audit invoiced KPMG UK for the services it provided in connection with the Endava Audits. Thus, KPMG Audit "receive[d] compensation" from KPMG UK in connection with the preparation and issuance of KPMG UK's audit reports. In addition, because it performed audit work at the direction, and under the supervision, of KPMG UK, KPMG Audit acted as an "entity that, in connection with the preparation or issuance of [KPMG UK's] audit report[s,] . . . participate[d] as agent or otherwise on behalf of [KPMG UK]." Accordingly, KPMG Audit was an "associated person" of KPMG UK during the FY 2017 to 2020 Endava Audits.

34. KPMG UK had a responsibility to reasonably supervise its associated persons during its issuer audits. It failed to do so.

35. During the Endava Audits, KPMG UK knew that PCAOB standards required substantial role participants to be registered. Indeed, Firm guidance specifically stated: "Any public accounting firm that prepares or issues the auditors' report with respect to any issuer (including foreign private issuers), broker, or dealer, or 'plays a substantial role in the preparation or furnishing of the auditors' report' with respect to any issuer, broker, or dealer, must register with the PCAOB." Related Firm guidance also provided the relevant definitions contained in PCAOB Rule 1001(p)(ii). Firm guidance for completing Form AP templates during the FY 2019 and 2020 audits of Endava similarly indicated that for "significant component auditors [KPMG UK is] required to use registered audit firms."

36. Despite this guidance, KPMG UK failed to take adequate steps to ensure that the Romanian affiliate it used to play a substantial role in the Endava Audits was registered with the Board. As noted above, KPMG UK knew, or should have known, from its MFEs, KPMG Audit's invoices, and other communications with KPMG Audit that KPMG Audit was the other accounting firm in Romania under KPMG UK's supervision. KPMG UK also knew or should have known from readily available public information, such as the PCAOB website, that KPMG Audit was not registered with the Board. However, KPMG UK failed to accurately determine throughout the Endava Audits which KPMG affiliate firm in Romania it was supervising, information that was necessary to ensure compliance with applicable professional standards, regulatory requirements, and the Firm's standards of quality.

37. That failure continued even after personnel from KPMG Audit in October 2019 informed a member of the KPMG UK Endava engagement team that KPMG Audit was not registered, that it was the only KPMG-affiliated entity conducting audits in Romania, and that KPMG Romania was "more of a holding company." Despite having been provided that information, KPMG UK continued to use KPMG Audit to play a substantial role in the FY 2020 Endava audit.

38. Because KPMG Audit incurred more than 20% of the total audit hours during the Endava Audits and accounted for more than 20% of the total audit fees in the FY 2017 to 2019 audits of Endava, it performed material services used by KPMG UK in issuing KPMG UK's audit reports. KPMG Audit therefore violated Section 102(a) of the Act and Rule 2100 by playing a substantial role in the Endava Audits without being registered with the Board.

39. As detailed above, KPMG UK failed to reasonably supervise KPMG Audit under Section 105(c)(6) of the Act with a view to preventing KPMG Audit's violations of the registration requirements.

ii. KPMG UK Violated PCAOB Rules and Standards

40. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[9]

41. PCAOB standards provide that, as part of audit planning, the auditor should establish an overall audit strategy.[10] The auditor should take into account "[t]he factors that are significant in directing the activities of the engagement team" and "[t]he nature, timing, and extent of resources necessary to perform the engagement."[11] PCAOB standards also require that "[d]ue professional care . . . be exercised in the planning and performance of the audit and the preparation of the report."[12]

42. In establishing the overall audit strategy for the Endava Audits, KPMG UK failed to adequately take into account: (1) the fact that KPMG Audit was an unregistered firm whose substantial role participation in the Endava Audits would constitute a violation of PCAOB rules, as KPMG UK knew or should have known; (2) the nature of the resources necessary to perform

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9 PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

10 AS 2101.08, *Audit Planning*.

11 AS 2101.09.

12 AS 1015.01, *Due Professional Care in the Performance of Work*.

the audits, insofar as those resources included the involvement of an unregistered firm; and (3) for the FY 2020 audit, the fact that, prior to the execution of the FY 2020 MFE, KPMG Audit had communicated to certain KPMG UK personnel that it was not registered with the PCAOB, that it was the only KPMG-affiliated operational entity in Romania conducting audits, and that the PCAOB-registered firm KPMG Romania was merely a holding company.[13] As a result of these failures, KPMG UK did not engage in adequate planning to ensure that KPMG Audit would not violate PCAOB registration requirements.

43. Accordingly, KPMG UK violated AS 2101. KPMG UK also violated AS 1015 by failing to exercise due professional care in planning the Endava Audits.

H. KPMG UK Failed to Make Required Audit Committee Communications

44. AS 1301, *Communications with Audit Committees*, requires the auditor to communicate certain matters related to the conduct of an audit to the issuer's Audit Committee.[14] Among the matters that the auditor must communicate, as part of communicating the overall audit strategy, are: "The names, locations, and planned responsibilities of other independent public accounting firms or other persons, who are not employed by the auditor, that perform audit procedures in the current period audit."[15]

45. In adopting AS 1301, the Board explained the rationale for the provision governing identification of other independent public accounting firms:

> The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators . . . [T]he amount of detail the auditor generally would communicate to the audit committee regarding the participation of other auditors would be greater for

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13 *See* AS 2101.05 ("Planning is not a discrete phase of an audit but, rather, a continual and iterative process that . . . continues until the completion of the current audit.").

14 AS 1301.01.

15 AS 1301.10.d.

participants that perform a significant portion of the audit or that perform procedures related to significant risks.[16]

46. During the Endava Audits, KPMG UK failed to inform Endava's Audit Committee that KPMG Audit, an unregistered firm, had participated in each of the audits. During the FY 2020 Endava audit, KPMG UK also incorrectly communicated to Endava's audit committee that KPMG Romania would be participating in the audit. For example, in a slide deck presentation dated January 29, 2020, KPMG UK indicated that "KPMG UK and KPMG Romania SRL work as one team on the same audit file. This slide sets out split of work between the UK and Romania which is crucial to the audit."

47. As a result of the omissions and errors in KPMG UK's communications to Endava's Audit Committee, KPMG UK violated AS 1301 and AS 1015 during the Endava Audits.

I. KPMG UK Violated PCAOB Quality Control Standards

48. PCAOB rules require that a registered firm comply with PCAOB quality control standards.[17] Those standards require a firm to "have a system of quality control for its accounting and auditing practice."[18] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[19]

49. PCAOB quality control standards also recognize that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures relating to each of the other elements of quality control are suitably designed and are being effectively applied."[20] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[21]

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16 *Auditing Standard No. 16 – Communications with Audit Committees; Related Amendments to PCAOB Standards; and Transitional Amendments to AU SEC. 380*, PCAOB Release No. 2012-004, (Aug. 15, 2012), at A4-15.

17 PCAOB Rule 3400T, *Interim Quality Control Standards*.

18 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

19 QC § 20.17.

20 QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

21 *See* QC § 20.20.d; QC § 30.02.d.

50. KPMG UK failed to establish and implement adequate policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that the work performed by engagement personnel met applicable regulatory requirements related to using the work of other accounting firms.

51. Although KPMG UK had certain quality control policies and procedures in those areas, the Firm failed to implement and monitor them in an adequate manner. As a result, KPMG UK repeatedly used an unregistered firm to play a substantial role in the Endava Audits.

52. Accordingly, KPMG UK failed to comply with QC § 20 and QC § 30.

J. KPMG UK Failed to File Accurate Form APs in Violation of PCAOB Rule 3211

i. KPMG UK Failed to Make Accurate Form AP Filings for the FY 2017, 2018, and 2019 Audits of Endava

53. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.

54. In particular, Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

55. The Form AP Instructions for "Part IV – Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm" that incurs more than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP.[22]

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[22] In the adopting release for Rule 3211, the Board indicated that information provided on Form AP was intended to "help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

56. As described above, in connection with the Endava Audits, KPMG UK used the work of KPMG Audit each year to perform a portion of the audit. Following each of the Endava Audits, KPMG UK filed a Form AP pursuant to Rule 3211.

57. KPMG UK did not accurately report KPMG Audit's participation in its Form AP filings for the FY 2017, 2018, or 2019 audits of Endava. Instead, KPMG UK incorrectly indicated in those filings that KPMG Romania was the other participating accounting firm in its audits of Endava.

58. With respect to the Form AP filing for the FY 2019 Endava audit, KPMG UK's erroneous identification of KPMG Romania as playing a substantial role in the audit occurred just two days after KPMG Audit had informed certain KPMG UK personnel that KPMG Romania was not an operating entity and that KPMG Audit was not registered with the PCAOB. In fact, KPMG Audit shared that information with KPMG UK specifically in response to inquiries the Endava engagement team had made in connection with KPMG UK's upcoming Form AP filing. Despite being put on notice that KPMG Romania was not the entity that had played a substantial role in the FY 2019 audit, KPMG UK continued to misidentify it as having done so in its 2019 Form AP filing.

59. KPMG UK's Form AP filing for the FY 2018 Endava audit also incorrectly identified KPMG India, a PCAOB-registered firm, as participating at a 10% to less than 20% level in the audit. KPMG India did not, however, participate in the FY 2018 Endava audit. Rather, another India-based entity, KPMG India Private, which has never been registered with the PCAOB, did.

60. KPMG UK's failure to accurately report KPMG Audit's substantial role participation in the FY 2017, 2018, and 2019 audits of Endava, as well as its incorrect identification of KPMG Romania (for FY 2017 through 2019) and KPMG India (for FY 2018) as participating in the audits, constituted violations of PCAOB Rule 3211.

61. On February 17, 2021, nearly three years after making its first incorrect Form AP filing related to the Endava Audits, KPMG UK filed amended Form APs (using Form AP/A) for the FY 2017, 2018, and 2019 audits of Endava. Each Form AP/A correctly identified the unregistered firm KPMG Audit as the participating other accounting firm in Romania. KPMG UK failed to correct its identification of KPMG India as a participating other accounting firm in the FY 2018 audit of Endava until more than three years after making its original Form AP filing for that audit, when it filed another Form AP/A on August 4, 2022.

ii. KPMG UK Failed to Make Accurate Form AP Filings for its FY 2019 Barclays Bank and Barclays PLC Audits, FY 2019 BAT Audit, and FY 2020 Micro Focus Audit

62. KPMG UK also filed incorrect Form APs in connection with its FY 2019 Barclays Bank and Barclays PLC audits, its FY 2019 BAT audit, and its FY 2020 Micro Focus audit.

63. KPMG UK's Form AP filing for its FY 2019 Barclays Bank audit incorrectly identified KPMG India as participating in the audit when it did not. Instead, B S R & Co. had participated in the audit.

64. KPMG UK's Form AP filing for its FY 2019 Barclays PLC audit incorrectly identified KPMG India as participating in the audit when it did not. Instead, B S R & Co. had participated in the audit.

65. In the Form AP for its FY 2019 BAT audit, KPMG UK incorrectly identified KPMG Romania as having participated in the audit when it had not. Instead, unregistered KPMG Audit had participated in the audit.

66. In connection with the FY 2020 Micro Focus audit, KPMG UK used the work of two India-based firms, B S R & Co., which is registered with the PCAOB, and B S R & Associates, which is not. The participation of each of the India-based firms was at a level that required reporting on Form AP. In its Form AP for the FY 2020 Micro Focus audit, however, KPMG UK incorrectly identified B S R & Co. as the only India-based firm that participated, failing to identify B S R & Associates' participation.

67. KPMG UK eventually corrected the above-described errors by filing amended Form APs for its FY 2019 Barclays Bank, Barclays PLC, and BAT audits and its FY 2020 Micro Focus audit, but not until February 17, 2021, 10 months after the original filing in the case of BAT, March 28, 2022, 12 months after the original filing in the case of Micro Focus, and August 4, 2022, more than two years after the original filing in the cases of Barclays Bank and Barclays PLC.

68. Accordingly, KPMG UK also violated PCAOB Rule 3211 in connection with its Form AP filings for its FY 2019 Barclays Bank, Barclays PLC, and BAT audits and its FY 2020 Micro Focus audit.

III.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rules 5300(a)(5), KPMG LLP is censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty of $600,000 on KPMG LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by KPMG LLP. Within three months of the date of this Order, KPMG LLP shall review and evaluate its quality control policies and procedures to assess whether those policies and procedures provide the firm with reasonable assurance that its personnel and other associated persons comply with applicable regulatory requirements (a) when the firm uses audit work performed or supervised by other accounting firms and (b) when the firm makes required regulatory filings.

2. Reporting. Within three months of the date of this Order, KPMG LLP shall submit a written report to the Director of the Division of

Enforcement and Investigations summarizing the review and evaluation of the areas specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG LLP or, if KPMG LLP concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the firm believes changes are not warranted. In addition, KPMG LLP shall submit any additional information and evidence concerning the Report, the information in the Report, and KPMG LLP's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within six months of the date of this Order, KPMG LLP's managing partner shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that KPMG LLP has implemented all of the modifications and additions to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG LLP's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG LLP shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. KPMG LLP understands that a failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 6, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG LLP(United Kingdom),

Respondent.

PCAOB Release No. 105-2022-032

December 6, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon KPMG LLP ("KPMG UK," the "Firm," or "Respondent"). The Board is:

(1) censuring the Firm;

(2) imposing a $2 million civil money penalty on the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that KPMG UK violated PCAOB rules and quality control standards over several years in connection with the Firm's internal training program.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG LLP** is a limited liability partnership organized under the laws of the United Kingdom and headquartered in London, United Kingdom. It is a member firm of the KPMG International Limited global network of firms ("KPMG Global"). At all relevant times, KPMG UK was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for 13 or more issuer audit clients.

B. Summary

2. From at least 2018 until March 2021, KPMG UK violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing internal training tests, including tests designed to help the Firm's audit professionals satisfy the requirements for maintaining their professional certifications. Those quality control failures prevented the Firm from identifying that hundreds of Firm professionals, including personnel from an entity based in India that provides support for KPMG UK's issuer audit work, KPMG Resource Centre Private Limited ("KRC"), were involved in improper answer sharing—either by providing answers, or receiving answers without reporting such sharing—in connection with tests for mandatory internal training courses covering topics that included auditing, accounting, and professional independence. All of these professionals performed work for the Firm's Assurance practice.

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

C. KPMG UK Violated PCAOB Rules and Standards

i. Applicable PCAOB Rules and Quality Control Standards

3. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[2] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[3]

4. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[4] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[5] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[6]

5. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[7] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[8] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[9]

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2 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

3 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

4 QC § 20.09.

5 QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

6 QC § 20.13.c; QC § 40.02.c.

7 QC § 20.08.

8 *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

9 *See* QC § 20. 20.c-.d; QC § 30.02.c-.d.

ii. KRC's Support of KPMG UK's Issuer Audits

6. KRC is a service delivery center not registered with the PCAOB. KRC is half-owned by KPMG UK and provides issuer audit support services to various member firms of the KPMG Global network. Employees of KRC are assigned to support a specific KPMG Global network firm, so KRC employees assigned to support KPMG UK in its audits of issuers principally perform professional services on behalf of KPMG UK. Such KRC employees perform limited audit procedures on KPMG UK issuer audits under the direction of the KPMG UK audit engagement teams. These KRC employees perform professional services for which KPMG UK is responsible.

7. KPMG UK has an obligation to establish policies and procedures to provide the Firm with reasonable assurance that, among other things, these KRC employees perform all professional responsibilities with integrity, the employees have the degree of technical training and proficiency required to perform the work assigned to them, and the employees participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of regulatory agencies.[10]

iii. Training Requirements for KPMG UK and KRC Personnel

8. As part of KPMG UK's and KRC's personnel management systems, KPMG UK and KRC administer internal training programs for all of their professionals. KPMG UK and KRC designed their training programs to serve multiple purposes, including to provide personnel with technical instruction, to further their professional development, and to help employees satisfy some of the continuing professional education requirements imposed by the accountancy boards that license KPMG UK's and KRC's auditors. KPMG UK's and KRC's training requirements are intended to be relevant to, among other things, the independence of their personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. However, the training requirements can vary by a professional's position, role, and industry practice area. Both KPMG UK's and KRC's internal trainings often include a testing component.

9. Since at least 2018, KPMG UK and KRC have utilized online platforms to offer training to their personnel. The platforms enable KPMG UK and KRC to deliver, track, and record completion of mandatory training and testing. The platforms record the dates and times when personnel access and complete mandatory training and testing. For training courses with

[10] *See supra* at nn. 4-6; *see also* footnote 4 to QC § 20.03 (providing that "[t]he term *personnel* refers to all individuals who perform professional services for which the firm is responsible, whether or not they are CPAs").

a testing component, the firms do not credit personnel with completing the training until they satisfactorily pass the related test.

10. Since at least 2018, KPMG UK and KRC have required all personnel to take certain online courses, including courses containing content regarding professional independence and performing professional responsibilities with integrity. These courses include a testing component at the end. During the same period, KPMG UK and KRC also have administered a number of online courses related to auditing and accounting. The particular courses KPMG UK and KRC auditors must take vary based on their experience levels. Many of these audit-related courses include a testing component and are mandatory for the KPMG UK and KRC audit personnel.

iv. Failures by KPMG UK to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

11. Between 2018 and March 2021, KPMG UK had in place certain quality control policies and procedures intended to address integrity and personnel management. For example, with respect to integrity, the Firm's Code of Conduct generally advised personnel that the Firm does not "tolerate behavior . . . that is . . . unethical." However, those policies were not specifically designed to provide reasonable assurance that Firm personnel acted with integrity when taking internal training tests. With respect to only a limited set of exams administered in this period, KPMG UK formally advised its audit personnel that they should perform training tests on their own. But the Firm failed to communicate this expectation to KPMG UK or KRC personnel in connection with other training tests during this period. During this time period, KPMG UK also employed certain monitoring procedures related to internal training, but those procedures were limited to tracking completion of courses and related tests. The monitoring procedures were not designed to detect other compliance issues, such as answer sharing.

12. As described below, these policies and procedures were inadequate to prevent or detect the extensive answer sharing on training tests that occurred among KPMG UK and KRC personnel over multiple years.

v. Sharing of Answers to Training Tests at KPMG UK and KRC

13. From at least 2018 to March 2021, hundreds of KPMG UK personnel and KRC personnel assigned to support KPMG UK issuer audits were involved in improper answer sharing related to training tests. They shared answers primarily through emails attaching documents that contained answers to training test questions.

14. Instances of improper answer sharing primarily occurred in connection with tests that were a part of KPMG UK's and KRC's mandatory training. At KPMG UK, individuals engaged in answer sharing in connection with tests for trainings entitled Update for Auditors, IFRS, US Auditing Standards Periodic Update, and SEC Baseline. At KRC, individuals engaged in answer sharing in connection with tests for trainings entitled Audit Foundations, Update for Auditors, IT Auditing, US GAAP/ICOFR, and IFRS.

15. As illustrated by the misconduct described above, from at least 2018 to March 2021, KPMG UK failed to establish policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) KPMG UK personnel, and KRC personnel assigned to support KPMG UK audits of issuers, performed all professional responsibilities with integrity; (2) KPMG UK and KRC personnel to whom work was assigned for KPMG UK had the degree of technical training and proficiency required in the circumstances; and (3) KPMG UK personnel, and KRC personnel assigned to support KPMG UK audits of issuers, participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies. Accordingly, the Firm violated PCAOB quality control policies related to integrity and personnel management.[11]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), KPMG LLP is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2 million is imposed on KPMG LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. KPMG LLP shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Office of Finance, Public

[11] *See* QC § 20.09, .13.b-.c, .20; QC § 30.02; and QC § 40.02.b-.c.

Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (c) submitted under a cover letter which identifies KPMG LLP as the Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. With respect to any civil money penalty amounts that KPMG LLP shall pay pursuant to this Order, KPMG LLP shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of KPMG LLP's payment of the civil money penalty pursuant to this Order, in any private action brought against KPMG LLP based on substantially the same facts as set out in the findings in this Order; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), KPMG LLP is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (a) personnel perform all internal training and tests associated with such training with integrity; (b) personnel to whom work has been assigned have the degree of technical training and proficiency required in the circumstances; (c) personnel participate in general and industry-specific continuing professional education that enable them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies; and (d) the above-described policies and procedures are suitably designed and are being effectively applied.

2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1. above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a

narrative, and be supported by exhibits sufficient to demonstrate compliance. KPMG LLP shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 6, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG Assurance and Consulting Services LLP and Sagar Pravin Lakhani,

Respondents.

PCAOB Release No. 105-2022-033

December 6, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG Assurance and Consulting Services LLP ("KPMG India" or the "Firm"), a registered public accounting firm, and Sagar Pravin Lakhani ("Lakhani" and, together with KPMG India, "Respondents");

(2) suspending Lakhani from being an associated person of a registered public accounting firm for a period of one year from the date of this Order;

(3) imposing civil money penalties in the amounts of $1,000,000 on KPMG India and $75,000 on Lakhani; and

(4) requiring KPMG India to undertake and certify the completion of certain improvements to its system of quality control.

The Board is imposing these sanctions on the bases that, in connection with an issuer audit, (1) KPMG India violated PCAOB rules and quality control standards concerning audit documentation; and (2) Lakhani violated PCAOB rules and standards when he and certain other engagement team members signed off on blank placeholder work papers in the Firm's electronic audit software.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit

reports, that disciplinary proceedings be, and hereby are, instituted against Respondents pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (together, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, and except as provided herein in Section IV, Respondents each consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **KPMG Assurance and Consulting Services LLP** is a partnership organized under the laws of India and headquartered in Mumbai, India. KPMG India is a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited. KPMG India registered with the Board on January 18, 2005.

2. **Sagar Pravin Lakhani** was, at all relevant times, a partner of KPMG India and an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). He served as the engagement partner for KPMG India's integrated audit of the financial statements and internal control over financial reporting ("ICFR") of Issuer A for the fiscal year ended March 31, 2017.

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[1] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Lakhani's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Issuer

3. Issuer A is a company organized under the laws of India with headquarters in Mumbai, India. Issuer A is a banking company whose principal business activities are retail banking, wholesale banking, and treasury services. At all relevant times, Issuer A was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. This matter concerns KPMG India's violation of PCAOB quality control standards by failing to implement, communicate, and monitor adequate policies and procedures to provide reasonable assurance that Firm personnel would: (1) comply with PCAOB standards concerning appropriately documenting and dating their completion and review of work papers; (2) include all hard copy audit work papers in the complete and final set of audit documentation assembled for retention ("archived"); and (3) appropriately document any changes to archived hard copy work papers after the documentation completion date.[3]

5. In addition, this matter concerns Lakhani and certain other members of the Issuer A engagement team having signed off on blank electronic work papers during the 2017 Issuer A audit. After Lakhani or another member of the engagement team signed off as a preparer or reviewer on a blank work paper, that work paper subsequently could be replaced or modified without the sign-off date changing. In fact, many of the blank work papers on which Lakhani and his engagement team signed off during the 2017 Issuer A audit were replaced with completed versions of those work papers after KPMG India released its audit report and before the documentation completion date.

6. By signing off on blank work papers, Lakhani violated AS 1215, which requires that audit documentation for an engagement enable an experienced auditor, with no prior connection to the engagement, to determine the date on which audit work was completed and reviewed.[4] In addition, Lakhani violated AS 1201, *Supervision of the Audit Engagement*, by failing to adequately supervise the engagement team with respect to the use of blank work papers. As a result of this conduct, Lakhani also violated AS 1015, *Due Professional Care in the*

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[3] *See* AS 1215.15, *Audit Documentation* (defining "documentation completion date" as a date not more than 45 days after an auditor releases an audit report).

[4] AS 1215.06. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the 2017 Issuer A audit.

Performance of Work, which requires an auditor to exercise due professional care in performing an audit.

D. Background

7. KPMG India served as Issuer A's auditor for the 2017 fiscal year, and Lakhani served as the Firm's engagement partner for the 2017 Issuer A audit.

8. On July 31, 2017, KPMG India issued an audit report expressing an unqualified opinion on Issuer A's 2017 financial statements and ICFR. The Firm's audit report was included in a Form 20-F that Issuer A filed with the U.S. Securities and Exchange Commission on July 31, 2017.

i. KPMG India's eAudIT Software

9. At the time of the 2017 Issuer A audit, KPMG India's audit engagement teams used both hard copy work papers and electronic work papers to document their work.

10. Hard copy work papers were maintained in a paper binder, while electronic work papers were maintained in the Firm's proprietary audit software, called "eAudIT." Each member of a KPMG India audit engagement team had a copy of the Firm's eAudIT software on his or her laptop.

11. Work papers for the 2017 Issuer A audit were organized into four sections within eAudIT, each of which was maintained locally by a member of the engagement team on his or her respective laptop in a so-called "Master File." Each Master File remained on the applicable engagement team member's laptop until the documentation completion date, at which point it was uploaded to KPMG India's central eAudIT server.

12. To prepare or review electronic work papers, an engagement team member would connect his or her laptop to the laptop containing the Master File. Alternatively, both the laptop containing the Master File and the preparer or reviewer's laptop had to be connected to the internet for the preparer or reviewer to connect to the Master File.

13. The holder of the Master File also could extract selected work papers from the Master File and send those work papers to a preparer or reviewer via email in a so-called "eAudIT package." The recipient of the eAudIT package could create, review, edit, and/or sign off on work papers in the package; the recipient then could email the eAudIT package back to the holder of the Master File to be re-imported into the Master File.

14. The sign off date reflected for work papers prepared or reviewed in an eAudIT package was the date that the recipient of the package signed off on them, regardless of when the eAudIT package was re-imported into the Master File.

15. Once a preparer or reviewer's sign off on a work paper was electronically recorded in eAudIT—whether by connecting directly to the Master File or importing an eAudIT package—the Firm's eAudIT software allowed engagement team members to replace, modify, rename, and move that work paper without updating the sign off date to reflect the date it was replaced or modified.

16. KPMG India's Audit Manual ("KAM") contemplated that, "in limited circumstances, it may not be efficient or practicable to review audit documentation within eAudIT. In such circumstances, a reviewer may indicate review by signing or initialing and dating the audit documentation, either manually or through electronic sign-off (i.e. digital signature or a picture of the reviewer's manual signature)." KAM provided that the manual or electronic signature then would be "attached into the eAudIT file by a team member at a later date."

17. KAM also provided that there may be "certain time sensitive circumstances" in which work papers were reviewed via email and "it may not be practical to provide a manual or electronic sign-off (e.g. not having access to one's computer, scanning capabilities or an internet connection, and cell phones do not support the electronic sign-off process). In these limited situations an individual may document his or her review of the audit documentation in an email message sent to the engagement partner, manager or associate." The email documenting sign off would be "attached to the [eAudIT] file by a team member at a later date."

18. Aside from these "limited" and "time sensitive" circumstances, KAM did not contemplate review and sign off on audit documentation outside of eAudIT. Under no circumstances did KAM permit KPMG India personnel to sign off on blank work papers.

ii. The 2017 Issuer A Audit

19. During the 2017 Issuer A audit, engagement team members signed off on dozens of blank eAudIT work papers that served as placeholders.

20. Lakhani knew during the 2017 Issuer A audit that certain engagement team members had signed off on blank work papers in eAudIT, and he personally signed off on ten blank work papers.

21. Lakhani also knew that, when an engagement team member signed off as preparer or reviewer on a blank work paper in eAudIT, the sign off date would remain the same even if the blank work paper was later replaced by a draft or completed work paper. In other words, eAudIT would continue to reflect the date the blank work paper was signed off, not the date that the completed work paper was inserted into eAudIT.

22. For example, on July 12, 2017, an engagement team member emailed Lakhani an eAudIT package containing work papers on which other engagement team members had previously signed off. On July 13, Lakhani added his sign off to certain work papers in the package—including six blank work papers—and emailed the package back to its sender to be imported into the Master File.

23. The blank work papers on which Lakhani signed off subsequently were replaced in eAudIT with completed versions of those work papers, but Lakhani's sign off date remained July 13 based on the eAudIT package that he returned on July 13.

24. Lakhani's general practice was to sign off on a work paper after reviewing the information and conclusions documented therein. However, Lakhani did not document reviewing any draft or completed version of the blank work papers outside of eAudIT in the manner contemplated by the Firm's internal guidance concerning the "limited circumstances" in which work papers were reviewed outside of eAudIT—*i.e.*, via a manual, electronic, or email sign off on the underlying work paper.

25. The July 12, 2017 eAudIT package contained, in addition to the blank work papers, five other blank documents with filenames ending in "Extra 1.docx" or "Extra 2.docx." While Lakhani did not sign off on these "Extra" documents, the "Extra" documents contained sign offs of other engagement team members and were included in the eAudIT package returned by Lakhani on July 13.

26. Notwithstanding his awareness of the engagement team's use of the blank work papers and "Extra" documents, Lakhani did not have any specific discussions with the team about their use.

27. In late August 2017, several weeks after KPMG India issued its 2017 audit report for Issuer A on July 31, 2017, Lakhani performed an additional review of the work papers in eAudIT. Lakhani's August review occurred prior to the end of the documentation completion date of September 14, 2017.

28. In emails Lakhani sent to engagement team members concerning his August review, Lakhani identified dozens of eAudIT work papers as "blank." For example, in an email

dated August 26, 2017, Lakhani wrote "IT'S A BLANK DOC – I NEED TO REVIEW THIS" with respect to fourteen work papers. Indeed, Lakhani's August 26 email identified as still "BLANK" four of the blank work papers on which he had signed off as part of the July 12-13 eAudIT package.

29. Contemporaneous documentation indicates that drafts, some in near-final form, existed of at least some of the work papers that Lakhani identified as blank or missing during his August review. However, there was no manual, electronic, or email sign off evidencing when the work papers were completed and reviewed outside of eAudIT.

30. The eAudIT work papers that Lakhani identified as blank during his August review were replaced in eAudIT with completed versions of those work papers prior to the documentation completion date. No documents with an "Extra" filename ultimately were included in the final version of work papers that was uploaded to KPMG India's central eAudIT server as of the documentation completion date. The preparer and reviewer sign off dates on each of the replaced workpapers remained the same as it had been prior to replacement.

E. Lakhani Violated PCAOB Rules and Standards

31. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5]

i. Lakhani Violated PCAOB Audit Documentation Standards

32. PCAOB standards require that "[a]udit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement . . . [t]o determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review."[6]

33. As discussed above, Lakhani signed off on blank eAudIT placeholder work papers. The sign off dates on the blank work papers were not updated when they were subsequently modified or replaced with completed versions of the work papers. Nor did Lakhani document his review of any partially or fully completed versions of the blank work papers outside of eAudIT.

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[5] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[6] AS 1215.06.

34. Accordingly, because an experienced auditor, with no prior connection to the 2017 Issuer A engagement, would be unable to determine the date on which Lakhani reviewed the work that was ultimately reflected in the completed versions of the blank work papers, Lakhani violated AS 1215.

ii. Lakhani Failed to Adequately Supervise the Engagement Team

35. PCAOB standards provide that "the engagement partner is responsible for the proper supervision of the work of the engagement team members and for compliance with PCAOB standards."[7]

36. As part of his supervisory responsibilities, the engagement partner should "[r]eview the work of engagement team members to evaluate whether: (1) The work was performed and documented; (2) The objectives of the procedures were achieved; and (3) The results of the work support the conclusions reached."[8]

37. As discussed above, Lakhani knew during the 2017 Issuer A audit that (1) engagement team members were signing off on blank work papers and "Extra" documents in eAudIT; and (2) engagement team members could replace, rename, or move the blank work papers and "Extra" documents without updating the corresponding sign off dates.

38. However, Lakhani failed to exercise adequate supervision in light of the engagement team's use of the blank work papers and "Extra" documents. For example, Lakhani failed to take appropriate steps to ensure that the audit documentation would appropriately reflect the dates on which the engagement team had actually completed and reviewed its audit work.[9] Nor did he ensure compliance with KPMG India's internal guidance providing for the use of manual, electronic, or email sign offs in the "limited circumstances" in which a review of work papers occurred outside of eAudIT.

39. Accordingly, Lakhani violated AS 1201 by failing to supervise and review the engagement team's audit work in a manner sufficient to evaluate whether the work was appropriately performed and documented.

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7 AS 1201.03.

8 AS 1201.05(c).

9 *See* AS 1215.06.

iii. Lakhani Failed to Exercise Due Professional Care

40. PCAOB standards provide that "[d]ue professional care is to be exercised in the planning and performance of the audit and the preparation of the report."[10]

41. In violating AS 1215 by signing off on blank work papers, and in violating AS 1201 by failing to adequately supervise the use of blank work papers and "Extra" documents by members of the engagement team, Lakhani failed to exercise due professional care. Accordingly, Lakhani also violated AS 1015.

F. KPMG India Violated PCAOB Rules and Quality Control Standards

42. PCAOB rules require registered public accounting firms to comply with the Board's quality control standards.[11] PCAOB quality control standards, in turn, require each registered firm to effectively design, implement, and maintain a system of quality control to provide reasonable assurance that its personnel comply with applicable professional standards.[12] As part of this requirement, the firm should establish quality control policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[13] Among other areas, a firm's policies and procedures should address the documentation of each engagement in accordance with applicable professional standards.[14] In addition, a firm "should communicate its quality control policies and procedures to its personnel in a manner that provides reasonable assurance that those policies and procedures are understood and complied with."[15]

43. PCAOB quality control standards also provide that policies and procedures for monitoring "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality

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10 AS 1015.01.

11 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

12 QC §§ 20.01-.03, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

13 *See id*. at .17.

14 *See id*. at .18.

15 *See id*. at .23.

control . . . are suitably designed and are being effectively applied,"[16] and that "its system of quality control is effective."[17]

44. As noted above, PCAOB standards require audit documentation to reflect "who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review."[18] PCAOB standards further require an auditor to archive a complete and final set of audit documentation as of a date not more than 45 days after the report release date (*i.e.*, the documentation completion date).[19] Any documentation added after the documentation completion date "must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[20]

45. KAM provided guidance to KPMG India's associated persons about how to document their work in the "limited circumstances" where they reviewed work papers outside of eAudIT. However, the Firm failed to adequately communicate those restrictions to its personnel, as demonstrated by the Issuer A engagement team members' widespread use of and signing off on blank work papers in eAudIT and their failure to appropriately document their review of work papers outside of eAudIT.

46. In addition, notwithstanding the limitations of its eAudIT software, KPMG India failed to establish adequate safeguards that would have prevented (or detected) certain Issuer A engagement team members from modifying, replacing, or moving a work paper without appropriately updating the sign off date to reflect the dates on which the work was completed and reviewed.

47. KPMG India also failed to establish adequate policies and procedures concerning the archiving of hard copy work papers and the documentation of changes made to hard copy audit files after the documentation completion date.

48. As noted above, at the time of the 2017 Issuer A audit, KPMG India maintained work papers both in eAudIT and in hard copy. The engagement team failed to archive the hard copy work papers for the 2017 Issuer A audit by the end of the 45-day documentation

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16 QC § 20.20.

17 QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

18 AS 1215.06.

19 *See* AS 1215.14-.15.

20 *Id*. at .16.

completion period, in part because the Firm's policies and procedures did not require hard copy work papers to be maintained in a centralized location after the document completion date. As a result, engagement teams could modify or add hard copy work papers after the documentation completion date without appropriately documenting the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.

49. Indeed, certain members of the Issuer A engagement team made such modifications after the documentation completion date. Specifically, without Lakhani's knowledge, these engagement team members added at least four hard copy work papers to the Issuer A audit file after the documentation completion date, including one work paper that was prepared after the documentation completion date. The engagement team members added those hard copy work papers to the audit file in November 2017, shortly in advance of the PCAOB's inspection of the Firm, which included a review of the 2017 Issuer A audit engagement.

50. In addition, KPMG India's monitoring procedures were not sufficient to identify the use of blank work papers in eAudIT, the failure to timely archive hard copy work papers, or the failure to appropriately document changes to hard copy work papers after the documentation completion date, all in connection with the 2017 Issuer A audit.

51. The Firm's monitoring procedures also failed to provide the Firm with a means of identifying and communicating to its personnel circumstances or practices—such as the use of blank work papers—that may have necessitated changes to its documentation policies and procedures.[21]

52. Accordingly, KPMG India violated QC § 20 and QC § 30 by failing to implement, communicate, and monitor adequate policies and procedures to provide the Firm with reasonable assurance that its personnel complied with PCAOB audit documentation standards—including standards concerning documentation of the date audit work was completed, of the date audit work was reviewed, and of any changes to the work papers after the documentation completion date.

[21] *See* QC § 30.03 ("Procedures that provide the firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the firm's policies and procedures contribute to the monitoring element.").

IV.

53. KPMG India has represented to the Board that, since the events described in this Order, the Firm has disciplined certain of its personnel and has established and implemented the following changes to its quality control policies and procedures:

a. Transitioned all electronic audit work paper master files to an online KPMG server (as opposed to hosting them on individual engagement team members' laptops);

b. Implemented a Firm requirement that a complete and final set of audit documentation must be assembled for retention within 14 days of the report release date for all issuer audits;

c. Prohibited the use of hard copy workpapers for all audit engagements performed after December 31, 2018;

d. Sent guidance to all associated persons concerning the scope of permissible activities between the release of an audit report and the documentation completion date; and

e. Instituted additional training on audit documentation for associated persons who perform audits under PCAOB standards.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), KPMG Assurance and Consulting Services LLP and Sagar Pravin Lakhani are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Sagar Pravin Lakhani is suspended, for one year from the date of this Order, from being

an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[22]

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000,000 is imposed on KPMG Assurance and Consulting Services LLP, and a civil money penalty in the amount of $75,000 is imposed on Sagar Pravin Lakhani.

1. All funds collected by the PCAOB as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act.

2. Each Respondent shall pay the respective civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to interest.

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[22] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Lakhani. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

4. With respect to any civil money penalty amounts that KPMG Assurance and Consulting Services LLP shall pay pursuant to this Order, KPMG Assurance and Consulting Services LLP shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of KPMG Assurance and Consulting Services LLP's payment of the civil money penalty pursuant to this Order, in any private action brought against KPMG Assurance and Consulting Services LLP based on substantially the same facts as set out in the findings in this Order.

5. KPMG Assurance and Consulting Services LLP understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to it at the address on file with the PCAOB at the time of the issuance of this Order.

D. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by KPMG Assurance and Consulting Services LLP. Within 90 days of the date of this Order, KPMG Assurance and Consulting Services LLP shall review and evaluate its quality control or other policies and procedures to provide the firm with reasonable assurance that its personnel and other associated persons comply with applicable PCAOB audit documentation standards and requirements.

2. Reporting. Within 120 days of the date of this Order, KPMG Assurance and Consulting Services LLP shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the area specified in paragraph D.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG Assurance and Consulting Services LLP or, if KPMG Assurance and Consulting Services LLP concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the firm believes changes are not warranted. In addition,

KPMG Assurance and Consulting Services LLP shall submit any additional information and evidence concerning the Report, the information in the Report, and KPMG Assurance and Consulting Services LLP's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within six months of the date of this Order, KPMG Assurance and Consulting Services LLP's head of quality assurance shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that KPMG Assurance and Consulting Services LLP has implemented all of the modifications and additions to its policies and procedures, if any, that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG Assurance and Consulting Services LLP's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG Assurance and Consulting Services LLP shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. KPMG Assurance and Consulting Services LLP understands that a failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 6, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG S.A.S.,

Respondent.

PCAOB Release No. 105-2022-034

December 6, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions on KPMG S.A.S. ("KPMG Colombia," the "Firm," or "Respondent"). The Board is:

(1) censuring the Firm;

(2) imposing a $4,000,000 civil money penalty on the Firm;

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order; and

(4) requiring the Firm to engage an independent consultant as specified in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that KPMG Colombia (1) violated PCAOB rules and standards by failing to cooperate with the Board's 2016 inspection of the Firm by, among other actions, providing PCAOB inspectors with improperly altered work papers involving two issuers; and (2) violated PCAOB rules and quality controls standards over several years in connection with (a) the Firm's audit and quality control documentation, and (b) the Firm's internal training program.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent

pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Board or in which the Board is a party, and without admitting or denying the findings contained in the Order, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings (which is admitted) and the facts, findings, and violations in paragraphs 1-8, 19-28, 30-32, 37-39, 41-44, 49-55, and 57-62 (which are admitted), Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **KPMG Colombia** is a simplified stock company headquartered in Bogotá, Republic of Colombia. KPMG Colombia is a member of the KPMG international network of firms ("KPMG Global"). The Firm registered with the Board on April 27, 2010, and is a registered public accounting firm as that term is defined in Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i). During the period relevant to this matter, the Firm performed referred audit work on Colombian components of "Issuer A" and "Issuer B," which were audited principally by other member firms of KPMG Global.

B. Issuers and Other Relevant Individuals

2. **Issuer A** was, at all relevant times, an issuer within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

3. **Issuer B** was, at all relevant times, an issuer within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. The "**Lead Partner**" was formerly a partner of KPMG Colombia. He served as the lead partner for the Firm's audit work on the Colombian components of Issuer A (the "Issuer A Component Audit").[3]

5. "**Manager A**" was formerly an employee of KPMG Colombia. He served as the manager for the Issuer A Component Audit.[4]

6. The "**Senior**" was formerly an employee of KPMG Colombia. He served as the senior for the Issuer A Component Audit.[5]

7. The "**Managing Director**" was formerly an employee of KPMG Colombia. He served as the managing director for the Firm's audit work on the Colombian component of Issuer B (the "Issuer B Component Audit").

8. "**Manager B**" was formerly an employee of KPMG Colombia. He served as the manager for the Issuer B Component Audit.

C. Summary

9. During the period covered by this Order, KPMG Colombia engaged in two courses of misconduct that violated PCAOB rules and standards, including quality control standards, and that resulted in additional violations by the Firm's personnel.

10. *First*, KPMG Colombia failed to cooperate with the Board's 2016 inspection of the Firm. After learning that the Board's Division of Registration and Inspections ("DRI") would be inspecting the Firm's audit work for the Issuer A Component Audit and Issuer B Component Audit, KPMG Colombia personnel improperly modified work papers and backdated those work papers to conceal from DRI that they had been modified. As a result, and as further described

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3 *See José Daniel Meléndez Giménez*, PCAOB Rel. No. 105-2022-035 (Dec. 6, 2022).

4 *See Edgar Mauricio Ramírez Rueda*, PCAOB Rel. No. 105-2022-036 (Dec. 6, 2022).

5 *See Marco Alexander Rodríguez Ramírez*, PCAOB Rel. No. 105-2022-037 (Dec. 6, 2022).

below, the Firm violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*; AS 3, *Audit Documentation*; and ET § 102, *Integrity and Objectivity*.[6]

11. These violations stemmed from deficiencies in the Firm's system of quality control related to, among other areas, audit documentation. At the time of the 2016 inspection, the Firm (a) did not have an effective system in place to provide reasonable assurance that a complete and final set of work papers were timely assembled for retention ("archived"),[7] and that, once archived, work papers were retained and protected against improper alteration;[8] (b) failed to maintain control over administrative passwords that could be used to backdate alterations to work papers; and (c) did not have an effective system in place to ensure that the Firm provided PCAOB inspectors with the appropriate versions of the Firm's audit work papers for purposes of the inspection (*i.e.*, an accurately dated set of work papers prepared and retained in accordance with AS 3 without improper alterations after the documentation completion date). As a result, the Firm violated QC § 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*, and QC § 30, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

12. Although the Firm took steps to address quality control deficiencies concerning the timely archiving and preservation of audit documentation prior to the Board's next inspection of the Firm in 2019, those steps did not adequately address the risks that modified audit documentation could be improperly backdated and provided to PCAOB inspectors. In 2019, KPMG Colombia's system of quality control still did not provide reasonable assurance that audit documentation modified or created after the audit report date and prior to archiving was accurately dated in the final archived audit documentation. Nor did it provide reasonable assurance that audit consultation memos residing in the files of its Department of Professional Practice, which were intended to document compliance with the Firm's quality control policies and procedures, were timely completed, appropriately dated, and protected against improper alteration. As a result, the Firm continued to violate QC § 20 through 2019.

13. *Second*, from at least 2016 until 2020, KPMG Colombia violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing internal training tests, including tests designed to help the Firm's audit professionals satisfy the requirements for

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[6] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

[7] *See* AS 3 ¶ 15.

[8] *See* AS 3 ¶¶ 14, 16.

maintaining their accounting certifications. Those quality control failures prevented the Firm from identifying cheating in connection with tests for mandatory training courses covering topics that were relevant to compliance with PCAOB rules and standards. As a result, the Firm violated QC § 20, QC § 30, and QC § 40, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

14. Although the Firm took steps since 2020 to improve its quality control policies and procedures related to its internal training program, the Firm subsequently identified instances where personnel have cheated on internal training exams. As a result, as set forth in the undertakings below, KPMG Colombia will conduct an investigation to identify and determine the extent of exam cheating by its associated persons since January 1, 2020, and will take such further employment actions and remedial steps as may be appropriate. The Firm will also engage an independent consultant to review and assess whether the Firm has taken appropriate employment actions or other remedial steps and whether the Firm has designed and implemented quality controls that reasonably assure compliance with all professional standards relating to ethics and integrity in connection with its training program.

D. KPMG Colombia Violated PCAOB Rules, Auditing Standards, and Ethics Standards in Connection with the PCAOB's 2016 Inspection

15. PCAOB Rule 4006 requires that "[e]very registered public accounting firm, and every associated person of a registered public accounting firm . . . cooperate with the Board in the performance of any Board inspection."[9] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information."[10]

16. PCAOB rules also require registered public accounting firms to comply with applicable auditing and related professional practice standards.[11] Among other requirements,

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9 PCAOB Rule 4006.

10 *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017) (citations omitted), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018); *see also*, PCAOB Staff Audit Practice Alert No. 14, at *3 (Apr. 21, 2016) ("This duty to cooperate includes an obligation not to provide improperly altered documents or misleading information in connection with the Board's inspection processes." (citations omitted)).

11 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

registered firms must comply with the auditing, ethics, and quality control standards adopted by the Board.[12]

17. The Board's audit documentation standard states, in part: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[13]

18. PCAOB ethics standards provide, in part, that a registered firm "shall maintain objectivity and integrity" and "shall not knowingly misrepresent facts" in the performance of professional services.[14] A registered firm knowingly misrepresents facts in violation of ET § 102 when, for example, it knowingly: (i) makes, or permits or directs another to make, materially false and misleading entries in an entity's records; or (ii) signs, or permits or directs another to sign, a document containing materially false and misleading information.[15]

i. The Firm Improperly Modified the Audit Work Papers for Both the Issuer A Component Audit and Issuer B Component Audit After the Documentation Completion Date and in Anticipation of a PCAOB Inspection

a. Issuer A Component Audit

19. KPMG Colombia sent its interoffice report for its audit work on the Colombian component of Issuer A to the principal auditor by no later than February 25, 2016. The principal auditor released its audit report for the Issuer A audit by no later than February 26, 2016. As a result, the documentation completion date for all audit work performed for the Issuer A audit was no later than April 11, 2016.

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12 *See* PCAOB Rule 3200T, *Interim Auditing Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*; Rule 3500T, *Interim Ethics and Independence Standards*.

13 AS 3 ¶¶ 15-16 (italics in original).

14 *See* ET § 102.01.

15 *See* ET §§ 102.02(a), (c).

20. On September 7, 2016, DRI informed KPMG Colombia that it would inspect the Firm's work on the Issuer A Component Audit. DRI identified (a) net sales and accounts receivable, and (b) property, plant, and equipment as the focus areas for the inspection.

21. After learning that DRI would inspect the Firm's work on the Issuer A Component Audit, the Lead Partner for the Firm's work on the Issuer A Component Audit instructed Manager A and the Senior to perform a review of the audit documentation for that engagement, with assistance from the other members of the engagement team. The Lead Partner further instructed Manager A and the Senior to provide him with comments from that review.

22. After receiving the engagement team's initial review comments, the Lead Partner informed Manager A and the Senior that the engagement team needed to revise the audit work papers ahead of the inspection. Manager A and the Senior, together with other members of the engagement team and Firm staff, then began making changes to the work papers to address the comments that had been provided to the Lead Partner.

23. After the engagement team began making changes, the Lead Partner personally performed a review of the audit work papers, including a review of some of the changes that the engagement team had already made pursuant to his instructions. The Lead Partner also enlisted the help of multiple other Firm audit professionals to review specific areas of the audit work papers. From September 21 to October 2, 2016, the Lead Partner sent Manager A and the Senior a series of emails providing detailed comments from his review for the engagement team to address through further revisions to the work papers. The other professionals whom the Lead Partner enlisted to help with the review also provided comments to the engagement team.

24. In some of the emails, the Lead Partner noted that it was possible to see in the revised version of the work papers that some of the changes had been made in September 2016, and he instructed Manager A and the Senior to alter those dates. When providing that instruction, the Lead Partner intended to hide the fact that alterations were being made to the work papers after the documentation completion date. At least one other Firm professional also noted to the engagement team that some of the work papers she reviewed included dates reflecting that changes had been made in September 2016, which the engagement team addressed through additional backdating.

25. Pursuant to the Lead Partner's instructions, the engagement team altered and backdated multiple work papers between September 7, 2016, and the start of DRI's inspection of the Firm's work on the Issuer A Component Audit. In making those changes, the engagement team did not indicate the date they made the changes, who made the changes, or the reasons

why the changes were made. To the contrary, the engagement team backdated the changes to dates before the documentation completion date, and concealed the actual revision dates, by improperly changing the date on a computer clock using an administrative passcode.

26. KPMG Colombia, through its personnel, improperly altered and backdated work papers for the Issuer A Component Audit so the improperly modified and backdated work papers appeared to constitute the complete and final set of timely archived audit documentation. Numerous individuals at KPMG Colombia, including but not limited to the Lead Partner and the other members of the engagement team involved in the modifications and backdating, knew or were reckless in not knowing that KPMG Colombia provided improperly modified and backdated work papers for the Issuer A Component Audit to DRI during the inspection fieldwork, which took place from October 10 to October 21, 2016.

27. During the PCAOB inspection, KPMG Colombia personnel did not inform DRI or anyone else at the PCAOB that the Issuer A Component Audit work papers provided to DRI had been improperly modified and backdated, or provide DRI with information about the actual dates the work papers were modified and the reasons they were modified after the documentation completion date. KPMG Colombia also never provided DRI with copies of the work papers as they actually appeared on the documentation completion date.

28. As a result of the above-described conduct, KPMG Colombia violated PCAOB Rule 4006 and AS 3 in connection with the Board's 2016 inspection of the Firm and DRI's review of the Firm's work on the Issuer A Component Audit.

29. As a result of the above-described conduct, KPMG Colombia also violated ET § 102 in connection with the Board's 2016 inspection of the Firm and DRI's review of the Firm's work on the Issuer A Component Audit.

b. Issuer B Component Audit

30. KPMG Colombia sent its interoffice report for its audit work on the Colombian component of Issuer B to the principal auditor by no later than April 15, 2016. The principal auditor released its audit report for the Issuer B audit by no later than April 22, 2016. As a result, the documentation completion date for all audit work performed for the Issuer B audit was no later than June 6, 2016.

31. On September 7, 2016, DRI informed KPMG Colombia that it would also inspect the Firm's work on the Issuer B Component Audit. DRI identified (a) net sales and accounts receivable, and (b) property, machinery, and equipment as the focus areas for the inspection.

32. On September 8, 2016, the lead partner for the Firm's work on the Issuer B Component Audit informed the Managing Director and Manager B of the impending inspection. The Managing Director and Manager B thereafter assembled a team to prepare for the inspection; the team included both individuals who had worked on the audit and others who had not.

33. The Managing Director and Manager B instructed the team to review the work papers for the Issuer B Component Audit to determine if there were any deficiencies.

34. At the instruction of the Managing Director and Manager B, the work papers were then modified to address certain deficiencies and inconsistencies identified by the reviewers and backdated to a date during the audit.

35. As a result of this review, KPMG Colombia personnel modified numerous work papers, including, but not limited to, documents related to (a) net sales and accounts receivable, and (b) property, machinery, and equipment, *i.e.*, the focus areas for the inspection. In each case, the modified work paper did not reflect the date the document was modified, the person who modified it, or the reason it was modified.

36. On occasion, rather than modifying existing work papers, a reviewer created new work papers that did not exist as of the documentation completion date. Where the new work papers were created by a reviewer who had not been a member of the engagement team during the audit, the new work papers nevertheless falsely reflected that they were prepared by someone who had served on the Issuer B Component Audit engagement team, rather than by the reviewer. Additionally, the reviewer dated the newly created work papers with a date during the audit, rather than the date the work papers were actually created.

37. KPMG Colombia, through its personnel, improperly altered and backdated work papers for the Issuer B Component Audit so the improperly modified and backdated work papers appeared to constitute the complete and final set of timely archived audit documentation. The Firm then provided those improperly altered and backdated work papers to the PCAOB's inspectors during inspection fieldwork.

38. During the PCAOB inspection, KPMG Colombia personnel did not inform DRI or anyone else at the PCAOB that the Issuer B Component Audit work papers provided to DRI had been improperly modified and backdated, or provide DRI with information about the actual dates the work papers were modified and the reasons they were modified after the documentation completion date. KPMG Colombia also never provided DRI with copies of the work papers as they actually appeared on the documentation completion date.

39. As a result of the above-described conduct, KPMG Colombia violated PCAOB Rule 4006 and AS 3 in connection with the Board's 2016 inspection of the Firm and DRI's review of the Firm's work on the Issuer B audit.

40. As a result of the above-described conduct, KPMG Colombia also violated ET § 102 in connection with the Board's 2016 inspection of the Firm and DRI's review of the Firm's work on the Issuer B audit.

ii. KPMG Colombia Violated PCAOB Rule 4006 and ET § 102 by Providing Materially False and Misleading Certifications to DRI

41. In connection with the 2016 inspection, KPMG Colombia, through its personnel, made materially false and misleading statements to DRI. Specifically, the Firm represented that no modifications had been made to the audit documentation for either the Issuer A Component Audit or the Issuer B Component Audit after the documentation completion date.

42. In connection with the 2016 inspection, the Firm completed and submitted to DRI separate "engagement profiles" for its work on the Issuer A and Issuer B component audits. Both engagement profiles inaccurately represented that no changes had been made to the audit documentation after the documentation completion date. Specifically, on the engagement profile for both components, the Firm answered "No" to the question: "Have there been any changes to the audit documentation subsequent to the documentation completion date?"

43. However, before submitting the final engagement profiles to DRI, multiple Firm personnel knew improper changes had been made to the audit documentation for both component audits after the respective documentation completion dates and in anticipation of the inspection. At no time did anyone at KPMG Colombia inform DRI that either of those engagement profile responses was false.

44. Through these actions, KPMG Colombia committed additional violations of PCAOB Rule 4006.

45. Through these actions, KPMG Colombia also committed additional violations of ET § 102.

E. KPMG Colombia Violated PCAOB Rules and Quality Control Standards Concerning Integrity, Audit and Quality Control Documentation, and Complying with Regulatory Requirements

46. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[16] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[17]

47. Pursuant to PCAOB quality control standards, firms should establish policies and procedures to provide reasonable assurance that, among other things: (a) "personnel . . . perform all professional responsibilities with integrity;"[18] (b) "the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality," including with respect to "planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement;"[19] and (c) the firm's quality control policies and procedures "are suitably designed and are being effectively applied."[20]

48. A firm should communicate its quality control policies and procedures to its personnel in a manner that provides reasonable assurance that those policies and procedures are understood and complied with.[21] A firm should also prepare appropriate documentation to demonstrate compliance with its policies and procedures for the quality control system, and should retain that documentation for a period of time sufficient to enable those performing monitoring procedures to evaluate the extent of the firm's compliance with its quality control policies and procedures.[22]

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16 *See* PCAOB Rule 3400T.

17 QC § 20.01.

18 *See* QC § 20.09.

19 *See* QC §§ 20.17, .18.

20 *See* QC §§ 20.20; 30.02.

21 *See* QC § 20.23.

22 *See* QC § 20.25.

i. Quality Control Deficiencies Related to Audit Documentation and the Firm's Non-cooperation with the 2016 Inspection

49. The Firm's non-cooperation with the 2016 inspection resulted in large part from deficiencies in its system of quality control relating to audit documentation and compliance with regulatory requirements.

50. At the time of the 2016 inspection, KPMG Colombia permitted engagement teams to archive electronic audit documentation on an engagement team member's local computer hard drive, which rendered the audit documentation susceptible to both premature destruction and improper alteration.

51. During the 2015/2016 time period, audit engagement teams typically stored electronic work papers on engagement team members' laptops while the audit was performed. After an engagement was completed and the team's documentation was supposed to be finalized, Firm policy dictated that the engagement team run a program that would produce an archived version of the electronic documentation for the engagement. Once the electronic audit documentation was archived, Firm policy required the engagement team to store that archived documentation on a particular server that the Firm maintained.

52. During the 2015/2016 timeframe, however, the Firm did not take steps to monitor whether engagement teams were appropriately archiving electronic audit documentation on or before an engagement's documentation completion date, or whether archived documentation was being stored on the designated server. As a result, archiving of electronic work papers during the 2015/2016 timeframe sometimes occurred after the relevant documentation completion date, or not at all. Further, archived electronic documentation was sometimes not stored on the designated server, so the location of the documentation for an engagement was not always known.

53. Additionally, because electronic work papers were locally maintained and archived by engagement teams during the 2015/2016 timeframe, engagement teams could create multiple, different versions of the electronic work paper files for the same engagement.

54. As a result of the foregoing deficiencies in its system for archiving electronic work papers, KPMG Colombia had to rely on the individual engagement teams to identify and provide the correct copy of the electronic work papers for the PCAOB inspection in 2016. However, KPMG Colombia lacked sufficient quality control policies and procedures to provide reasonable assurance that the engagement teams acted with integrity and provided DRI with the appropriate work papers for an engagement (*i.e.*, an accurately dated set of work papers

prepared and retained in accordance with AS 3 without improper alterations after the documentation completion date).

55. Moreover, other deficiencies in KPMG Colombia's system of quality control in 2016 increased the risk that engagement teams could provide improperly altered and backdated work papers to PCAOB inspectors.

56. Prior to and through at least the 2016 PCAOB inspection period, KPMG Colombia did not allocate enough time for engagement teams to complete documentation at the time of the audits. As a result, Firm personnel responded by developing methods to complete and backdate work papers well after the documentation completion date if an audit was selected for inspection.

57. Specifically, during the 2015/2016 time period, it was common practice for KPMG Colombia audit personnel to insert and sign off as preparers and reviewers on blank work papers in the electronic audit files. This allowed audit personnel to later substitute new work papers in place of the blank ones, while maintaining the original sign-off dates on the work papers. Although the Firm was aware of this practice, it did not take appropriate or timely steps to prevent it.

58. KPMG Colombia also did not maintain appropriate control over IT administrative passwords during the 2015/2016 timeframe. Certain engagement team staff gained access to those passwords, which allowed them to reset clocks on their computers to prior dates and times. Engagement teams used the administrative passwords to modify and backdate copies of audit work papers, including for the 2016 PCAOB inspection.

ii. Continuing Quality Control Deficiencies Related to Documentation at the Time of the 2019 Inspection

59. In the period between the PCAOB's 2016 and 2019 inspections of the Firm, KPMG Colombia took steps to improve its system of quality control surrounding audit documentation, including steps to monitor whether engagement teams were timely archiving work papers and appropriately storing the archived work papers on the designated server. However, certain other deficiencies in its system of quality control persisted through 2019.

60. In 2019, it was still possible for engagement teams both to create new audit documentation in KPMG Colombia's electronic work papers and to substantially alter existing audit documentation between the time the Firm released its audit report and the documentation completion date for an engagement, in a manner that was inconsistent with AS 3. Specifically, engagement teams could create or modify work papers while making it appear

that the audit documentation was completed and reviewed before the audit report was issued—including by signing off on blank work papers and later substituting them with modified work papers. KPMG Colombia was aware, by 2019, of its personnel's practice of inserting and signing off on blank work papers and later substituting other work papers in their place. However, the Firm did not take adequate steps to prevent the practice or effectively communicate to its personnel that it was improper and should be stopped.

61. Although KPMG Colombia had taken steps to ensure the timely archiving and preservation of electronic audit work papers, it did not implement sufficient quality controls around files within its Department of Professional Practice ("DPP"), which were also subject to inspection by the PCAOB, peer review, and other monitoring procedures. Specifically, the Firm's system of quality control did not provide reasonable assurance that its documentation of consultations between engagement teams and the Firm's DPP professionals was timely prepared and protected from improper alteration. As a result, at least one consultation with DPP that was the subject of review by PCAOB inspectors was not formally documented by DPP, and could only be substantiated during the 2019 inspection through a search of Firm emails. Additionally, two consultation memos in DPP's files were revised during the inspection and did not receive final sign-off until several months after the documentation completion date for the relevant audit. Yet those two revised memos in DPP's files continued to be dated as though they were completed before the audit report was issued.[23]

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62. As a result of the deficiencies described in paragraphs 49 to 61, above, from at least 2015 through 2019, KPMG Colombia violated QC § 20 and QC § 30 because its quality control policies and procedures did not provide reasonable assurance that: (a) its personnel performed all professional responsibilities with integrity; (b) the work performed by engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality; and (c) the quality control policies and procedures established by the Firm were suitably designed and being effectively applied.[24] The Firm also violated QC § 20 by failing to communicate its quality control policies and procedures to its personnel in a manner that provided reasonable assurance that those policies and procedures were

[23] The revised memos in DPP's files were not shown to PCAOB inspectors during the 2019 inspection.

[24] *See* QC §§ 20.09, .17-.18, .20; QC § 30.

understood and complied with, and by failing to prepare and retain appropriate documentation to demonstrate compliance with its policies and procedures for the quality control system.[25]

F. KPMG Colombia Violated PCAOB Rules and Standards in Connection with Its Internal Training

i. Applicable PCAOB Quality Control Standards

63. In addition to the areas described above, PCAOB quality control standards address personnel management and state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[26] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[27]

64. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[28] and that, as explained above, monitoring procedures are necessary.[29] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[30]

ii. Training Requirements for KPMG Colombia Personnel

65. As part of KPMG Colombia's personnel management system, the Firm administers an internal training program for all of its professionals. The Firm has designed its training program to serve multiple purposes, including to provide Firm personnel with technical instruction, to further their professional development, and to satisfy some of the continuing professional education requirements imposed by authorities that licensed some of the Firm's

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25 *See* QC §§ 20.23, .25.

26 QC § 20.13.b; QC § 40.02.b.

27 QC § 20.13.c; QC § 40.02.c.

28 QC § 20.08.

29 *See id.*; QC § 30.02; *see also* QC § 20.20.

30 *See* QC § 20. 20.c-.d; QC § 30.02.c-.d.

auditors. The Firm's training requirements vary by each professional's position, role, and industry practice area, and are intended to be relevant to, among other things, the independence of its personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. The Firm's internal training often includes a testing component.

66. Since at least 2016, the Firm required audit personnel to take certain online training courses that are relevant to compliance with PCAOB rules and standards. The particular courses the Firm's auditors must take vary based on their experience levels. These audit-related courses include a testing component and are mandatory for audit personnel.

iii. Failures by KPMG Colombia to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

67. Between 2016 and 2020, KPMG Colombia had in place certain quality control policies and procedures intended to address integrity and personnel management. Those policies and procedures, however, did not provide reasonable assurance that Firm personnel acted with integrity when taking internal training tests. Among other things, the monitoring procedures were not designed to effectively detect, deter, or prevent cheating through answer sharing.

iv. Sharing of Answers to Training Tests at KPMG Colombia

68. Between 2016 and 2020, KPMG Colombia personnel were involved in improper answer sharing. That conduct included sharing answers by sending emails with answers to training test questions, by providing screenshots of training questions and answers, or by discussing answers when taking tests in the presence of others.

69. A preliminary internal investigation by the Firm revealed that the misconduct included improper answer sharing in connection with tests that were a part of the Firm's mandatory assurance training, including among individuals who performed work on audits governed by PCAOB standards.

70. As illustrated by the misconduct described above, from at least 2016 until 2020, KPMG Colombia, failed to establish policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) Firm personnel performed all professional responsibilities with integrity; (2) personnel to whom work was assigned had the degree of technical training and proficiency required in the circumstances; and (3) personnel participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education

requirements of regulatory agencies. Accordingly, the Firm violated PCAOB quality control standards related to integrity and personnel management.[31]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation in one part of this matter, specifically its response to discovering improper answer sharing on internal trainings. During the PCAOB staff's investigation into audit documentation and non-cooperation issues, the Firm voluntarily and timely self-reported to PCAOB staff the answer sharing misconduct it had discovered. The Firm then provided substantial assistance to the PCAOB's investigation by conducting, and providing to the PCAOB the results of, a preliminary internal investigation, including evidence relating to the Firm's interviews of personnel it suspected of engaging in improper answer sharing. Absent this extraordinary cooperation, the civil money penalty imposed would have been significantly larger, and the Board may have imposed additional sanctions.

Additionally, since both the audit documentation and answer sharing misconduct occurred, the Firm has implemented remedial measures aimed at preventing future similar violations. Those remedial efforts include, but are not limited to: (1) changes to the Firm's audit documentation systems and archiving policies and procedures that are intended to provide reasonable assurance that (a) audit procedures are completed and audit documentation is prepared and reviewed prior to the release of the audit report; (b) the Firm detects and reviews significant or unexpected changes to audit documentation between the date of the audit report and the archiving of the audit documentation; (c) audit documentation is timely archived, appropriately retained, and protected from improper alteration; (d) PCAOB inspectors are provided the timely archived audit documentation during inspections; and (e) DPP files are timely prepared and maintained with integrity; (2) changes to Firm training and other personnel management policies and procedures to promote professional integrity, especially as it relates to audit documentation and training examinations; (3) employment actions and other disciplinary actions with respect to certain individuals that engaged in the misconduct described in this Order; and (4) changes to Firm leadership.

Accordingly, it is hereby ORDERED that:

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[31] *See* QC § 20.09, .13.b-.c, .20; QC § 30.02; and QC § 40.02.b-.c.

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), KPMG S.A.S. is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $4,000,000 is imposed on KPMG S.A.S.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies KPMG S.A.S. as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. *Undertakings related to improper audit documentation violations*—Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), KPMG S.A.S. shall complete the following undertakings:

1. Initial Undertakings—Within 90 days from the issuance of this Order, the Firm shall establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (a) personnel perform all professional responsibilities with integrity; (b) personnel prepare, archive, and maintain audit documentation in a manner that meets applicable professional standards, regulatory requirements, and the Firm's standards of quality; (c) personnel comply with applicable professional standards, regulatory requirements, and the Firm's standards of quality concerning cooperation with PCAOB inspections and investigations; (d) the foregoing policies and procedures are suitably designed and are being effectively applied; and (e) the foregoing policies and procedures are communicated in a manner that provides reasonable assurance that those policies and procedures are understood and complied with (including, but not limited to, all relevant policies and procedures being made available and communicated in Spanish).

2. Certification—Within 150 days of the issuance of this Order, the Firm shall provide a certification, signed by its Country Senior Partner, to the Director of the PCAOB's Division of Enforcement and Investigations ("DEI"), stating that the Firm has complied with paragraph IV.C.1, above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the issuance of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. KPMG S.A.S. shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Additional Firm Undertakings—

    a. For two years from the issuance of this Order, the Firm will promptly report to the PCAOB Director of DEI any allegation of improper document alterations in connection with (i) any audit subject to the PCAOB's jurisdiction, or (ii) any PCAOB inspection or investigation.

    b. For six years from the issuance of this Order, within one week after being notified that the Firm will be inspected, the Firm shall notify personnel of the inspection and shall specifically instruct personnel of their obligation to cooperate with Board inspections, including by not altering audit documentation subject to PCAOB inspection or otherwise preparing or

making available to the Board's inspectors documents containing misleading information.

c. No later than thirty days after the issuance of this Order, the Firm shall provide an electronic or paper copy of this Order to all of its associated persons.

D. *Undertakings related to improper answer sharing violations*—Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), KPMG S.A.S. shall complete the following undertakings:

1. Within 360 days of the issuance of this Order, a committee composed of KPMG S.A.S. or KPMG Advisory, Tax & Legal S.A.S. professionals acceptable to the DEI staff (the "Special Committee") shall complete the steps reasonably necessary to: (i) determine the extent to which audit professionals violated ethics and integrity requirements in connection with training examinations since January 1, 2020, (ii) identify the professionals who committed or were otherwise responsible for such violations, and (iii) recommend any employment actions or other remedial steps, to KPMG S.A.S.'s Disciplinary Committee that the Special Committee deems appropriate ("Special Committee Investigation").

2. Within 90 days of completing the Special Committee Investigation, the Special Committee shall deliver to KPMG S.A.S.'s Executive Committee and Country Senior Partner a detailed report ("Special Committee Report of Investigation") summarizing the investigative steps it has taken, and any employment actions or other remedial steps it recommends be taken.

E. *Independent Consultant*—Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(8) and (9):

1. Within 60 days of the issuance of this Order, KPMG S.A.S. shall retain an independent consultant ("Independent Consultant"), not unacceptable to the PCAOB DEI staff. The Independent Consultant shall have, at a minimum, the following qualifications: (i) demonstrated expertise conducting ethics and integrity investigations; (ii) experience designing or reviewing compliance policies, procedures, and controls relating to ethics and integrity; and (iii) knowledge concerning PCAOB quality control standards. The Firm may not retain as Independent Consultant any person who has been employed by or had a professional relationship with the Firm, any other KPMG Global

member or affiliate firm, or any audit client of the Firm in the previous two years; and the Firm shall require the Independent Consultant to agree not to enter into any employment or other professional relationship with the Firm, any other KPMG Global member or affiliate firm, or any audit client of the Firm for two years following the expiration of the consultancy.

2. KPMG S.A.S. shall provide to the PCAOB DEI staff a copy of the engagement letter detailing the scope of the Independent Consultant's responsibilities. The Special Committee shall deliver to the Independent Consultant the Special Committee Report of Investigation at the same time as it provides such report to KPMG S.A.S.'s Executive Committee and Country Senior Partner as specified in paragraph IV.D.2., above. KPMG S.A.S. shall require that the Independent Consultant:

    a. perform a review (the "IC Review of Quality Controls") of KPMG S.A.S.'s policies and procedures relating to training to determine whether they are designed and being implemented in a manner that provides reasonable assurance of compliance with all professional standards, including whether (i) the Firm's ethics and integrity training and guidance is adequate and sufficient; and (ii) the Firm is deploying proper resources and oversight for compliance with ethics and integrity requirements; and

    b. review and assess (the "IC Review of Investigation") the Special Committee Investigation (including, without limitation, by reviewing the Special Committee Report of Investigation) and whether KPMG S.A.S. (i) has taken reasonable steps to identify, and to determine the extent to which, those audit professionals who engaged in improper exam sharing since January 1, 2020, and (ii) has followed the Special Committee's recommended employment actions or other remedial steps.

3. To ensure the independence of the Independent Consultant, the Firm (i) shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the PCAOB DEI staff; and (ii) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

4. KPMG S.A.S. shall cooperate fully with the Independent Consultant and shall provide reasonable access to information and records as the Independent

Consultant may reasonably request, subject to KPMG S.A.S.'s right to withhold from disclosure any information or records protected by any applicable protection or privilege, such as the attorney-client privilege or the attorney work product doctrine. The Independent Consultant shall have the right to interview any partner, employee, agent, or consultant of KPMG S.A.S. concerning any matter within or relating to the IC Review of Quality Controls or the IC Review of Investigation.

5. After the IC Review of Quality Controls and the IC Review of Investigation are completed, but no later than 90 days after receiving the Special Committee Report of Investigation, the Independent Consultant shall issue a written report (the "IC Report") to KPMG S.A.S.: (i) summarizing its work; (ii) making recommendations, as the Independent Consultant deems appropriate, reasonably designed to ensure that KPMG S.A.S.'s policies and procedures relating to the topics discussed in paragraph IV.E.2.a., above, are adequate and sufficient to provide reasonable assurance of compliance with all relevant professional standards relating to training; (iii) describing its review of KPMG S.A.S.'s training and making additional recommendations, as the Independent Consultant deems appropriate, regarding ethics and integrity training; (iv) making recommendations, as the Independent Consultant deems appropriate, reasonably designed to ensure that the Special Committee has taken reasonable steps to identify, and to determine the extent to which, audit professionals who engaged in improper exam conduct since January 1, 2020, including recommending additional investigative steps for the Special Committee to take; and (v) making recommendations, as the Independent Consultant deems appropriate, reasonably designed to ensure that KPMG S.A.S. has taken appropriate employment actions or other remedial steps in light of the findings of the Special Committee Investigation.

6. After receiving the IC Report, the Firm shall implement any recommendations contained therein as soon as practicable, except that the Firm may notify the Independent Consultant within 30 days of receiving the IC Report of any recommendations that the Firm believes to be unnecessary, impractical, unduly burdensome, or outside the scope of this Order, and the bases of the Firm's objection(s). In connection with that notification, the Firm may propose alternative policies and procedures that it believes will achieve the objectives of the recommendations contained in the IC Report. The Firm and the Independent Consultant shall engage in good-faith negotiations concerning any objection raised by the Firm, but if the Firm and the

Independent Consultant are unable to come to agreement within 45 days, the Firm shall be required to adopt the Independent Consultant's recommendations to which it objects.

7. At the conclusion of the negotiation process described in paragraph IV.E.6, above, KPMG S.A.S. shall require the Independent Consultant to provide a copy of the IC Report to the PCAOB DEI staff.

F. For good cause shown, the PCAOB DEI staff may extend any of the deadlines contained in Sections IV.C., IV.D., and IV.E. of this Order. The time periods in Sections IV.C., IV.D., and IV.E. of this Order shall be determined in accordance with PCAOB Rule 1002, *Time Computation*.

G. The Firm agrees that DEI may petition the Board to reopen this matter to determine whether additional sanctions or findings are appropriate if DEI believes that the Firm has not satisfied any provision in Section IV of this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 6, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of José Daniel Meléndez Giménez,

Respondent.

PCAOB Release No. 105-2022-035

December 6, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring José Daniel Meléndez Giménez ("Meléndez" or "Respondent");

(2) barring Meléndez from being associated with a registered public accounting firm;[1] and

(3) imposing a civil money penalty in the amount of $25,000 on Meléndez.[2]

The Board is imposing these sanctions on the basis of its findings that Meléndez failed to cooperate with the Board's 2016 inspection of KPMG S.A.S. ("KPMG Colombia" or the "Firm"), including by directing the improper alteration of work papers for an issuer audit that was subject to inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c)

[1] Meléndez may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

[2] Based on his conduct, Meléndez's civil money penalty in this settlement would have been $50,000. The Board determined to accept Meléndez's offer of settlement and impose a lower penalty after considering Meléndez's financial resources.

of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Board or in which the Board is a party, and without admitting or denying the findings contained in the Order, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings (which is admitted) and the facts, findings, and violations in paragraphs 1 and 13-30 (which are admitted), Respondent consents to the entry of this Order as set forth below.[3]

III.

On the basis of Respondent's Offer, the Board finds that:[4]

A. Respondent

1. **José Daniel Meléndez Giménez** was, at all relevant times, a KPMG Colombia partner and the lead partner for the audit procedures the Firm performed over certain Colombian subsidiaries of Issuer A in connection with the audit of Issuer A's financial statements for the year ended December 31, 2015 (the "Component Audit"). Melendez is a certified public accountant under the laws of Lara, Venezuela (registration no. 45.193). At all relevant times, Meléndez was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities and Individuals

2. **KPMG Colombia** is a simplified stock company headquartered in Bogotá, Republic of Colombia.[5] KPMG Colombia is a member of the KPMG international network of

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[3] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

[5] *See KPMG S.A.S.*, PCAOB Rel. No. 105-2022-034 (Dec. 6, 2022).

firms ("KPMG Global"). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

3. The "**Manager**" was formerly an employee of KPMG Colombia. He served as the manager for the Component Audit.[6]

4. The "**Senior**" was formerly an employee of KPMG Colombia. He served as the audit senior for the Component Audit.[7]

5. **Issuer A** was, at all relevant times, an "issuer" within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Another member firm of KPMG Global served as the principal auditor for Issuer A's financial statements for the year ended December 31, 2015, and instructed KPMG Colombia to conduct the Component Audit.

C. Summary

6. This matter involves Respondent's failure to cooperate with the PCAOB's 2016 inspection of KPMG Colombia, and Respondent's related violations of PCAOB audit documentation standards and ethics rules and standards. After the completion of the Component Audit and the expiration of the applicable documentation completion date, Respondent learned that the PCAOB's Division of Registration and Inspections ("DRI") would be inspecting the Component Audit. Respondent then led a wide-ranging review of the audit work papers, and instructed members of the engagement team to improperly make changes to the work papers and to backdate those changes.

7. Additionally, shortly before the inspection, Respondent signed a written certification, which he knew would be submitted to DRI, stating that no changes had been made to the work papers after the documentation completion date for the Component Audit. Respondent later revised the document containing that certification, after all of the changes described in this Order had taken place, without correcting that certification. Respondent knew that the revised certification would also be submitted to DRI.

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6 *See Edgar Mauricio Ramírez Rueda*, PCAOB Rel. No. 105-2022-036 (Dec. 6, 2022).

7 *See Marco Alexander Rodríguez Ramírez*, PCAOB Rel. No. 105-2022-037 (Dec. 6, 2022).

8. As a result, and as further described below, Respondent violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, AS 3, *Audit Documentation*, and ET § 102, *Integrity and Objectivity*.[8]

D. Respondent Violated PCAOB Rules, Auditing Standards, and Ethics Standards in Connection with the PCAOB's 2016 Inspection

i. Rules and Standards

9. PCAOB Rule 4006 requires that "[e]very registered public accounting firm, and every associated person of a registered public accounting firm . . . cooperate with the Board in the performance of any Board inspection."[9] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information."[10]

10. PCAOB rules also require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[11] Among other requirements, registered firms and their associated persons must comply with the auditing, ethics, and quality control standards adopted by the Board.[12]

11. The Board's audit documentation standard states, in part: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information

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[8] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audit discussed herein.

[9] PCAOB Rule 4006.

[10] *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017) ((citations omitted)), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018); *see also* PCAOB Staff Audit Practice Alert No. 14, at *3 (Apr. 21, 2016) ("This duty to cooperate includes an obligation not to provide improperly altered documents or misleading information in connection with the Board's inspection processes." (citations omitted)).

[11] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[12] *See* PCAOB Rule 3200T, *Interim Auditing Standards*; PCAOB Rule 3500T, *Interim Ethics and Independence Standards*.

was added, the name of the person who prepared the additional documentation, and the reason for adding it."[13]

12. PCAOB ethics standards provide, in part, that an associated person "shall maintain objectivity and integrity" and "shall not knowingly misrepresent facts" in the performance of professional services.[14] An associated person knowingly misrepresents facts in violation of ET § 102 when, for example, he or she knowingly: (i) makes, or permits or directs another to make, materially false and misleading entries in an entity's records; or (ii) signs, or permits or directs another to sign, a document containing materially false and misleading information.[15]

ii. Respondent Improperly Modified the Component Audit Work Papers After the Documentation Completion Date and in Anticipation of a PCAOB Inspection

13. After completing the Component Audit, KPMG Colombia sent an interoffice report to the principal auditor by no later than February 25, 2016. The principal auditor released its audit report for the Issuer A audit by no later than February 26, 2016. As a result, the documentation completion date for all audit work performed for the Issuer A audit was no later than April 11, 2016.

14. On September 7, 2016, DRI informed KPMG Colombia that it would inspect the Firm's work on the Component Audit. DRI identified (a) net sales and accounts receivable, and (b) property, plant, and equipment as the focus areas for the inspection. The Firm provided that same information to Meléndez on or about that same day.

15. After learning that DRI would inspect the Component Audit, Meléndez informed the Manager and Senior of that selection. Meléndez also instructed the Manager and Senior to perform a review of the audit documentation for the engagement, with assistance from the other members of the engagement team, and to provide Meléndez with comments from that review.

16. The Manager, Senior, and other members of the engagement team thereafter performed the review as Meléndez directed. On September 19, the Manager assembled the comments he received from the engagement team's review of the Component Audit work

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[13] AS 3 ¶¶ 15-16 (emphasis in original).

[14] *See* ET § 102.01.

[15] *See* ET §§ 102.02(a), (c).

papers, including comments from the Senior, and forwarded them to Meléndez as an attachment to an email with the subject "To do PCAOB."

17. After receiving the engagement team's initial review comments, Meléndez informed the Manager and Senior that the engagement team needed to revise the audit work papers ahead of the inspection, including to address the comments from the engagement team's review. At the time he gave that instruction, Meléndez planned to make only the revised versions of any modified workpapers available to DRI during the inspection.

18. The Manager, the Senior, and other members of the engagement team began revising the Component Audit work papers shortly after receiving Meléndez's instruction.

19. After the engagement team began making changes, Meléndez personally performed a review of the audit work papers, including a review of some of the changes that the engagement team had already made pursuant to his recent instructions. From September 21 to October 2, Meléndez sent the Manager and Senior a series of emails providing detailed comments from his review for the engagement team to address through further revisions to the work papers.

20. Meléndez also enlisted others at KPMG Colombia to help review certain select areas of the audit work papers. Those individuals, at Meléndez's request, likewise provided comments to the engagement team for consideration.

21. In some of the emails he sent to the Manager and Senior, Meléndez noted that it was possible to see in the revised version of the work papers that some of the changes had been made in September 2016, and he instructed the Manager and Senior to alter those dates. When providing that instruction, Meléndez intended to hide the fact that alterations were being made to the work papers after the documentation completion date.

22. Pursuant to Meléndez's instructions, the engagement team altered and backdated multiple work papers between September 7, 2016, and the start of DRI's inspection of the Firm's work on the Component Audit. In making those changes, the engagement team members did not indicate the date they made the changes, who made the changes, or the reasons why the changes were made. To the contrary, the engagement team backdated the changes to dates before the documentation completion date, and concealed the actual revision dates, by improperly changing the date on a computer clock using an administrative passcode.

23. Meléndez was aware that the engagement team members did not document the reason(s) they were modifying the work papers after the documentation completion date.

Meléndez also knew that the engagement team had backdated the revised work papers, per his instructions, before the Firm provided the work papers to DRI.

24. Meléndez knew that DRI received the improperly modified and backdated work papers during the inspection fieldwork that took place from October 10, 2016, to October 21, 2016.

25. When taking the actions described in paragraphs 6 to 24, above, Meléndez intended to create the false appearance that the improperly modified and backdated work papers constituted the complete and final set of audit documentation assembled for retention for the Component Audit prior to the documentation completion date.

26. As a result of the above-described conduct, Meléndez violated PCAOB Rule 4006, AS 3, and ET § 102 in connection with the Board's 2016 inspection of the Firm and DRI's review of the Firm's work on the Component Audit.

iii. Meléndez Provided a Materially False and Misleading Certification to DRI

27. Prior to the start of the fieldwork for the inspection, Meléndez signed an engagement profile for the Component Audit, which he knew the Firm would provide to DRI in connection with the inspection. In that engagement profile, Meléndez represented that no modifications had been made to the audit documentation for the Component Audit. Meléndez dated his signature September 19, 2016, which was the same day that the Manager sent Meléndez the "To do PCAOB" email.

28. Despite his involvement in the modifications described above, and despite having previously signed the engagement profile indicating that no changes had been made to the audit documentation subsequent to the documentation completion date, Meléndez did not inform DRI or anyone else at the PCAOB that the work papers provided to DRI had been improperly modified and backdated, or provide DRI with information about the actual dates the work papers were modified and the reasons they were modified after the documentation completion date.

29. On or about October 20, 2016, Meléndez also revised the engagement profile, knowing that the revised engagement profile would also be provided to DRI in connection with the inspection. By that time, Meléndez knew that the engagement team had made improper revisions to a substantial number of work papers for the Component Audit after the documentation completion date and in anticipation of the inspection. Nevertheless, Meléndez continued to certify in the revised engagement profile that no changes had been made to the audit documentation for the Component Audit after the documentation completion date.

30. As a result of the above-described conduct, Meléndez further violated PCAOB Rule 4006 and ET § 102 in connection with the Board's 2016 inspection of the Firm and DRI's review of the Firm's work on the Component Audit.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), José Daniel Meléndez Giménez is hereby censured.

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), José Daniel Meléndez Giménez is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[16]

C. Pursuant to PCAOB Rule 5302(b), José Daniel Meléndez Giménez may file a petition for Board consent to associate with a registered public accounting firm after three years from the date of this Order.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed on José Daniel Meléndez Giménez.

    1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

[16] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Meléndez. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

2. Respondent shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies José Daniel Meléndez Giménez as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

6. Respondent understands that the determination to accept Respondent's offer of a civil money penalty of $25,000 is contingent

upon the accuracy and completeness of Respondent's financial information provided to the Division of Enforcement and Investigations (the "Division"). Respondent also understands that, if at any time following this settlement the Division obtains information indicating that any financial information provided by Respondent—including, but not limited to, any information concerning assets, income, liabilities, or net worth—was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such information was provided, the Division may, at any time following entry of this Order, petition the Board to: (a) reopen this matter to consider whether Respondent provided accurate and complete financial information at the time such information was provided to the Division; and (b) seek an order directing payment of the maximum civil money penalty allowable under the law or any lesser amount determined to be appropriate. No other issue shall be considered in connection with this petition other than whether the financial information provided by Respondent was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondent may not, by way of defense to any such petition: (i) contest the findings in this Order; (ii) assert that payment of a civil money penalty should not be ordered; (iii) contest the amount of the civil money penalty to be ordered; or (iv) assert any defense to liability or remedy, including, but not limited to, any based on statute of limitations or any other time-related defense.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 6, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Edgar Mauricio Ramírez Rueda,

Respondent.

PCAOB Release No. 105-2022-036

December 6, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Edgar Mauricio Ramírez Rueda ("Ramírez" or "Respondent"); and

(2) barring Ramírez from being associated with a registered public accounting firm.[1]

The Board is imposing these sanctions on the basis of its findings that Ramírez failed to cooperate with the Board's 2016 inspection of KPMG S.A.S. ("KPMG Colombia" or the "Firm") by participating in the improper alteration of work papers for an issuer audit that was subject to inspection.[2]

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

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[1] Ramírez may file a petition for Board consent to associate with a registered public accounting firm after two (2) years from the date of this Order.

[2] The Board determined to accept Ramírez's offer of settlement, which does not require him to pay a civil money penalty, after considering his financial resources. Based on Ramírez's conduct, the Board would have imposed a civil money penalty of $25,000 on him in this settlement, if it had not taken his financial resources into consideration.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purposes of these proceedings and any other proceedings brought by or on behalf of the Board or to which the Board is a Party, and without admitting or denying the findings contained in the Order, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings (which is admitted) and the facts, findings, and violations in paragraphs 1 and 14-24 (which are admitted), Respondent consents to the entry of this Order as set forth below.[3]

III.

On the basis of Respondent's Offer, the Board finds that:[4]

A. Respondent

1. **Edgar Mauricio Ramírez Rueda** was, at all relevant times, an audit manager at KPMG Colombia and the manager for the audit procedures the Firm performed over certain Colombian subsidiaries of Issuer A in connection with the audit of Issuer A's financial statements for the year ended December 31, 2015 (the "Component Audit"). Ramírez is licensed as an accountant by the Junta Central de Contadores in Bogota D.C., Colombia (professional card no. 116437-T). At all relevant times, Ramírez was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities and Individuals

2. **KPMG Colombia** is a simplified stock company headquartered in Bogotá, Republic of Colombia.[5] KPMG Colombia is a member of the KPMG international network of

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[3] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

[5] *See KPMG S.A.S.*, PCAOB Rel. No. 105-2022-034 (Dec. 6, 2022).

firms ("KPMG Global"). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

3. The "**Lead Partner**" was formerly a partner of KPMG Colombia. He served as the lead partner for the Component Audit.[6]

4. The "**Senior**" was formerly an employee of KPMG Colombia. He served as the audit senior for the Component Audit.[7]

5. **Issuer A** was, at all relevant times, an "issuer" within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Another member firm of KPMG Global served as the principal auditor for Issuer A's financial statements for the year ended December 31, 2015, and instructed KPMG Colombia to conduct the Component Audit.

C. Summary

6. This matter involves Respondent's failure to cooperate with the PCAOB's 2016 inspection of KPMG Colombia, and Respondent's related violations of PCAOB audit documentation standards and ethics rules and standards. After the completion of the Component Audit and the expiration of the applicable documentation completion date, Respondent learned that the PCAOB's Division of Registration and Inspections ("DRI") would be inspecting the Component Audit. At the Lead Partner's direction, Respondent then improperly participated in and coordinated the Firm's improper modification and backdating of the electronic work papers for the Component Audit.

7. As a result, and as further described below, Respondent violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, AS 3, *Audit Documentation*, and ET § 102, *Integrity and Objectivity*.[8]

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[6] *See José Daniel Meléndez Giménez*, PCAOB Rel. No. 105-2022-035 (Dec. 6, 2022).

[7] *See Marco Alexander Rodríguez Ramírez*, PCAOB Rel. No. 105-2022-037 (Dec. 6, 2022).

[8] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audit discussed herein.

D. Respondent Violated PCAOB Rules, Auditing Standards, and Ethics Standards in Connection with the PCAOB's 2016 Inspection

i. Rules and Standards

8. PCAOB Rule 4006 requires that "[e]very registered public accounting firm, and every associated person of a registered public accounting firm . . . cooperate with the Board in the performance of any Board inspection."[9] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information."[10]

9. PCAOB rules also require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[11] Among other requirements, registered firms and their associated persons must comply with the auditing, ethics, and quality control standards adopted by the Board.[12]

10. The Board's audit documentation standard states, in part: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[13]

11. PCAOB ethics standards provide, in part, that an auditor "shall maintain objectivity and integrity" and "shall not knowingly misrepresent facts" in the performance of professional services.[14] An auditor knowingly misrepresents facts in violation of ET § 102 when,

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9 PCAOB Rule 4006.

10 *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017) (citations omitted), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018); *see also* PCAOB Staff Audit Practice Alert No. 14, at *3 (Apr. 21, 2016) ("This duty to cooperate includes an obligation not to provide improperly altered documents or misleading information in connection with the Board's inspection processes." (citations omitted)).

11 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

12 *See* PCAOB Rule 3200T, *Interim Auditing Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*; Rule 3500T, *Interim Ethics and Independence Standards*.

13 AS 3 ¶¶ 15-16 (italics in original).

14 *See* ET § 102.01.

for example, he or she knowingly: (i) makes, or permits or directs another to make, materially false and misleading entries in an entity's records; or (ii) signs, or permits or directs another to sign, a document containing materially false and misleading information.[15]

ii. Respondent Coordinated the Improper Modification of the Component Audit Work Papers After the Documentation Completion Date and in Anticipation of a PCAOB Inspection

12. After completing the Component Audit, KPMG Colombia sent an interoffice report to the principal auditor by no later than February 25, 2016. The principal auditor released its audit report for the Issuer A audit by no later than February 26, 2016. As a result, the documentation completion date for all audit work performed for the Issuer A audit was no later than April 11, 2016.

13. On September 7, 2016, DRI informed KPMG Colombia that it would inspect the Component Audit. DRI identified (a) net sales and accounts receivable, and (b) property, plant, and equipment as the focus areas for the inspection.

14. On or before September 16, 2017, after learning that DRI would inspect the Component Audit, the Lead Partner instructed Ramirez and the Senior to perform a review of the audit documentation for that engagement, with assistance from the other members of the engagement team. The Lead Partner further instructed Ramírez and the Senior to provide him with comments from that review.

15. On September 16, Ramírez sent an email to the Senior and other members of the Firm's engagement team for the Component Audit, directing them to perform the review that the Lead Partner had instructed the engagement team to undertake in anticipation of the inspection, and to send Ramírez their comments. Ramírez, the Senior, and the other members of the engagement team thereafter performed the review as directed.

16. On September 19, Ramírez assembled the comments he received from the engagement team's review of the Component Audit work papers, including comments from the Senior, and forwarded them to the Lead Partner as an attachment to an email with the subject "To do PCAOB." That same day, Ramírez also signed an engagement profile for the Component Audit, which was provided to DRI in connection with the inspection. In that engagement profile, Ramírez represented that no modifications had been made to the audit documentation for the Component Audit.

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[15] *See* ET §§ 102.02(a), (c).

17. After receiving the engagement team's initial review comments from Ramírez, the Lead Partner informed Ramírez and the Senior that the engagement team needed to revise the audit work papers ahead of the inspection, including to address the comments from the engagement team's review. In response, on September 21, the Senior forwarded the "To do PCAOB" email to other members of the engagement team, copying Ramírez, indicating that they should make changes to the work papers to address the comments Ramírez had forwarded to the Lead Partner.

18. From September 21 to October 2, 2016, the Lead Partner also sent Ramírez and the Senior a series of emails providing additional detailed comments for the engagement team to address through further revisions to the work papers. During that same period, other professionals whom the Lead Partner enlisted to help review the Component Audit work papers also provided comments to Ramírez and the Senior for consideration.

19. In some of the emails, the Lead Partner noted that it was possible to see in the revised versions of the work papers that some of the changes had been made in September 2016, and he instructed Ramírez and the Senior to alter those dates.

20. Between September 19 and October 9, 2016, the engagement team, working under Ramírez's supervision, made changes to the work papers to address the comments that they, the Lead Partner and others had made during the reviews described in Paragraphs 14-19, above. Ramírez also enlisted the help of another KPMG Colombia staff member, who had not been part of the engagement team, to assist with making changes to the audit work papers.

21. Ramírez coordinated and reviewed the changes that members of the Firm's engagement team and staff performed pursuant to the instructions and emails that the Lead Partner and others sent. When doing so, Ramírez provided guidance, instructions, and assistance to the engagement team members to ensure that they made the changes that Lead Partner and others had instructed, and to ensure that the altered work papers were backdated. While doing so, Ramírez was specifically aware that the engagement team had obtained an administrative password to alter the clocks on the computers the team members were using to alter the work papers, so that they could backdate the revised work papers to a date that was prior to the documentation completion date. Ramírez was specifically aware that work papers that the engagement team revised after the documentation completion date, while acting under his supervision: (1) did not reflect the date they were changed or the reason(s) they were changed, and (2) had, in fact, been backdated.

22. Ramírez understood that altering and backdating the work papers, as described above, would create the false appearance that the improperly modified and backdated work papers constituted the complete and final set of timely archived audit documentation. Ramírez

also knew or was reckless in not knowing that KPMG Colombia provided the improperly modified and backdated work papers to DRI during the inspection fieldwork, which took place from October 10 to October 21, 2016.

23. During the inspection, Ramírez participated in a preliminary kick-off meeting with DRI about the Component Audit. Despite his involvement in the modifications described above, and despite having previously signed the engagement profile indicating that no changes had been made to the audit documentation subsequent to the documentation completion date, Ramírez did not inform DRI or anyone else at the PCAOB that the work papers provided to DRI had been improperly modified and backdated, or provide DRI with information about the actual dates the work papers were modified and the reasons they were modified after the documentation completion date.

24. As a result of the above-described conduct, Ramírez violated PCAOB Rule 4006, AS 3, and ET § 102 in connection with the Board's 2016 inspection of the Firm and DRI's review of the Component Audit.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Edgar Mauricio Ramírez Rueda is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Edgar Mauricio Ramírez Rueda is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[16]

[16] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Ramírez. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

C. Pursuant to PCAOB Rule 5302(b), Edgar Mauricio Ramírez Rueda may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order; and

D. Respondent understands that the determination to accept Respondent's offer, without imposing a civil money penalty, is contingent upon the accuracy and completeness of Respondent's financial information provided to the Division of Enforcement and Investigations (the "Division"). Respondent also understands that, if at any time following this settlement the Division obtains information indicating that any financial information provided by Respondent—including, but not limited to, any information concerning assets, income, liabilities, or net worth—was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such information was provided, the Division may, at any time following entry of this Order, petition the Board to: (a) reopen this matter to consider whether Respondent provided accurate and complete financial information at the time such information was provided to the Division; and (b) seek an order directing payment of the maximum civil money penalty allowable under the law or any lesser amount determined to be appropriate. No other issue shall be considered in connection with this petition other than whether the financial information provided by Respondent was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondent may not, by way of defense to any such petition: (i) contest the findings in this Order; (ii) assert that payment of a civil money penalty should not be ordered; (iii) contest the amount of the civil money penalty to be ordered; or (iv) assert any defense to liability or remedy, including, but not limited to, any defense based on statute of limitations or any other time-related defense.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 6, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Marco Alexander Rodríguez Ramírez,

Respondent.

PCAOB Release No. 105-2022-037

December 6, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Marco Alexander Rodríguez Ramírez ("Rodríguez" or "Respondent"); and

(2) barring Rodríguez from being associated with a registered public accounting firm.[1]

The Board is imposing these sanctions on the basis of its findings that Rodríguez failed to cooperate with the Board's 2016 inspection of KPMG S.A.S. ("KPMG Colombia" or the "Firm") by participating in the improper alteration of work papers for an issuer audit that was subject to inspection.[2]

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c)

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[1] Rodríguez may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

[2] The Board determined to accept Rodríguez's offer of settlement, which does not require him to pay a civil money penalty, after considering his financial resources. Based on Rodríguez's conduct, the Board would have imposed a civil money penalty of $25,000 on him in this settlement, if it had not taken his financial resources into consideration.

of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Board or in which the Board is a party, and without admitting or denying the findings contained in the Order, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings (which is admitted) and the facts, findings, and violations in paragraphs 1 and 14-20 (which are admitted), Respondent consents to the entry of this Order as set forth below.[3]

III.

On the basis of Respondent's Offer, the Board finds that:[4]

A. Respondent

1. **Marco Alexander Rodríguez Ramírez** was, at all relevant times, an audit senior at KPMG Colombia and the audit senior for the audit procedures the Firm performed over certain Colombian subsidiaries of Issuer A in connection with the audit of Issuer A's financial statements for the year ended December 31, 2015 (the "Component Audit"). Rodríguez is licensed as an accountant by the Junta Central de Contadores in Bogota D.C., Colombia (professional card no. 149387). At all relevant times, Rodríguez was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

[3] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[4] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

B. Relevant Entities and Individuals

2. **KPMG Colombia** is a simplified stock company headquartered in Bogotá, Republic of Colombia.[5] KPMG Colombia is a member of the KPMG international network of firms ("KPMG Global"). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

3. The "**Lead Partner**" was formerly a partner of KPMG Colombia. He served as the lead partner for the Component Audit.[6]

4. The "**Manager**" was formerly an employee of KPMG Colombia. He served as the manager for the Component Audit.[7]

5. **Issuer A** was, at all relevant times, an "issuer" within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Another member firm of KPMG Global served as the principal auditor for Issuer A's financial statements for the year ended December 31, 2015, and instructed KPMG Colombia to conduct the Component Audit.

C. Summary

6. This matter involves Respondent's failure to cooperate with the PCAOB's 2016 inspection of KPMG Colombia, and Respondent's related violations of PCAOB audit documentation standards and ethics rules and standards. After the completion of the Component Audit and the expiration of the applicable documentation completion date, Respondent learned that the PCAOB's Division of Registration and Inspections ("DRI") would be inspecting the Component Audit. At the Lead Partner's direction, Respondent then improperly modified the Firm's electronic work papers for the Component Audit and backdated those work papers to conceal that they had been modified. Rodríguez also provided instructions to other members of the Component Audit engagement team in connection with their efforts to make improper modifications to the work papers in anticipation of the inspection.

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5 *See KPMG S.A.S.*, PCAOB Rel. No. 105-2022-034 (Dec. 6, 2022).

6 *See José Daniel Meléndez Giménez*, PCAOB Rel. No. 105-2022-035 (Dec. 6, 2022).

7 *See Edgar Mauricio Ramírez Rueda*, PCAOB Rel. No. 105-2022-036 (Dec. 6, 2022).

7. As a result, and as further described below, Respondent violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, AS 3, *Audit Documentation*, and ET § 102, *Integrity and Objectivity*.[8]

D. Respondent Violated PCAOB Rules, Auditing Standards, and Ethics Standards in Connection with the PCAOB's 2016 Inspection

i. Rules and Standards

8. PCAOB Rule 4006 requires that "[e]very registered public accounting firm, and every associated person of a registered public accounting firm . . . cooperate with the Board in the performance of any Board inspection."[9] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information."[10]

9. PCAOB rules also require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[11] Among other requirements, registered firms and their associated persons must comply with the auditing, ethics, and quality control standards adopted by the Board.[12]

10. The Board's audit documentation standard states, in part: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information

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[8] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audit discussed herein.

[9] PCAOB Rule 4006.

[10] *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017) (citations omitted), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018); *see also* PCAOB Staff Audit Practice Alert No. 14, at *3 (Apr. 21, 2016) ("This duty to cooperate includes an obligation not to provide improperly altered documents or misleading information in connection with the Board's inspection processes." (citations omitted)).

[11] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[12] *See* PCAOB Rule 3200T, *Interim Auditing Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*; Rule 3500T, *Interim Ethics and Independence Standards*.

was added, the name of the person who prepared the additional documentation, and the reason for adding it."[13]

11. PCAOB ethics standards provide, in part, that an associated person "shall maintain objectivity and integrity" and "shall not knowingly misrepresent facts" in the performance of professional services.[14] An associated person knowingly misrepresents facts in violation of ET § 102 when, for example, he or she knowingly: (i) makes, or permits or directs another to make, materially false and misleading entries in an entity's records; or (ii) signs, or permits or directs another to sign, a document containing materially false and misleading information.[15]

ii. Respondent Improperly Modified Component Audit Work Papers After the Documentation Completion Date and in Anticipation of a PCAOB Inspection

12. After completing the Component Audit, KPMG Colombia sent an interoffice report to the principal auditor by no later than February 25, 2016. The principal auditor released its audit report for the Issuer A audit by no later than February 26, 2016. As a result, the documentation completion date for all audit work performed for the Issuer A audit was no later than April 11, 2016.

13. On September 7, 2016, DRI informed KPMG Colombia that it would inspect the Component Audit. DRI identified (a) net sales and accounts receivable, and (b) property, plant, and equipment as the focus areas for the inspection.

14. On or before September 16, 2017, after learning that DRI would inspect the Component Audit, the Lead Partner instructed the Manager and Rodríguez to perform a review of the audit documentation for that engagement, with assistance from the other members of the engagement team. The Lead Partner further instructed the Manager and Rodríguez to provide him with comments from that review.

15. Rodríguez, the Manager, and the other members of the engagement team thereafter performed the review as directed. On September 19, the Manager assembled the comments he received back from the engagement team's review of the Component Audit work papers, including comments from Rodríguez, and forwarded them to the Lead Partner as an

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13 AS 3 ¶¶ 15-16 (italics in original).

14 *See* ET § 102.01.

15 *See* ET §§ 102.02(a), (c).

attachment to an email with the subject "To do PCAOB." The Manager copied Rodríguez on that email.

16. After receiving the engagement team's initial review comments from the Manager, the Lead Partner informed Rodríguez and the Manager that the engagement team needed to revise the audit work papers ahead of the inspection, including to address the comments from the engagement team's review. In response, on September 21, Rodríguez forwarded the "To do PCAOB" email to other members of the engagement team, copying the Manager, indicating that they should make changes to the work papers to address the comments the Manager had forwarded to the Lead Partner. In the email, Rodríguez also indicated that the engagement team members should make the changes outside of the existing electronic audit work paper database (the "eAudit database"). The purpose of revising the work papers outside of the eAudit database was to prevent certain software from capturing the actual dates the work papers were revised. At the time of his September 21 email, Rodríguez understood that work papers modified outside the eAudit database could later be substituted into the eAudit database or a local copy of the eAudit database in a manner that would conceal their modification date.

17. From September 21 to October 2, 2016, the Lead Partner also sent Rodríguez and the Manager a series of emails providing additional detailed comments for the engagement team to address through further revisions to the work papers. During that same period, other professionals whom the Lead Partner enlisted to help review the Component Audit work papers also provided comments to Rodríguez and the Manager for consideration.

18. In some of the emails, the Lead Partner noted that it was possible to see in the revised versions of the work papers that some of the changes had been made in September 2016, and he instructed Rodríguez and the Manager to alter those dates.

19. Between September 19 and October 9, 2016, Rodriguez made changes to the work papers to address certain of the comments that the Lead Partner and others had made during the reviews described in Paragraphs 14-18, above. Pursuant to the Lead Partner's instructions, Rodríguez personally altered and backdated multiple work papers between the date that he was made aware that KPMG Colombia's work on the Component Audit had been selected for inspection and the start of that inspection. Rodríguez knew he was making those changes after the documentation completion date for the Component Audit and that the revised audit documentation that would be provided to DRI, but he did not indicate the date he was making those changes or the reason(s) he was making them. To the contrary, Rodríguez backdated his changes to dates before the documentation completion date, and concealed the actual dates he made the changes, by improperly adjusting the date on a computer clock using an administrative passcode.

20. As a result of the above-described conduct, Rodríguez violated PCAOB Rule 4006, AS 3, and ET § 102 in connection with the Board's 2016 inspection of the Firm and DRI's review of the Component Audit.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Marco Alexander Rodríguez Ramírez is hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Marco Alexander Rodríguez Ramírez is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[16]

C. Pursuant to PCAOB Rule 5302(b), Marco Alexander Rodríguez Ramírez may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order; and

D. Respondent understands that the determination to accept Respondent's offer, without imposing a civil money penalty, is contingent upon the accuracy and completeness of Respondent's financial information provided to the Division of Enforcement and Investigations (the "Division"). Respondent also understands that, if at any time following this settlement the Division obtains information indicating that any financial information provided by Respondent—including, but not limited to, any information concerning assets, income, liabilities, or net worth—was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such information was provided, the Division may, at any

[16] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Rodríguez. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

time following entry of this Order, petition the Board to: (a) reopen this matter to consider whether Respondent provided accurate and complete financial information at the time such information was provided to the Division; and (b) seek an order directing payment of the maximum civil money penalty allowable under the law or any lesser amount determined to be appropriate. No other issue shall be considered in connection with this petition other than whether the financial information provided by Respondent was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondent may not, by way of defense to any such petition: (i) contest the findings in this Order; (ii) assert that payment of a civil money penalty should not be ordered; (iii) contest the amount of the civil money penalty to be ordered; or (iv) assert any defense to liability or remedy, including, but not limited to, any defense based on statute of limitations or any other time-related defense.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 6, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Scott J. Reams, CPA, Brandon R. Keyes, CPA, and James C. Budge, CPA,

Respondents.

PCAOB Release No. 105-2022-038

December 20, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) barring Scott J. Reams, CPA ("Reams") from being an associated person of a registered public accounting firm[1] and imposing a $35,000 civil money penalty upon Reams;

(2) barring Brandon R. Keyes, CPA ("Keyes") from being an associated person of a registered public accounting firm[2] and imposing a $35,000 civil money penalty upon Keyes; and

(3) barring James C. Budge, CPA ("Budge") from being an associated person of a registered public accounting firm[3] and imposing a $25,000 civil money penalty upon Budge.[4]

The Board is imposing these sanctions on the basis of its findings that Respondents violated PCAOB rules and standards in connection with two audits of an issuer.

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[1] Reams may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

[2] Keyes may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

[3] Budge may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

[4] Reams, Keyes, and Budge are referred to in this Order, collectively, as the "Respondents."

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[5]

III.

On the basis of Respondents' Offers, the Board finds that:[6]

A. Respondents

1. **Scott J. Reams** was, at all relevant times, a certified public accountant licensed by the states of California (license no. 82008) and Utah (license no. 6814250-2601). Reams was, at all relevant times, a partner of WSRP, LLC ("WSRP"). Reams served as the engagement partner for WSRP's integrated audit of the March 31, 2019 consolidated financial statements and internal control over financial reporting of Freedom Holding Corp. ("Freedom") ("2019 Audit"). Reams was, at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[5] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[6] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

2. **Brandon R. Keyes** was, at all relevant times, a certified public accountant licensed by the state of Utah (license no. 7780361-2601). Keyes was a senior manager at WSRP from December 2017 to 2019, and a partner of WSRP from 2020 to the present. Keyes served as a senior manager for the 2019 Audit and served as the engagement partner for WSRP's March 31, 2020 integrated audit of the consolidated financial statements and internal control over financial reporting of Freedom ("2020 Audit"). Keyes was, at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **James C. Budge** was, at all relevant times, a certified public accountant licensed by the state of Utah (license no. 162679-2601). Budge was, at all relevant times, a partner of WSRP. Budge served as the engagement quality review ("EQR") partner for the 2019 and 2020 Audits. Budge was, at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities

4. **WSRP, LLC** was, at all relevant times, a limited liability company organized under the laws of the state of Utah and headquartered in Salt Lake City, Utah. At all relevant times, WSRP was licensed by the state of Utah (license no. 109193-2603), among others. WSRP was, at all relevant times, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. WSRP performed an integrated audit of Freedom's 2019 and 2020 financial statements and internal control over financial reporting. WSRP issued unqualified opinions for both audits.

5. **Freedom Holding Corp.** was, at all relevant times, a Nevada corporation headquartered in Almaty, Kazakhstan, with supporting administrative offices in Russia, Cyprus, and the United States. Freedom's public filings disclose that it has several operating subsidiaries that engage in a broad range of activities in the securities industry, including retail securities brokerage, investment research, investment counseling, securities trading, and investment banking and underwriting services in Eastern Europe and Central Asia. At all relevant times, one individual served as the CEO, Chair, and the controlling (over 70%) shareholder of Freedom ("Freedom CEO"). Freedom was, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

6. In 2014, the Freedom CEO created a corporation ("**the Belize Affiliate**") that, at all relevant times, was registered and licensed as a broker dealer in Belize. The Belize Affiliate is an introducing broker, and its customers are retail investors many of whom are located in Eastern Europe. The Freedom CEO is the sole owner of the Belize Affiliate. Freedom and the Belize Affiliate were identified by Freedom as related parties under U.S. Generally Accepted Accounting Principles ("U.S. GAAP").

C. Summary

7. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the 2019 and 2020 Audits. Reams authorized WSRP's issuance of audit reports containing unqualified opinions for the 2019 Audit, and Keyes authorized WSRP's issuance of audit reports containing unqualified opinions for the 2020 Audit. For both Audits, Budge provided concurring approval of issuance of WSRP's audit reports.

8. Reams and Keyes identified and knew there were risks of material misstatement with respect to revenues and margin loans receivable related to transactions with the Belize Affiliate. Reams and Keyes also knew that: (a) transactions with the Belize Affiliate constituted the majority of Freedom's reported revenue in 2019 and 2020; (b) the Belize Affiliate and Freedom were related parties, both of which were under control of the Freedom CEO; and (c) Reams and Keyes did not have access to the records and personnel of the Belize Affiliate needed to evaluate material portions of Freedom's financial statements.

9. Notwithstanding this knowledge, Reams and Keyes failed to adequately respond to risks of material misstatement. First, Reams and Keyes failed to comply with PCAOB auditing standards when evaluating Freedom's identification of and accounting for the relationship and transactions between Freedom and the Belize Affiliate. Second, Reams and Keyes failed to identify that Freedom's 2019 and 2020 financial statements did not contain necessary disclosures regarding its relationship with the Belize Affiliate. Third, Reams and Keyes failed to gather sufficient appropriate audit evidence to evaluate Freedom's reported margin loans to the Belize Affiliate. Fourth, Reams and Keyes failed to gather sufficient appropriate audit evidence to evaluate commission revenue from securities transactions processed by Freedom on behalf of the Belize Affiliate. Fifth, Reams and Keyes failed to evaluate whether the Belize Affiliate was a variable interest entity that, potentially, may have needed to be consolidated with Freedom.

10. In addition, Budge violated AS 1220, *Engagement Quality Review*, by providing his concurring approval for the issuance of the Firm's 2019 and 2020 audit reports without performing the required EQRs with due professional care.

D. Background: The Related Party Relationship Between Freedom and the Belize Affiliate

11. In 2014, Freedom's CEO created FFIN Securities, Inc. This company subsequently became Freedom in 2015, as a result of a reverse merger with an existing inactive issuer, BMB Munai, Inc. As noted previously, Freedom's CEO is also the majority shareholder of Freedom.

12. At all relevant times, the Belize Affiliate acted as an introducing broker to Freedom. The Belize Affiliate's retail customers requested trades from the Belize Affiliate, which the Belize Affiliate passed to Freedom. Freedom then passed these orders to a prime broker for execution. Funding for these transactions could be provided by margin loans from Freedom to the Belize Affiliate, which in turn were extended to the Belize Affiliate's retail customers. The margin loans were collateralized by the securities purchased for the Belize Affiliate's customers.

13. Freedom recorded these transactions in the name of the Belize Affiliate. Reams and Keyes understood at the time of the Audits, however, that these transactions were for the benefit of the Belize Affiliate's retail customers, not for the Belize Affiliate itself.

14. In 2019, the Belize Affiliate was responsible for 87% of Freedom's reported commission and fee revenue and 68% of margin loans receivable. In 2020, the Belize Affiliate was responsible for 81% of both Freedom's reported commission and fee revenue and margin loans receivable.

15. As discussed below, neither Reams nor Keyes took sufficient steps to understand the transactions between the Belize Affiliate and its retail customers. Neither engagement partner had any contact with the Belize Affiliate's retail customers, nor knew their identities. Also, neither engagement partner had access to the terms of the agreements between the Belize Affiliate and its retail customers.

E. Reams and Keyes Violated PCAOB Rules and Standards in Connection with the Audits

16. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[8] As described below, Reams and Keyes

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[7] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[8] *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*.

(collectively, the "Engagement Partners") violated these and other PCAOB rules and standards in connection with the Audits.

i. Reams and Keyes Failed to Make Required Inquiries of Freedom

a. Business Purpose Inquiry

17. PCAOB standards require auditors to make certain inquiries of company management concerning related party transactions.[9] Auditors should perform procedures to obtain an understanding of the company's relationships and transactions with its related parties that might reasonably be expected to affect the risks of material misstatement of the financial statements.[10] An auditor should inquire of management regarding the business purpose for entering into a transaction with a related party versus an unrelated party.[11]

18. The Engagement Partners understood that the transactions between Freedom and the Belize Affiliate were significant to Freedom's 2019 and 2020 financial statements. The Engagement Partners also understood that the trade orders from the Belize Affiliate to Freedom were for the benefit of the Belize Affiliate's retail customers. The Engagement Partners needed to inquire of management to determine whether there was a valid business purpose for Freedom transacting with the Belize Affiliate as opposed to transacting directly with the retail customers of the Belize Affiliate, who were not related parties, and who were, in fact, the actual parties to the transactions with Freedom.

19. During the Audits, the Engagement Partners failed to inquire about the business purpose of these related party transactions. For example, they failed to inquire why the Belize Affiliate's retail customers could not have gone directly to Freedom with their trade orders, as opposed to placing their orders with the Belize Affiliate then passing those orders to Freedom.

20. Likewise, neither of the Engagement Partners learned why Freedom's CEO set up two separate entities—the Belize Affiliate and Freedom—and then funneled retail trade orders through the non-public, non-audited entity (the Belize Affiliate) on their way to processing by Freedom.

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9 *See* AS 2410.05, *Related Parties*.

10 *Id.* at .03.

11 *Id.* at .05(e).

b. Financial Capability Inquiry

21. For related party transactions that are required to be disclosed in the financial statements or determined to be a significant risk, PCAOB auditing standards state that the auditor should "[e]valuate the financial capability of the related parties with respect to significant uncollected balances, loan commitments, supply arrangements, guarantees, and other obligations, if any."[12] As described below, the Engagement Partners failed to evaluate the financial capability of the Belize Affiliate, despite the fact the majority of Freedom's margin loans were receivable from the Belize Affiliate.

22. The Engagement Partners understood that the Belize Affiliate was placing trade orders for the benefit of the Belize Affiliate's retail customers. The Engagement Partners further understood that these transactions included trade orders funded by margin loans from Freedom. The retail customers of the Belize Affiliate, however, were not identified in the trade orders or the related Freedom records, and Reams and Keyes had no access to information on the financial capability of the Belize Affiliate's customers. The Belize Affiliate placed trade orders with Freedom for their customers in the Belize Affiliate's own name. And Freedom extended margin loans to the Belize Affiliate in the Belize Affiliate's own name. The Engagement Partners identified these margin loans as presenting a significant risk of material misstatement in both 2019 and 2020.

23. The securities purchased by the Belize Affiliate's retail customers, including securities that were collateralizing margin loans, were identified in Freedom's books and records as being owned by the Belize Affiliate. Nonetheless, the Engagement Partners understood that these securities were owned by the Belize Affiliate's retail customers.

24. In 2019, Freedom reported total margin lending receivables of $47 million and the Belize Affiliate was responsible for $32 million, or 68%, of that total. In 2020, Freedom reported total margin lending receivables of $108 million and the Belize Affiliate was responsible for $87 million, or 81%, of that total.

25. The Engagement Partners failed to obtain and evaluate information about the Belize Affiliate's retail customers, including any agreements between the Belize Affiliate and its retail customers. Freedom management advised the Engagement Partners that the Belize Affiliate's client information was proprietary to the Belize Affiliate and not readily available. The Engagement Partners did not know the terms of the agreements between the Belize Affiliate

[12] *Id.* at .12(d).

and its retail customers, including if such terms were consistent with the terms of the agreements between the Belize Affiliate and Freedom.

26. For example, the Engagement Partners failed to inquire about and to determine whether the commission and margin lending rates that Freedom was charging the Belize Affiliate were consistent with the rates that the Belize Affiliate was charging its retail customers. If Freedom was charging the Belize Affiliate higher commission rates than the Belize Affiliate was charging its own customers, that could have caused the Belize Affiliate, a privately held company, to incur losses for the benefit of Freedom's apparent financial performance as a public company.

27. Similarly, the Engagement Partners failed to inquire about and to determine whether the agreements between the Belize Affiliate and its retail customers required the customers to make securities purchased on margin available as collateral to Freedom in the event that the retail customers defaulted on their margin loans. As a result, the Engagement Partners did not know if Freedom had the right to seize collateral in the event of a default on the margin loans.

28. The Engagement Partners also lacked information about the stand-alone financial viability of the Belize Affiliate. At the time of the Audits, neither Reams nor Keyes had any information about the financial condition of the Belize Affiliate, and they were not able to evaluate the financial capability of the Belize Affiliate to perform on significant uncollected balances for the margin loans that Freedom extended to the Belize Affiliate. Likewise, the Engagement Partners were unable to determine whether the collateral purportedly securing Freedom's margin loans to the Belize Affiliate was, in fact, available to the Belize Affiliate in the event of a default by a retail customer of the Belize Affiliate.[13]

c. Reams and Keyes Failed to Adequately Evaluate Financial Statement Disclosures

29. PCAOB standards require an auditor to evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[14] "As part of the evaluation of the presentation of the financial statements, the auditor should evaluate whether the financial statements contain the

[13] *Id.* at .12(d); *see also* AS 1105.04.

[14] AS 2810.30*, Evaluating Audit Results.*

information essential for a fair presentation of the financial statements in conformity with the applicable financial reporting framework."[15]

30. PCAOB auditing standards state that "[t]he auditor must evaluate whether related party transactions have been properly accounted for and disclosed in the financial statements."[16] During the Audits, however, the Engagement Partners failed to evaluate financial statement disclosures in compliance with PCAOB auditing standards.

31. The Engagement Partners understood that the Belize Affiliate was responsible for the majority of Freedom's revenue and margin loan balances for both 2019 and 2020. Also, the Engagement Partners understood that Freedom and the Belize Affiliate were related parties.

32. U.S. GAAP required Freedom to disclose certain information concerning its related party transactions.[17] The Engagement Partners, however, failed to evaluate whether Freedom's 2019 and 2020 financial statement disclosures complied with U.S. GAAP and included: (a) a description of the nature of the relationship between Freedom and the Belize Affiliate; (b) a description of the transactions between Freedom and the Belize Affiliate and the related amounts necessary for an understanding of the effects of these transactions on Freedom's financial statements; (c) a description of the terms and manner of the settlement of balances between Freedom and the Belize Affiliate; (d) the identification of the Belize Affiliate by name; and (e) disclosure of the Freedom CEO's control of both Freedom and the Belize Affiliate.[18]

33. The foregoing required disclosures were outlined in GAAP disclosure checklists that were reviewed by Reams in 2019 and Keyes in 2020. Nonetheless, the Engagement Partners failed to evaluate whether the 2019 and 2020 Freedom financial statements adequately disclosed the related party relationship between Freedom and the Belize Affiliate in conformity with U.S. GAAP.[19]

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15 *Id.* at .31.

16 AS 2410.17.

17 FASB ASC 850, *Related Party Disclosures*.

18 *See id.* at 850-10-50-1 (items a-c, above), -3 (item d, above), and -6 (item e, above); *see also* AS 2810.30 and .31.

19 *See* AS 2810.30 and .31.

34. Reams and Keyes also failed to evaluate whether separate presentation on the face of the financial statements of the Belize Affiliate transactions and balances with Freedom was essential for a fair presentation of Freedom's financial statements in conformity with U.S. GAAP.[20]

d. Reams and Keyes Failed to Adequately Evaluate Freedom's Margin Loans to the Belize Affiliate

35. PCAOB standards state that "[t]he auditor must plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion."[21] "To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based."[22]

36. In both 2019 and 2020, the Engagement Partners identified margin loans as presenting a significant risk of material misstatement. The Engagement Partners failed to gather sufficient appropriate audit evidence to evaluate margin lending between Freedom and the Belize Affiliate.

37. First, the Engagement Partners failed to gather sufficient appropriate audit evidence to confirm the amounts of Freedom's margin loans to the Belize Affiliate. These margin loans were not identified by either individual transactions or individual Belize Affiliate retail customers. Instead, they took the form of a rolling balance of total margin loans based on all Belize Affiliate transactions, all of which were recorded in the name of the Belize Affiliate. To evaluate the recorded amounts, Reams and Keyes obtained confirmation responses from the Belize Affiliate that purported to confirm, as of Freedom's fiscal year end date, the total margin loan balances receivable from the Belize Affiliate. The audit evidence resulting from this confirmation procedure was not appropriate, as it demonstrated no more than the fact that two related parties, both under the Freedom CEO's control, kept their books in agreement. These confirmation responses did not provide audit evidence that the total recorded amount of margin loans was the result of actual and valid individual margin loan transactions between Freedom and the Belize Affiliate. Because of the unreliability of the audit evidence obtained through the confirmation process, Reams and Keyes were required to, but did not, obtain sufficient appropriate audit evidence to support the recorded amount of Freedom's margin loans to the Belize Affiliate.

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[20] *Id.*

[21] AS 1105.04.

[22] *Id.* at .06.

38. Second, Reams and Keyes failed to gather sufficient appropriate audit evidence to evaluate whether the margins loans to the Belize Affiliate, as recorded, were properly valued. Reams and Keyes had no information on the financial condition of the Belize Affiliate and thus could not evaluate its ability to repay amounts borrowed, absent reliance on collateral purportedly provided by the Belize Affiliate's customers. Reams and Keyes, however, failed to gather sufficient appropriate audit evidence to verify the existence of the securities that were supposedly serving as collateral for the margin loans to the Belize Affiliate. These securities were owned by the Belize Affiliate's retail customers, and Reams and Keyes failed to seek or obtain audit evidence that Freedom had the right to any such collateral in the event of a margin loan default.

39. Third, the Engagement Partners failed to gather sufficient appropriate audit evidence to evaluate the sufficiency of this collateral to support Freedom's loans to the Belize Affiliate. The Engagement Partners performed walk-throughs of certain controls that Freedom claimed it employed to evaluate collateral sufficiency. However, because the Engagement Partners identified margin lending as raising a significant risk of material misstatement, they needed to perform substantive procedures to test the existence and sufficiency of the collateral and could not rely solely on tests of controls, which they failed to do.[23]

40. Further, the controls on which the Engagement Partners relied could not determine if individual margin loans were sufficiently collateralized, as these controls simply compared total Belize Affiliate margin loan balances with total collateral value. The Engagement Partners failed to review the margin loan agreements between the Belize Affiliate and its retail clients, and therefore lacked knowledge as to how collateral applied to individual margin loans, including whether the securities owned by one Belize Affiliate client could serve as collateral for the margin loans of other Belize Affiliate clients.

41. As a result of the failures by the Engagement Partners to adequately evaluate Freedom's margin loans to the Belize Affiliate, they violated PCAOB standards in their audit of margin loans receivable.[24]

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[23] *See* AS 2301.11, *The Auditor's Responses to the Risks of Material Misstatement* ("For significant risks, the auditor should perform substantive procedures, including tests of details, that are specifically responsive to the assessed risks.").

[24] *See* AS 1105.04 and .06; AS 2301.11.

ii. Reams and Keyes Failed to Adequately Evaluate Revenue from the Belize Affiliate

42. The Engagement Partners also failed to gather sufficient appropriate audit evidence to evaluate commission revenue that Freedom recognized on the Belize Affiliate trade orders.

43. First, the Engagement Partners failed to evaluate whether U.S. GAAP criteria governing revenue recognition were met, namely, whether "[t]he parties to the contract have approved the contract."[25] The Engagement Partners understood that the transactions Freedom processed in the name of the Belize Affiliate were, in fact, for the Belize Affiliate's retail customers. But the Engagement Partners failed to perform any procedures, or obtain any audit evidence, to evaluate whether the Belize Affiliate's customers requested these trades and authorized the Belize Affiliate to pay commissions to Freedom for the trades. Instead, the Engagement Partners assumed, without audit evidence, that the commissions paid to Freedom, which ultimately were borne by the Belize Affiliate's retail customers, were known to the Belize Affiliate customers and that they had agreed to pay these commissions.

44. Second, the Belize Affiliate paid certain fixed monthly fees to Freedom. There was a risk of material misstatement that the Belize Affiliate could make payments to Freedom for no purpose other than to create fictitious fee income for Freedom. The Engagement Partners, however, failed to obtain sufficient appropriate audit evidence concerning the nature of these fees and whether they had a legitimate business purpose. Further, the Engagement Partners failed to obtain and evaluate documentation supporting the business purpose, if any, of these fixed monthly fees. The Engagement Partners also did not seek to understand the source of the payment of these fees, including whether these fees were ultimately borne by the Belize Affiliate's retail customers. Finally, in the event that Belize Affiliate retail customer funds were used to pay these fees, the Engagement Partners did not know, and failed to determine, whether the Belize Affiliate's customers had authorized the payment of these fees.[26] Accordingly, the Engagement Partners violated PCAOB standards.[27]

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[25] ASC 606-10-05-4(a), *Revenue from Contracts with Customers*.

[26] *See* AS 1105.04-.05.

[27] *See id.* at .04-.06; AS 2301.11; *see also* AS 2410.12

a. Reams and Keyes Failed to Evaluate Whether the Belize Affiliate was a Variable Interest Entity and Needed to be Consolidated

45. PCAOB auditing standards required the Engagement Partners to evaluate whether Freedom's selection and application of accounting principles were appropriate for its business and consistent with the applicable financial reporting framework and accounting principles used in the industry.[28] Reams and Keyes, however, failed to evaluate, under U.S. GAAP, whether the Belize Affiliate was a variable interest entity ("VIE"), and whether the Belize Affiliate needed to be consolidated with Freedom.[29]

46. Although Reams and Keyes knew that Freedom provided the majority of the margin loans that supported the Belize Affiliate's operations, they failed to obtain any information concerning the financial condition of the Belize Affiliate. This information was necessary to determine if the Belize Affiliate was a VIE. More specifically, the Engagement Partners obtained no information and performed no evaluation of whether the Belize Affiliate was financially viable without the support that it received from Freedom in the form of margin loans.

47. As a result, the Engagement Partners failed to evaluate whether the Belize Affiliate was a VIE and failed to consider whether the Belize Affiliate needed to be consolidated with Freedom in violation of PCAOB standards.[30]

F. Budge Violated PCAOB Rules and Auditing Standards in Connection with his EQR of the Audits

48. An EQR is required for all audits and reviews conducted pursuant to PCAOB standards.[31] The EQR is intended to "serve as a meaningful check on the work performed by the

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[28] *See* AS 2110.12; *see also* AS 2810.30 ("The auditor must evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.").

[29] A VIE is a legal entity subject to consolidation under U.S. GAAP if one or more specified conditions exists. ASC 810-10-15-14, *Consolidation*. One condition that causes an entity to be a VIE is if the "total equity investment. . . at risk [in the entity] is not sufficient to permit the legal entity to finance its activities without additional subordinated financial support provided by any parties, including equity holders." *Id.* at 810-10-15-14(a).

[30] *See* AS 2110.12; AS 2810.30.

[31] *See* AS 1220.01.

engagement team."[32] The EQR partner is responsible for evaluating the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[33] Among other things, the EQR partner should evaluate the engagement team's assessment of, and audit responses to, significant risks identified by the engagement team or the EQR partner.[34] The EQR partner may provide concurring approval of issuance of an audit report only if, after performing the EQR with due professional care, he or she is not aware of a significant engagement deficiency.[35]

49. The engagement teams identified margin lending as presenting a significant risk of material misstatement for both 2019 and 2020. However, the EQR partner, Budge, failed to adequately evaluate the engagement teams' assessment of, and audit responses to, that risk.

50. Specifically, Budge failed to review the margin loan audit documentation for either year, nor did Budge know what the engagement team did to evaluate margin loans and related interest income during the Audits. In addition, Budge could not recall: (a) what the engagement teams did to evaluate margin lending to determine that receivables were fully collectible, (b) how the engagement teams tested the existence and valuation of the collateral securing the margin loans, or (c) whether the engagement teams were relying on confirmation responses to evaluate reported margin lending.

51. During the Audits, Budge also failed to evaluate properly the significant judgments made, and the related conclusions reached, by the engagement teams with respect to revenue.[36] Specifically, Budge failed to properly evaluate the engagement teams' assessment of, and audit responses to, significant risks identified by the engagement teams, including fraud risks related to revenue.[37] Budge knew that the engagement teams had identified revenue as a significant risk and a fraud risk. However, he failed to obtain an understanding of what, if any, procedures had been performed to evaluate revenue. Budge also failed to properly review the engagement teams' work performed, and documentation prepared, related to revenue.[38]

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32 PCAOB Rel. No. 2009-004 (July 28, 2009) at 2.

33 *See* AS 1220.09.

34 *See id.* at .10(b).

35 *See id.* at .12.

36 *See id.* at .09.

37 *See id.* at .10(b).

38 *See id.* at .11.

52. As a result of the failures described above, Budge provided his concurring approvals of issuance without performing his reviews with the requisite due professional care.[39]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Scott J. Reams is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act; [40]

B. After two years from the date of this Order, Scott J. Reams may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Brandon R. Keyes is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act; [41]

D. After two years from the date of this Order, Brandon R. Keyes may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

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[39] *See id*. at .12; AS 1015.01.

[40] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Reams. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[41] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act, discussed *supra*, at n. 40, will apply with respect to Keyes.

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), James C. Budge is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act; [42]

F. After one year from the date of this Order, James C. Budge may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4): (i) a civil money penalty in the amount of $35,000 is imposed on Scott J. Reams; (ii) a civil money penalty in the amount of $35,000 is imposed on Brandon R. Keyes; and (iii) a civil money penalty in the amount of $25,000 is imposed on James C. Budge. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Each Respondent shall pay his civil money penalty within ten days of the issuance of this order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. By consenting to this Order, each Respondent understands that failing to pay his civil money penalty, described above, may alone be grounds to deny any petition pursuant to PCAOB Rule 5302(b) for Board consent to associate with a registered public accounting firm. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or

[42] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act, discussed *supra*, at n. 40, will apply with respect to Budge.

reduction of any award of compensatory damages, by the amount of any part of Respondents' payment of the civil money penalties pursuant to this Order, in any private action brought against Respondents based on substantially the same facts as set out in the findings in this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 20, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Alvarez & Associates, Inc., Certified Public Accountants, and Vicente Alvarez, CPA,

Respondents.

PCAOB Release No. 105-2022-039

December 21, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Alvarez & Associates, Inc., Certified Public Accountants ("Firm"), and Vicente Alvarez, CPA ("Alvarez");

(2) suspending the Firm's registration for two years from the date of this Order;

(3) suspending Alvarez from being an associated person of a registered public accounting firm for two years from the date of this Order;

(4) imposing a $50,000 civil money penalty jointly and severally upon the Firm and Alvarez (collectively, "Respondents");

(5) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order; and

(6) requiring Alvarez to complete 40 hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license, within two years of the date of this Order.

The Board is imposing these sanctions on the basis of its findings that: (a) Respondents violated PCAOB rules and standards in connection with the fiscal year ("FY") 2018 and FY 2019 audits of financial statements and accompanying supplemental information, and reviews of exemption reports (collectively, "Audits") for multiple "non-carrying" broker-dealers (*i.e.,* a broker-dealer that does not maintain custody of customer funds and/or securities), (b) the

Firm violated PCAOB rules and quality control standards, and (c) Alvarez substantially contributed to the Firm's violations of PCAOB rules and quality control standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondents pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, and except as provided herein in Section IV, Respondents each consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

[1] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

A. Respondents

1. **Alvarez & Associates, Inc., Certified Public Accountants** is a corporation organized under the laws of the state of California and headquartered in Northridge, California. The Firm was, at all relevant times, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice by the California Board of Accountancy (license no. 8127) and in additional states.[3]

2. **Vicente "Vince" Alvarez, CPA** is the Firm's 95% owner and managing partner, and a certified public accountant licensed by the California Board of Accountancy (license no. 101046) and in additional jurisdictions.[4] He is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). He was the engagement partner for each of the relevant Audits.

B. Broker-Dealers

3. This matter involves 43 Audits performed for 39 broker-dealers who were, at all relevant times, a "broker" or "dealer," as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii). In addition, at all relevant times, the 39 broker-dealers were non-carrying brokers that claimed exemption from the requirements of Rule 15c3-3 under the Securities Exchange Act of 1934 ("Rule 15c3-3").[5]

C. Summary

4. This matter concerns the Firm's failure to comply with AS 1220, *Engagement Quality Review* ("AS 1220"),[6] with respect to the Audits of nine broker-dealers for FY 2019. With respect to each of these broker-dealer Audits, the Firm failed to document a concurring approval of issuance from the engagement quality reviewer, which was required pursuant to AS 1220.

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[3] The Firm is also licensed in the following additional states: Utah, Oregon, Washington, and Kansas.

[4] Alvarez is also licensed in New York and Washington D.C.

[5] 17 C.F.R. § 240.15c3-3.

[6] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the relevant broker-dealer Audits.

5. The Firm and Alvarez also violated AS 1215, *Audit Documentation* ("AS 1215") by repeatedly failing to timely assemble a complete and final set of audit documentation assembled for retention ("archived") by the documentation completion date (i.e., within 45 days after the report release date) for 43 broker-dealer Audits for FY 2018 and FY 2019. The Firm and Alvarez further violated AS 1215 by repeatedly failing to document the information required by AS 1215 when audit documentation was changed after the documentation completion date for 25 broker-dealer Audits for FY 2018 and FY 2019.

6. The Firm violated QC § 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20") because the Firm failed to establish an appropriate system of quality control to ensure that its engagement personnel complied with AS 1215 and AS 1220.

7. Finally, this matter concerns Alvarez's direct and substantial contribution to the Firm's violations of PCAOB rules and standards concerning the requirements for engagement quality reviews, audit documentation, and quality control. With respect to each of the Firm's audit and attestation violations and quality control violations, Alvarez took or omitted to take actions knowing, or recklessly not knowing, that his actions and omissions would directly and substantially contribute to the Firm's violations of AS 1220, AS 1215, and QC § 20. As a result, Alvarez violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations* ("PCAOB Rule 3502").

D. The Firm Violated PCAOB Rules and Auditing Standards Relating to Engagement Quality Reviews

8. PCAOB rules provide that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7]

9. AS 1220 requires that an engagement quality review be performed on all audits, and certain attestation engagements, including reviews of a broker-dealer's exemption report, that are conducted pursuant to PCAOB standards.[8] In addition, a firm may grant permission to a client to use an audit or attestation report only after an engagement quality reviewer provides concurring approval of issuance.[9]

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[7] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; Rule 3200, *Auditing Standards*.

[8] AS 1220.01.

[9] *See id*. at .13, .18C.

10. Documentation of an engagement quality review should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the engagement quality reviewer, including information that identifies the date the engagement quality reviewer provided concurring approval of issuance, or if no concurring approval of issuance was provided, the reasons for not providing the approval.[10]

11. An engagement quality reviewer must be independent of the company, perform the engagement quality review with integrity, and maintain objectivity in performing the review.[11] To maintain objectivity, the engagement quality reviewer and others who assist the reviewer should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team.[12]

12. The Firm failed to document the engagement quality reviewer's concurring approval of issuance for nine FY 2019 Audits. In each instance, the documentation of the engagement quality review failed to contain sufficient information to enable an experienced auditor having no previous connection with the engagement to understand the date that engagement quality reviewer provided concurring approval of issuance. As a result, the Firm repeatedly violated AS 1220.19.

13. Two of the Firm's FY 2019 engagement quality reviews also failed to comply with AS 1220 when the engagement quality reviewer failed to maintain objectivity by becoming part of the engagement team. In the two FY 2019 Audits, the engagement quality reviewer assumed the role of an engagement team member by directly performing certain audit procedures and preparing work papers for those two broker-dealer audits. Specifically, in one engagement, the engagement quality reviewer performed the audit procedures and prepared a work paper related to, the evaluation of the exemption provisions under Rule 15c3-3 that the broker-dealer identified in its 2019 exemption report. In another engagement, the engagement quality reviewer performed procedures and prepared a work paper related to the substantive testing of a certain financial statement account, which represented 82% of the broker-dealer's total assets as of December 31, 2019. Nevertheless, the Firm granted permission to the clients to use the engagement reports even though the engagement quality reviewer failed to maintain objectivity in violation of AS 1220. 06 and .07.

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10 *See id*. at .19.

11 *See id.* at .06.

12 *See id.* at .07.

E. The Firm and Alvarez Violated the Audit Documentation Standard by Failing to Archive Work Papers and Properly Document Modifications After the Documentation Completion Date

14. PCAOB standards require that "a complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[13] The standards also provide that documentation added after the documentation completion date must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.[14]

15. As the engagement partner, Alvarez was responsible for ensuring that the engagement teams archived the final set of audit documentation by the documentation completion date. During FY 2018 and 2019, the Firm's engagement teams, led by Alvarez, failed to assemble a complete and final set of audit documentation for retention by the documentation completion date for 43 broker-dealer Audits. The Firm belatedly archived the work papers for these broker-dealer Audits between six and 19 months after the documentation completion date. As a result, the Firm and Alvarez repeatedly violated AS 1215.15.

16. The Firm's engagement teams also modified certain work papers for 25 broker-dealer Audits after the documentation completion date, but failed to document the information required by AS 1215.16. Specifically, without explanation, the engagement teams inserted certain work papers into the audit file and added electronic sign-offs after the relevant document completion dates. In some instances, Respondents acknowledged, in response to PCAOB inquiries, that modifications were made to the audit work papers, but could not identify what changes were made to the audit work papers. As a result, the Firm and Alvarez repeatedly violated AS 1215.16.

F. The Firm Violated the Quality Control Standards

17. PCAOB rules require registered public accounting firms to comply with the Board's quality control standards.[15] PCAOB quality control standards, in turn, require each registered firm to effectively design, implement, and maintain a system of quality control for

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13 *See* AS 1215. at .15.

14 *See id*. at .16.

15 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

the firm's accounting and auditing practice.[16] The quality control system should include policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[17] Among other areas, a firm's policies and procedures should address the documentation of each engagement in accordance with applicable professional standards.[18] Further, PCAOB quality control standards also provide that policies and procedures, including monitoring procedures, should be established to provide the firm with reasonable assurance that its system of quality control was suitably designed and being effectively applied.[19]

18. Throughout the relevant period, the Firm lacked sufficient policies and procedures to provide reasonable assurance that the work performed by engagement personnel met applicable professional standards and the Firm's standards of quality with regard to its engagement quality reviews. Specifically, the Firm's policies did not require that the engagement quality reviewer document his concurring approval of issuance as required by AS 1220. The Firm also failed to maintain policies and procedures providing reasonable assurance that the engagement quality reviewer would maintain his objectivity.[20]

19. Throughout the relevant period, the Firm also lacked sufficient policies and procedures to provide reasonable assurance that the work performed by engagement personnel met applicable professional standards and the Firm's standards of quality with regard to audit documentation. Specifically, the Firm failed to have sufficient policies and procedures, including monitoring procedures, to ensure that work papers were archived within the documentation completion period, or that modifications in the work papers after the documentation completion date be made in compliance with AS 1215.

20. Accordingly, the Firm violated QC § 20.17, .18 and .20.

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16 QC §§ 20.01 and 20.02.

17 *See id*. at .17.

18 *See id*. at .18.

19 *See id* at .20.

20 AS 1220.04, Note.

G. Alvarez Contributed to the Firm's Violations of PCAOB Rules, Auditing Standards, and Quality Control Standards

21. PCAOB Rule 3502 states that "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."

22. Alvarez, the principal shareholder, owns 95% of the Firm and served as the Firm's managing and quality control partner for all relevant periods. He was also the engagement partner for all of the Firm's Audits during the relevant period. Accordingly, Alvarez was responsible for ensuring that the Firm complied with PCAOB rules and standards. Alvarez knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of AS 1220, AS 1215, and QC § 20, as described above. As a result, Alvarez violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Alvarez & Associates, Inc., Certified Public Accountants and Vicente Alvarez, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Alvarez & Associates, Inc., Certified Public Accountants is suspended for two years;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Vicente Alvarez, CPA is suspended for two years from being an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the

Act and PCAOB Rule 1001(p)(i);[21]

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon Alvarez & Associates, Inc., Certified Public Accountants and Vicente Alvarez, CPA jointly and severally.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm and Alvarez shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm and Alvarez as respondents in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any

[21] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Alvarez. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages in any private action brought against Respondents based on substantially the same facts as set out in the findings in this Order.

E. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that: (a) Firm personnel will document each engagement, including documentation of the engagement quality reviewer's concurring approval of issuance, in accordance with applicable professional standards; (b) the Firm will properly archive audits in accordance with professional standards, and properly document any changes to the audit documentation after the documentation completion date; and (c) the Firm has established monitoring procedures sufficient to enable it to obtain reasonable assurance that its system of quality control is suitably designed and being effectively applied.

2. Within 120 days of the entry of this Order, to provide a certification, signed by its managing partner to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.E.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

F. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Vicente Alvarez is required to complete, within two years from the date of this Order, 40 hours of professional education and training relating to PCAOB auditing standards and covering, among other topics, audit documentation in accordance with AS 1215, *Audit Documentation*, and the performance of engagement quality reviews in accordance with AS 1220, *Engagement Quality Review* (such hours shall be in addition to, and shall not be counted in, the

continuing professional education he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 21, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Martin Lundie, CPA,

Respondent.

PCAOB Release No. 105-2022-040

December 22, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Martin Lundie ("Lundie" or "Respondent");

(2) barring Lundie from being associated with a registered public accounting firm, and allowing him, after one year, to file a petition for Board consent to associate with a registered firm; and

(3) imposing a $65,000 civil money penalty on Lundie.

The Board is imposing these sanctions on Lundie on the basis of its findings that Lundie violated PCAOB rules and standards in connection with an audit of an issuer by inadequately evaluating a credit loss estimate used by management to calculate the issuer's allowance for doubtful accounts, as well as by inadequately testing various controls over that estimate and by failing to communicate certain matters to the issuer's audit committee concerning that estimate.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Martin Lundie**, CPA, at all relevant times was a chartered professional accountant licensed in Ontario, Canada (public accountant license no. 1-21137). Lundie is a partner in the Toronto, Canada office of registered public accounting firm Ernst & Young LLP ("EY Canada") until his retirement, effective December 31, 2022. Lundie is, and at all relevant times was, an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer

2. **Just Energy Group Inc.** ("Just Energy") is a Canadian Business Corporations Act corporation headquartered in Ontario, Canada. Just Energy was, at all relevant times, publicly traded on the Toronto Stock Exchange and the New York Stock Exchange and an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). According to public filings, Just Energy provided retail energy to residential and commercial customers. As a corporation domiciled in Canada and with securities registered in the United States, Just Energy filed Forms 40-F with the Securities and Exchange Commission ("SEC"). Just Energy had a fiscal year-end of March 31 and prepared its financial statements in accordance with International

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5).

Financial Reporting Standards ("IFRS"). EY Canada has served as Just Energy's auditor since 2011.

C. Summary

3. Lundie served as the engagement partner for EY Canada's integrated audit of Just Energy's financial statements as of and for the fiscal year ended March 31, 2019 ("2019 Audit"), and authorized the issuance of EY Canada's audit reports expressing unqualified opinions on Just Energy's financial statements and the effectiveness of Just Energy's internal control over financial reporting ("ICFR").

4. Lundie knew during the 2019 Audit that Just Energy identified its allowance for doubtful accounts or receivables allowance as a significant accounting estimate. Moreover, he and the engagement team identified the receivables allowance as a significant accounting and auditing issue. Yet Lundie failed to adequately evaluate the reasonableness of the receivables allowance, including by failing to sufficiently test the assumptions underlying the estimate and by failing to sufficiently test the accuracy and completeness of data on which that estimate was based. Lundie failed to do those things notwithstanding indications warranting further scrutiny as to whether Just Energy's receivables allowance might have been materially understated. Lundie accordingly failed to obtain sufficient appropriate audit evidence to support EY Canada's audit opinion on Just Energy's March 31, 2019 financial statements.

5. Moreover, in connection with EY Canada's audit of Just Energy's ICFR as of March 31, 2019, Lundie failed to adequately test controls that related to the receivables allowance. Furthermore, Lundie failed to communicate to the audit committee the significant management assumptions used to calculate the receivables allowance, as well as the basis for EY Canada's conclusions regarding the reasonableness of the estimate.

6. After the issuance of the financial statements for the year ended March 31, 2019, management determined that Just Energy's receivables allowance was understated and should be restated. On August 19, 2019, Just Energy filed restated financial statements. Taking into consideration all information available at the time of the restatement, the restated financial statements reflected that Just Energy's receivables allowance was understated by $111.2 million (Canadian dollars or "CAD"). The restated financial statements reflected a 97% increase in the loss for the year ended March 31, 2019, as compared to the loss previously reported, an increase driven primarily by Just Energy's correction of its understated allowance.

D. Lundie Violated PCAOB Rules and Standards

i. Background

7. Just Energy sold gas and electricity to residential and commercial customers in two regions: North America ("Just Energy NA") and the United Kingdom ("Just Energy UK"). The two largest markets within Just Energy NA were both located in Texas and known as "JE Texas" and "Fulcrum."

8. Just Energy recorded customer accounts receivable for amounts it had the right to invoice its customers, based on the number of units of gas and electricity consumed each month by each customer. Just Energy's policy for residential customers was, with certain exceptions, to write off those receivables that went unpaid for more than 120 days. Separately, Just Energy also recorded an allowance against its accounts receivable to reflect amounts not yet written off but not likely to be recovered.

9. As of March 31, 2019, customer accounts receivable constituted the largest asset category on Just Energy's balance sheet, representing more than 27% of Just Energy's total assets. More specifically, as of March 31, 2019, Just Energy reported total assets of CAD $1.75 billion, of which CAD $476.2 million were "trade account receivables, net," that is, gross customer accounts receivable less an allowance of CAD $71.2 million.

10. Before fiscal year 2019, Just Energy recorded its receivables allowance based on incurred losses, in accordance with the then-applicable IFRS accounting standard.[3] Starting with fiscal year 2019, Just Energy was required to—and did—adopt IFRS 9, *Financial Instruments*, which required loss recognition based on expected credit losses ("ECL"), versus incurred losses. Accordingly, for its receivables allowance, Just Energy was required to—and did—estimate the total credit losses expected to occur over the lifetime of the assets, and to recognize those expected lifetime losses at the time the assets were first recorded.

11. At the beginning of the 2019 fiscal year, Just Energy estimated its lifetime expected credit losses using an example methodology provided in IFRS 9 whereby credit losses are determined by applying estimated loss rates to each of the aging buckets in a company's period-end receivables balance (*i.e.*, a provision matrix). On April 1, 2018, Just Energy recorded an additional allowance of CAD $23.6 million to reflect those expected lifetime credit losses.

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[3] *See* International Accounting Standard ("IAS") 39, *Financial Instruments: Recognition and Measurement*.

12. At the end of the 2019 fiscal year, Just Energy did not determine its receivables allowance, recorded on its balance sheet, using a provision matrix. Instead, Just Energy chose to determine its receivables allowance by estimating its bad debt expense, recorded on its income statement, based on the application of a loss rate ("ECL Rate") to its current period revenue. Just Energy calculated the ECL Rate based on data indicating the percentage of revenue the company had historically written off. Lundie and the engagement team referred to Just Energy's method for determining its receivables allowance—estimating the bad debt expense recorded on its income statement rather than directly evaluating the credit risk of the receivables on its balance sheet as of year-end—as an "income statement approach."

13. Although Lundie preferred that Just Energy use a provision matrix to estimate its receivables allowance, Lundie understood that Just Energy chose to use the income statement approach because it lacked sufficiently reliable aging data on customer accounts receivable to calculate its ECL directly on its year-end receivables.

14. Just Energy in its filings with the SEC identified its receivables allowance as a critical accounting estimate, a critical accounting policy, and a significant accounting estimate. Just Energy also identified the adjustment of its receivables allowance to reflect previously recognized impairment loss—along with the write-off of receivables without a realistic prospect of future recovery—as significant accounting policies.

15. In connection with the 2019 Audit, Lundie and the engagement team identified the receivables allowance as a significant account and disclosure, a significant accounting and auditing issue, and an audit area requiring significant judgment. Lundie understood the receivables allowance to be a higher risk estimate, meaning it presented higher subjectivity, judgment, and/or inherent risk of material misstatement.

16. Moreover, Lundie and the engagement team identified Just Energy's impairment of financial assets—including its receivables allowance—as an "area of audit emphasis." Lundie communicated to Just Energy's audit committee (the "Audit Committee") that areas of audit emphasis included "those processes, accounts, contracts or transactions where we believe there is the greatest risk of material misstatement to the consolidated financial statements."

ii. Lundie Failed to Adequately Evaluate the Receivables Allowance and to Obtain Sufficient Appropriate Evidence to Support It

17. In connection with the preparation or issuance of an audit report, PCAOB rules require that the associated persons of a registered public accounting firm comply with the

Board's auditing and related professional practice standards.[4] An auditor may express an unqualified opinion on an issuer's financial statements when the auditor conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects.[5]

18. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit.[6] Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report, including obtaining reasonable assurance about whether the financial statements are free of material misstatement.[7] The higher the risk of material misstatement, the more evidence the auditor should obtain, and the more persuasive that evidence should be.[8]

19. In order to be appropriate, "audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based."[9] Moreover, "[w]hen using information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to . . . [t]est the accuracy and completeness of the information, or test

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4 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards.* All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the 2019 Audit.

5 *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

6 AS 1015.01, *Due Professional Care in the Performance of Work*.

7 AS 1001.02, *Responsibilities and Functions of the Independent Auditor*; AS 1105.04, *Audit Evidence*; AS 2401.01, *Consideration of Fraud in a Financial Statement Audit*; AS 2810.33, *Evaluating Audit Results*.

8 AS 1105.05; *see also* AS 2301.09, *The Auditor's Responses to the Risks of Material Misstatement* ("In designing the audit procedures to be performed, the auditor should: a. Obtain more persuasive audit evidence the higher the auditor's assessment of risk . . . ."); *id.* at .37 ("As the assessed risk of material misstatement increases, the evidence from substantive procedures that the auditor should obtain also increases.").

9 AS 1105.06.

the controls over the accuracy and completeness of that information; and . . . [e]valuate whether the information is sufficiently precise and detailed for purposes of the audit."[10]

20. With respect to any significant accounting estimate, the auditor's objective is "to obtain sufficient appropriate evidential matter to provide reasonable assurance" that the estimate is "reasonable in the circumstances," "presented in conformity with applicable accounting principles," and "properly disclosed."[11] In addition, when planning and performing procedures to evaluate accounting estimates, the auditor is required to consider, with an attitude of professional skepticism, both the subjective and objective factors on which the company's estimates are based.[12]

21. Audit evidence "consists of both information that supports and corroborates management's assertions regarding the financial statements" and "information that contradicts such assertions."[13] While an auditor may use inquiry to obtain information, "[i]nquiry alone does not provide sufficient appropriate evidence to support a conclusion about a relevant assertion."[14] Management representations "are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[15] The auditor "should obtain corroboration for management's explanations regarding significant unusual or unexpected transactions, events, amounts, or relationships."[16]

22. If audit evidence obtained from one source is inconsistent with audit evidence obtained from another source, "the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit."[17] Moreover, if a representation made by management is contradicted by other audit evidence,

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10 *Id.* at .10.

11 AS 2501.07, *Auditing Accounting Estimates*.

12 *Id.* at .04

13 AS 1105.02.

14 AS 2301.39; *see also* AS 1105.17, Note ("Inquiry of company personnel, by itself, does not provide sufficient audit evidence to reduce audit risk to an appropriately low level for a relevant assertion . . . .").

15 AS 2805.02, *Management Representations*.

16 AS 2810.08.

17 AS 1105.29.

the auditor "should investigate the circumstances," "consider the reliability of the representation made," and "consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified."[18] In addition, if management's responses to the auditor's inquiries appear to be "inconsistent with other audit evidence, imprecise, or not at a sufficient level of detail to be useful," the auditor "should perform procedures to address the matter."[19]

23. When evaluating audit results, the auditor is required to "conclude on whether sufficient appropriate audit evidence has been obtained to support his or her opinion on the financial statements."[20]

24. In evaluating Just Energy's receivables allowance during the 2019 Audit, Lundie's objective was to obtain sufficient appropriate evidential matter to provide reasonable assurance that, among other things, Just Energy's receivables allowance was (A) reasonable in the circumstances and (B) presented in conformity with applicable accounting principles.[21]

25. In evaluating the reasonableness of the receivables allowance, Lundie was required to use one or a combination of the following approaches:

a. Review and test the process used by management to develop the estimate.
b. Develop an independent expectation of the estimate to corroborate the reasonableness of management's estimate.
c. Review subsequent events or transactions occurring prior to the date of the auditor's report.[22]

26. Lundie relied on the first two approaches: testing management's process and developing an independent expectation. Lundie failed, however, to obtain sufficient evidence to support the receivables allowance under either of these approaches.

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18 AS 2805.04.

19 AS 2810.08.

20 *Id.* at .33; *see also id.* at .02 (in forming an opinion on the financial statements, the auditor's objective is "to evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report").

21 *See* AS 2501.07

22 *Id.* at .10.

27. Importantly, prior to the conclusion of the audit, as the engagement team performed procedures during the 2019 Audit to evaluate the reasonableness of the receivables allowance, Lundie had concerns about the accuracy and precision of the ECL Rate that Just Energy used in calculating the receivables allowance. Lundie also knew that management at Just Energy had "struggled to give" the engagement team "reliable loss data" during the audit.

28. In addition, Lundie was aware during the 2019 Audit that Just Energy's write-off practices needed improvement. He knew at the time that the company's write-offs were "lumpy," meaning they were not done on a regular basis with a systematic approach.

29. Just Energy was also unable to provide adequate support for its ECL Rate until a few days before issuance of the audit report. Indeed, just five days before authorizing EY Canada's issuance of an unqualified opinion on Just Energy's 2019 financial statements, Lundie informed the Audit Committee that the engagement team was still "[o]btaining certain audit support on critical areas of the audit including support for the rates used in Estimating Credit Losses."

30. Two days later, Lundie reported to the Audit Committee that, although "a significant deficiency was identified over the allowance for credit loss in accordance with the implementation of IFRS 9 Financial Instruments," he and the engagement team had "performed audit procedures over the accuracy and completeness of the data utilized in the [ECL Rate] calculation." Lundie and the engagement team, however, failed to perform adequate procedures over that data.

a. Failure to Adequately Test the Process Used by Management to Develop the ECL Estimate

31. Lundie's concerns about the company's ability to timely provide reliable data should have caused him to increase the rigor of his procedures to test management's process for developing the ECL Rate. But he failed to do so, and the procedures he performed were not adequate.

32. With respect to the ECL Rate for Just Energy NA, Lundie failed to sufficiently test management's assertion that Just Energy's more current collections experience was consistent with the write-off rates from the older historical periods used in its ECL Rate calculation. For example, for purposes of testing the allowance as of March 31, 2019, for JE Texas, Lundie and the engagement team obtained an ECL Rate calculation from management that showed that management calculated a historical write-off rate by using write-off data related to revenue recognized for the 18-month period April 2017 through September 2018.

33. As part of their testing, Lundie and the engagement team recalculated management's ECL Rate for JE Texas. Specifically, in recalculating the percentage of write-offs versus the revenue recognized by JE Texas each month from April 2017 through September 2018, Lundie and the engagement team weighted the write-off rates from the more recent 12-month period, showing they recognized the importance of using more recent data. Despite acknowledging the importance of recent write-off data versus older data, Lundie failed to adequately evaluate potential write-offs and aging information from the last six months of fiscal 2019 for JE Texas.

34. For Fulcrum, Lundie understood that Just Energy could not provide support for the write-offs after February 2017 used in the ECL Rate calculation. Lundie, therefore, relied instead on write-off data from the period from April 2015 through January 2017 to assess the reasonableness of Fulcrum's ECL Rate calculation. In other words, Lundie assessed the reasonableness of Just Energy's current ECL Rate calculation for Fulcrum by relying on write-off data that was more than two years old.

35. Moreover, Lundie and the engagement team failed to adequately test the completeness and accuracy of the write-off data that Just Energy did use for the ECL Rate for Just Energy NA. For example, with respect to JE Texas, Lundie and the engagement team failed to perform adequate procedures to test the completeness and accuracy of the write-off data for 17 of the 18 months in the period from April 2017 to September 2018. For the eighteenth month—September 2018—the engagement team received a report purporting to show the receivables required to be written off for that month, and performed some testing over that report, but failed to perform adequate procedures to test the completeness of the write-off amounts listed in the report.

36. With respect to Fulcrum, the engagement team obtained a summary report of write-offs from management and agreed the write-off amounts in the report to the amounts used for each month in the calculation. The engagement team performed insufficient procedures to test the completeness and accuracy of write-off or revenue amounts used in Just Energy's calculation of the ECL Rate for Fulcrum.

b. Failure to Adequately Develop an Independent Expectation of the ECL Estimate

37. With respect to Just Energy UK, the company calculated its receivables allowance in the same manner as it did for JE Texas and Fulcrum—by calculating an ECL Rate based on historical data and applying it to current period revenue. Lundie and the engagement team chose to evaluate Just Energy UK's ECL Rate by looking at loss rate information from a Just Energy competitor, British Gas. Specifically, Lundie and the engagement team compared British

Gas's loss rates to the write-off rates the company used in the ECL Rate calculation for Just Energy UK and, after that comparison, proposed a CAD $6.4 million increase in the receivables allowance.

38. Lundie and the engagement team, however, failed to adequately evaluate or obtain sufficient appropriate audit evidence to support their key assumption that the historical loss rates of British Gas were a reasonable proxy for Just Energy UK's potential future loss rates.

39. Lundie did not adequately test Just Energy UK's write-off data to determine whether British Gas's loss rate approximated Just Energy UK's historical or current loss rates or whether the use of British Gas's loss rate was more conservative than using Just Energy UK's ECL Rate. Lundie and the engagement team also failed to test or adequately evaluate the reliability of British Gas's loss rate information, which Just Energy management had provided.

iii. Indications that the Receivables Allowance May Have Been Materially Understated

40. Lundie's failure to adequately evaluate Just Energy's receivables allowance occurred despite his encountering certain indications warranting further scrutiny as to whether the receivables allowance may have been materially understated.

41. *First*, during the 2019 Audit, Just Energy's management provided the engagement team with a schedule reflecting the aging of customer receivables as of March 31, 2019. That schedule constituted management's support for a footnote to the financial statements that disclosed the aging of accounts receivable. The schedule showed that the balance for customer receivables that were past due more than 120 days (known as the "120+ days bucket") totaled CAD $85.1 million. In other words, Just Energy's customer receivables that were more than 120 days old, and therefore potentially at high risk of default, exceeded Just Energy's CAD $71.2 million receivables allowance by almost CAD $14 million—even before consideration of expected write-offs of overdue receivables not yet in the 120+ days bucket. Yet Lundie failed to adequately evaluate this potential understatement of Just Energy's receivables allowance.

42. *Second*, Lundie knew that the accuracy of the ECL Rate that Just Energy used to calculate its allowance was dependent on the completeness of the company's underlying write-off data, that is, whether the data included all amounts that Just Energy should have been writing off. Although Just Energy's policies did not require the write-off of all receivables aging past 120 days, the CAD $85 million in customer receivables in the 120+ days bucket as of March 31, 2019 may have indicated a risk that Just Energy may not have been consistently applying its policy of writing off most customer receivables that went unpaid for more than 120

days. Yet Lundie did not adequately respond to that risk and perform sufficient procedures to assess the completeness of the write-off data Just Energy used in its ECL calculation.

43. Finally, Lundie was aware of certain control deficiencies that called into question Just Energy's assertion that the data used in the ECL Rate calculation included all write-offs that *should* have been recorded. Indeed, one of the control deficiencies described "no timely write-off of uncollectable customer [receivables] currently in the North American Residential and the UK Markets."[23]

44. These factors should have caused Lundie to heighten his care and skepticism in planning and performing audit procedures concerning the receivables allowance. Lundie did not, however, respond appropriately to the risks he encountered, failed to adequately evaluate Just Energy's receivables allowance, and failed to obtain sufficient appropriate evidence to support his audit opinion.

* * *

45. As a result of the deficiencies described above in subsections III.D.ii and .iii, Lundie failed during the 2019 Audit to obtain sufficient appropriate audit evidence to support Just Energy's receivables allowance and, in turn, its reported net customer receivables. Lundie therefore violated AS 1015, AS 1105, AS 2501, AS 2805, AS 2810, and AS 3101.

iv. Lundie Failed to Adequately Test and Evaluate Deficiencies in Just Energy's Controls Over the Receivables Allowance

46. PCAOB standards require the auditor to test the design effectiveness of a company's ICFR by determining whether the company's controls satisfy the control objectives and can effectively prevent or detect errors or fraud that could result in material misstatements in the financial statements.[24] PCAOB standards also require the auditor to test the operating effectiveness of a control by determining whether the control is operating as designed and whether the person performing the control possesses the necessary authority and competence to perform the control effectively.[25]

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[23] See Section III.D.iv below for a description of the control deficiencies and Lundie's failures in evaluating those deficiencies and performing related audit procedures.

[24] AS 2201.42, *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements*.

[25] *Id.* at .44.

47. When control deficiencies come to an auditor's attention, the auditor must evaluate their severity to determine whether the deficiencies, individually or in combination with other deficiencies, are material weaknesses.[26] In doing so, the auditor should, among other things, "evaluate the effect of compensating controls."[27]

48. Lundie failed to sufficiently evaluate identified control deficiencies concerning Just Energy's receivables allowance estimation and write-off processes.

49. With respect to controls over Just Energy's receivables allowance estimation process, Lundie concluded during the 2019 Audit that those controls were designed and operating effectively as of March 31, 2019—with one exception. That exception was a control over the completeness, accuracy, and "reasonability" of the historical loss rates for customer receivables in the North American market ("ECL Rate Control"). Lundie identified a deficiency in the ECL Rate Control because the data used in the ECL Rate calculation for the North American market "had not been effectively reviewed for completeness and accuracy."

50. Lundie ultimately concluded that the deficiency in the ECL Rate Control was a significant deficiency and not a material weakness. Lundie lacked an adequate basis, however, for that determination. Though Lundie and the engagement team documented two assertions in connection with that determination—that the potential for a misstatement was remote because of a "redesigned" process, and that the magnitude of a potential misstatement resulting from failure of the control was less than material—neither of those propositions provided adequate support for Lundie's conclusion. With respect to the first proposition, Lundie and the engagement team failed to document their understanding of this "redesigned" process and failed to identify and test any controls over the process that purportedly reduced the risk of misstatement. With respect to the second, gross accounts receivable represented approximately 31% of Just Energy's total assets as of March 31, 2019, meaning that Lundie could not properly conclude that a misstatement that might result from a deficiency to which that amount was exposed was less than material.[28]

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[26] *Id.* at .62.

[27] *Id.* at .68.

[28] *See id. at* .66 ("Factors that affect the magnitude of the misstatement that might result from a deficiency or deficiencies in controls include, but are not limited to, . . . [t]he financial statement amounts or total of transactions exposed to the deficiency . . . ."); *id.* at .67 ("In evaluating the magnitude of the potential misstatement, the maximum amount that an account balance or total of transactions can be overstated is generally the recorded amount, while understatements could be larger.").

51. With respect to Just Energy's controls over write-offs of receivables, Lundie identified a deficiency in a control over the calculation and review of write-offs in accordance with Just Energy policy. The deficiency identified was that "[t]here is no timely write-off of uncollectable customer [accounts receivable] currently in the North American Residential and the UK Market." Lundie determined that the deficiency had been remediated as of March 31, 2019, ostensibly based on the fact that management had "perform[ed] a year-end review of the write-offs in each market." Lundie and the engagement team, however, did not perform any testing of this purportedly remediated control. Accordingly, they failed to obtain sufficient evidence that there was an effective control ensuring that write-offs were being recorded timely in accordance with Just Energy policy as of fiscal year-end.

52. Furthermore, though Lundie concluded that the rest of the controls concerning the receivables allowance estimation process were designed and operating effectively, Lundie's testing with respect to one of those controls was deficient. Specifically, though Just Energy maintained a control over the historical loss rates for Just Energy UK, Lundie failed to test the completeness and accuracy of the write-off data used in the operation of that control or, alternatively, to test any control over the completeness and accuracy of such data.

53. As a result, Lundie violated AS 1015, AS 1105, and AS 2201.

v. Lundie Failed to Communicate to the Audit Committee Certain Matters Related to the Receivables Allowance

54. PCAOB standards require that the auditor make certain communications with the audit committee of an issuer. Lundie was required during the 2019 Audit to communicate to the Audit Committee, among other matters, "[m]anagement's significant assumptions used in critical accounting estimates that have a high degree of subjectivity."[29] Lundie was also required during the 2019 Audit to communicate to the Audit Committee the "basis for the auditor's conclusions regarding the reasonableness of the critical accounting estimates."[30]

55. As noted above, Just Energy identified the receivables allowance as a critical accounting estimate and a significant accounting estimate. Moreover, Lundie and the engagement team identified the receivables allowance as a significant account, a significant accounting and auditing issue, and an area of audit emphasis.

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29 AS 1301.12.c(2), *Communications with Audit Committees*.

30 *Id.* at .13.c.

56. Accordingly, Lundie was required to communicate to the Audit Committee the significant management assumptions used in the receivables allowance estimate. Lundie was also required to communicate to the Audit Committee the basis for his conclusions regarding the reasonableness of the receivables allowance. Lundie failed to make either of those required communications during the 2019 Audit. While Lundie communicated to the Audit Committee certain aspects of management's process to develop the receivables allowance—including, for example, that management assessed the ECL Rate by region and consumer segment—that description did not satisfy these specific requirements. Significantly, Lundie's failure to make those communications meant that he failed to inform the Audit Committee that Just Energy was using an income statement approach to calculate the receivables allowance and assuming, without verifying, that current collection and write-off rates were consistent with those of earlier periods.

57. As a result, Lundie violated AS 1015 and AS 1301.

* * *

58. On August 19, 2019, Just Energy filed restated financial statements for the year ended March 31, 2019. The restated financial statements reflected an increase in the receivables allowance of CAD $111.2 million. Management had identified an understatement of the receivables allowance due to operational issues in customer enrollment and non-payment in the Texas residential market (resulting in additional required reserves of CAD $53.7 million) and operational and collection issues in the United Kingdom (requiring additional reserves of CAD $57.5 million).

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Martin Lundie is censured.

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Martin Lundie is barred from being an associated person of a registered public

accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[31]

C. Pursuant to PCAOB Rule 5302(b), Martin Lundie may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $65,000 is imposed on Martin Lundie.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Martin Lundie as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

[31] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Lundie. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 22, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Grant Thornton LLP,

Respondent.

PCAOB Release No. 105-2022-041

December 22, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Grant Thornton LLP ("Grant Thornton" or "Respondent");

(2) imposing a $40,000 civil money penalty on Grant Thornton; and

(3) requiring Grant Thornton to comply with its policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that Grant Thornton failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, on a timely basis.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on

behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Grant Thornton** is a limited liability partnership organized under the laws of Illinois and headquartered in Chicago, Illinois. Grant Thornton has offices in multiple locations and is licensed under the laws of the state of Illinois (License No. 066-003295), among other states where it has offices, to engage in the practice of public accounting. Grant Thornton is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns Grant Thornton's failure to timely disclose to the Board on Form 3 three reportable events regarding two disciplinary proceedings brought against the firm by the Utah Division of Occupational and Professional Licensing of the Department of Commerce ("Utah DOPL") and the Pennsylvania Board of Accountancy ("Pennsylvania Board"). This matter also involves Grant Thornton's failure to timely disclose to the Board on Form 3 changes in its licensing status in a number of jurisdictions.

3. PCAOB rules require registered firms, including Grant Thornton, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that Grant Thornton is required to report on Form 3 are its becoming aware that the firm has become a respondent in certain disciplinary proceedings, and the conclusion of such proceedings. Grant Thornton must also report on Form 3 when it obtains a license authorizing it to engage in the business of auditing or accounting which it has not previously disclosed to the Board.

4. In December 2016, the Utah DOPL simultaneously initiated and concluded disciplinary proceedings against Grant Thornton ("Utah Proceeding"). The Utah Proceeding

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

concerned conduct that resulted in sanctions imposed on the firm by the U.S. Securities and Exchange Commission in a 2015 order.[2] The initiation and conclusion of the Utah Proceeding each constituted a reportable event under Form 3, but Grant Thornton failed to file a Form 3 reporting those events until May 8, 2020.

5. Additionally, in January 2020, the Pennsylvania Board initiated disciplinary proceedings against Grant Thornton ("Pennsylvania Proceeding"). The Pennsylvania Proceeding concerned conduct that resulted in sanctions imposed on the firm by a 2017 PCAOB order.[3] The initiation of the Pennsylvania Proceeding constituted a reportable event under Form 3, but Grant Thornton failed to file a Form 3 reporting it until May 8, 2020.

6. In its May 8, 2020 Form 3, Grant Thornton also belatedly disclosed that it had obtained twelve new, replacement, or additional licenses in eleven jurisdictions. Those changes in Grant Thornton's licensing status constituted reportable events under Form 3, but Grant Thornton failed to disclose them to the Board on a timely basis.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

7. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[4] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[5] Another event requiring reporting on Form 3 occurs when a firm has become aware that a reportable proceeding (*i.e.*, a reportable

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[2] *Grant Thornton LLP*, Exch. Act Rel. No. 76536 (Dec. 2, 2015).

[3] *Grant Thornton LLP*, PCAOB Rel. No. 105-2017-054 (Dec. 19, 2017).

[4] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[5] PCAOB Form 3, at Item 2.7 (italics in the original removed).

event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[6]

8. A registered firm must also file a report on Form 3 when it "has obtained a license or certification authorizing the Firm to engage in the business of auditing or accounting and which has not been identified on any Form 1 or Form 3 previously filed by the Firm, or there has been a change in a license or certification number identified on a Form 1 or Form 3 previously filed by the Firm."[7]

9. The Utah Proceeding was initiated and concluded in December 2016, and concerned professional services Grant Thornton provided for two clients that were issuers at the time of the relevant conduct.[8] The Utah DOPL identified Grant Thornton as a respondent in the Utah Proceeding, which ultimately resulted in the Utah DOPL reprimanding Grant Thornton. In violation of PCAOB Rule 2203, Grant Thornton failed to timely file a Form 3 with the Board reporting the initiation and conclusion of the Utah Proceeding.

10. The Pennsylvania Proceeding was initiated in January 2020, and concerned professional services Grant Thornton provided for an issuer client. The Pennsylvania Board identified Grant Thornton as a respondent in the Pennsylvania Proceeding. In violation of PCAOB Rule 2203, Grant Thornton failed to timely file a Form 3 with the Board reporting the initiation of that proceeding.[9]

11. Additionally, Grant Thornton violated PCAOB Rule 2203 by failing to timely report to the Board on Form 3 twelve total changes to its licensing status in eleven states.

12. Grant Thornton's internal compliance and reporting systems failed to timely identify as being reportable to the PCAOB on Form 3: (i) the initiation and conclusion of the Utah Proceeding, (ii) the initiation of the Pennsylvania Proceeding, and (iii) the changes in the

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[6] *Id.*, at Item 2.10.

[7] *Id.*, at Item 2.16.

[8] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

[9] GT US timely reported the conclusion of the Pennsylvania Proceeding in a Form 3 filed on May 27, 2020.

firm's licensing status. As a result, Grant Thornton failed to timely notify the PCAOB of reportable events associated with disciplinary proceedings and licensing changes.

IV.

13. Grant Thornton has represented to the Board that, since the events described in this Order, it has established and implemented the following changes to its policies and procedures for the purpose of providing Grant Thornton with reasonable assurance of compliance with PCAOB reporting requirements:

a. Grant Thornton has revised and supplemented its policies and procedures for the purpose of providing it with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Grant Thornton personnel who participate in the firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. Grant Thornton has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any personnel who participate in Grant Thornton's PCAOB reporting process; and

c. Grant Thornton has assigned the role of compliance with PCAOB reporting matters to an individual within the firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the firm to fulfill those requirements on behalf of Grant Thornton.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Grant Thornton is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $40,000 is imposed upon Grant Thornton.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Grant Thornton shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K. Street, N.W., Washington D.C. 20006.

3. Respondent shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional(s) or any payment made pursuant to any insurance policy, with regard to any amounts that Respondent shall pay pursuant to this Order.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Grant Thornton is required to comply with its current PCAOB reporting policies and procedures, including:

1. those intended to provide reasonable assurance that reportable events are identified by Grant Thornton personnel who participate in Grant Thornton's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. those ensuring training concerning PCAOB reporting requirements, at least annually, of any Grant Thornton personnel who participate in Grant Thornton's PCAOB reporting process; and

3. those requiring assignment of the role of compliance with PCAOB reporting matters to an individual within Grant Thornton who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within Grant Thornton to fulfill those requirements on behalf of Grant Thornton.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 22, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG Samjong Accounting Corp.,

Respondent.

PCAOB Release No. 105-2022-042

December 22, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG Samjong Accounting Corp. ("KPMG Samjong" or "Respondent");

(2) imposing a $30,000 civil money penalty on KPMG Samjong; and

(3) requiring KPMG Samjong to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that KPMG Samjong failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, or to do so on a timely basis.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG Samjong** is a limited liability corporation organized under the laws of the Republic of Korea and headquartered in Seoul, Republic of Korea. The firm is licensed to practice public accounting by the Korean Financial Services Commission, and is a member of the KPMG International Limited network of firms. KPMG Samjong is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns KPMG Samjong's failure to disclose to the Board on Form 3, or to do so on a timely basis, four reportable events concerning disciplinary proceedings brought against the firm and certain firm personnel by the Korean Securities and Futures Commission ("SFC") and the Korean Institute of Certified Public Accountants ("KICPA"). PCAOB rules require registered firms, including KPMG Samjong, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that KPMG Samjong is required to report on Form 3 are its becoming aware that the firm and/or certain of its personnel have become respondents in certain disciplinary proceedings, and the conclusion of such proceedings.

3. On August 8, 2018, KPMG Samjong filed a Form 3 reporting the conclusion of an SFC proceeding ("2018 SFC Proceeding") and disclosing various sanctions imposed upon the firm. However, KPMG Samjong failed to timely report that the SFC also sanctioned an associated person of the firm whose involvement in the proceeding constituted a reportable event under Form 3 due to the nature and extent of his work for the firm.

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

4. In 2019, KPMG Samjong became a respondent in a disciplinary proceeding initiated by the KICPA ("KICPA Proceeding"). The KICPA Proceeding concluded in April 2020. The initiation and conclusion of the KICPA Proceeding were reportable events under Form 3, but KPMG Samjong failed to file Forms 3 reporting either event.

5. Additionally, in October 2021, KPMG Samjong received an Advance Notice from the Korean Financial Supervisory Service ("FSS"), which triggered the initiation of a disciplinary proceeding by the SFC ("2021 SFC Proceeding"). The initiation of the 2021 SFC Proceeding was a reportable event under Form 3, but KPMG Samjong failed to file a Form 3 reporting the initiation of that proceeding.

C. Respondent Failed to Disclose Certain Reportable Events to the Board, or to do so on a Timely Basis, in Violation of PCAOB Rules

6. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3] To constitute a reportable event, the proceeding in question only has to relate to professional services the firm provided for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

7. Registered firms must also report when they become aware that "in a matter arising out of his or her conduct in the course of providing professional services for a client, a partner, shareholder, principal, owner, member, or audit manager of the Firm who provided at least ten hours of audit services for any issuer, broker, or dealer during the Firm's current fiscal year or its most recently completed fiscal year has become a defendant or respondent in a civil

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[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed).

or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[4]

8. Another reportable event occurs when a firm has become aware that a reportable proceeding (*i.e.*, a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[5]

9. The 2018 SFC Proceeding concluded on July 25, 2018, with the SFC imposing sanctions on KPMG Samjong and an associated person of the firm. KPMG Samjong filed a Form 3 on August 8, 2018, reporting the conclusion of the proceeding with respect to the firm and listing the sanctions imposed upon it. However, KPMG Samjong failed to report in that Form 3 the conclusion of the 2018 SFC Proceeding with respect to the associated person, who had performed at least ten hours of audit service for an issuer, broker, or dealer during the firm's current or most recently completed fiscal years. On August 5, 2022, after it had received notice of possible Form 3 filing deficiencies from the Division of Enforcement and Investigations, KPMG Samjong filed an amended Form 3 belatedly reporting the conclusion of the 2018 SFC Proceeding with respect to the individual. By failing to report that information on a timely basis, KPMG Samjong violated PCAOB Rule 2203.

10. In 2019, KPMG Samjong became aware that it had become a respondent in the KICPA Proceeding. The KICPA Proceeding concluded in April 2020. In violation of PCAOB Rule 2203, KPMG Samjong failed to file a Form 3 with the Board reporting either the initiation or conclusion of the KICPA Proceeding.

11. Additionally, the 2021 SFC Proceeding was initiated when the FSS sent KPMG Samjong an Advance Notice in October 2021. The 2021 SFC Proceeding concerned professional services KPMG Samjong provided for a firm client and resulted in sanctions being issued against KPMG Samjong. The initiation of the 2021 SFC Proceeding constituted a reportable event under Form 3, but KPMG Samjong failed to file a Form 3 reporting it to the Board in violation of PCAOB Rule 2203.[6]

12. KPMG Samjong's internal compliance and reporting systems failed to identify as reportable events: (i) the initiation and conclusion of the KICPA Proceeding; (ii) the conclusion of the 2018 SFC Proceeding with respect to the individual respondent; and (iii) the initiation of

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[4] *Id.*, at Item 2.8 (italics in the original removed).

[5] *Id.*, at Item 2.10.

[6] KPMG Samjong timely reported the conclusion of the 2021 SFC Proceeding in a Form 3 filed with the Board on April 15, 2022.

the 2021 SFC Proceeding. As a result, KPMG Samjong inappropriately failed to notify the PCAOB of the initiation and conclusion of relevant disciplinary proceedings, or to do so on a timely basis.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), KPMG Samjong is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed upon KPMG Samjong.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. KPMG Samjong shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K. Street, N.W., Washington D.C. 20006.

3. Respondent shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional(s) or any

payment made pursuant to any insurance policy, with regard to any amounts that Respondent shall pay pursuant to this Order.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), KPMG Samjong is required:

1. within 90 days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing KPMG Samjong with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by KPMG Samjong personnel who participate in KPMG Samjong's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within 90 days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any KPMG Samjong personnel who participate in KPMG Samjong's PCAOB reporting process;

3. within 90 days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within KPMG Samjong who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within KPMG Samjong to fulfill those requirements on behalf of KPMG Samjong; and

4. within 120 days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, KPMG Samjong's compliance with paragraphs C.1 through C.3 above. The certification shall identify the actions taken to satisfy the conditions specified above, provide written evidence of compliance in the form of a

narrative, and be supported by exhibits sufficient to demonstrate compliance. KPMG Samjong shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***KPMG Samjong understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 22, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of BDO RCS Auditores Independentes,

Respondent.

PCAOB Release No. 105-2022-043

December 22, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring BDO RCS Auditores Independentes ("BDO RCS" or "Respondent");

(2) imposing a $30,000 civil money penalty on BDO RCS; and

(3) requiring BDO RCS to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that BDO RCS failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on

behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **BDO RCS** is a partnership organized under the laws of Brazil and headquartered in São Paulo, Brazil. BDO RCS is licensed to practice public accounting in Brazil, and is a member of the BDO International network of firms. BDO RCS is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns BDO RCS's failure to disclose to the Board on Form 3 seven reportable events regarding five disciplinary proceedings brought against BDO RCS and certain of its personnel by the Securities and Exchange Commission of Brazil (the Comissão de Valores Mobiliários ("CVM")). PCAOB rules require registered firms, including BDO RCS, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that BDO RCS is required to report on Form 3 are its becoming aware that the firm and/or certain of its personnel have become respondents in certain disciplinary proceedings, and the conclusion of such proceedings.

3. Between July 2018 and December 2021, BDO RCS and various associated persons of the firm became respondents in five separate disciplinary proceedings initiated by the CVM. The initiation of each of these proceedings constituted a reportable event under Form 3. However, BDO RCS failed to file Forms 3 reporting the initiation of any of the proceedings.

4. Additionally, BDO RCS learned—in November 2021 and May 2022—that two of the proceedings initiated against it by the CVM had been concluded. The conclusion of those proceedings also constituted reportable events under Form 3. However, BDO RCS failed to file Forms 3 reporting the conclusion of those proceedings.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

C. Respondent Failed to Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3] To constitute a reportable event, the proceeding in question only has to relate to professional services the firm provided for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

6. Another event requiring reporting on Form 3 occurs when a firm has become aware that a reportable proceeding (*i.e.*, a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[4]

7. Between 2018 and 2021, the CVM initiated disciplinary proceedings against BDO RCS and certain of its associated persons. Each of the proceedings named BDO RCS as a respondent and related to BDO RCS's provision of professional services to companies that were not issuers.[5] The proceedings were initiated on the following dates:

- Proceeding 1: July 6, 2018
- Proceeding 2: October 19, 2018

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[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed).

[4] *Id.*, at Item 2.10.

[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

- Proceeding 3: June 6, 2021
- Proceeding 4: December 22, 2021
- Proceeding 5: December 23, 2021

8. In violation of PCAOB Rule 2203, BDO RCS failed to file Forms 3 reporting the initiation of any of the CVM proceedings.

9. Additionally, the CVM issued judgments pertaining to Proceedings 3 and 5 that were dated November 22, 2021 and May 7, 2022, respectively. In violation of PCAOB Rule 2203, BDO RCS failed to file Forms 3 reporting the conclusion of those proceedings.

10. BDO RCS's internal compliance and reporting systems failed to identify the initiation of the CVM proceedings, and the conclusion of Proceedings 3 and 5, as being reportable to the PCAOB on Form 3. As a result, BDO RCS inappropriately failed to notify the PCAOB of the initiation and conclusion of relevant disciplinary proceedings.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), BDO RCS is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed upon BDO RCS.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. BDO RCS shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board,

1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K. Street, N.W., Washington D.C. 20006.

3. Respondent shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional(s) or any payment made pursuant to any insurance policy, with regard to any amounts that Respondent shall pay pursuant to this Order.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), BDO RCS is required:

1. within 90 days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing BDO RCS with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by BDO RCS personnel who participate in BDO RCS's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within 90 days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any BDO RCS personnel who participate in BDO RCS's PCAOB reporting process;

3. within 90 days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within BDO

RCS who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within BDO RCS to fulfill those requirements on behalf of BDO RCS; and

4. within 120 days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, BDO RCS's compliance with paragraphs C.1 through C.3 above. The certification shall identify the actions taken to satisfy the conditions specified above, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. BDO RCS shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***BDO RCS understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 22, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of MaloneBailey, LLP,

Respondent.

PCAOB Release No. 105-2022-044

December 22, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring MaloneBailey, LLP ("MaloneBailey" or "Respondent");

(2) imposing a $25,000 civil money penalty on MaloneBailey; and

(3) requiring MaloneBailey to comply with its policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that MaloneBailey failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, on a timely basis.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on

behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **MaloneBailey** is a limited liability partnership organized under the laws of Texas and headquartered in Houston, Texas. MaloneBailey is licensed to practice public accounting by the Texas State Board of Accountancy (License No. P05522), among other states, and is a member of the Nexia International network of firms. MaloneBailey is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns MaloneBailey's repeated failures since 2018 to timely disclose to the Board on Form 3 that multiple former clients had not filed required Forms 8-K with the U.S. Securities and Exchange Commission ("Commission") following the termination of MaloneBailey's relationship with those clients. This matter also involves MaloneBailey's failure to timely disclose to the Board on Form 3 a number of changes to its licensing status since 2020. By failing to make these disclosures as required, MaloneBailey violated PCAOB rules.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

3. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has resigned, declined to stand for re-appointment, or been dismissed from an audit engagement as principal auditor . . .

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

and the issuer has failed to comply with a Commission requirement to make a report concerning the matter pursuant to Item 4.01 of Commission Form 8-K."[3]

4. Another such specified event occurs when a firm "has obtained a license or certification authorizing the Firm to engage in the business of auditing or accounting and which has not been identified on any Form 1 or Form 3 previously filed by the Firm, or there has been a change in a license or certification number identified on a Form 1 or Form 3 previously filed by the Firm."[4]

5. Beginning in the latter part of 2017, MaloneBailey began a "resignation project" designed to identify issuer clients of the firm that had not met the Commission's filing requirements over several reporting periods, and to formally terminate MaloneBailey's relationship with those clients. MaloneBailey identified a number of such clients and sent them resignation letters. However, some of MaloneBailey's former clients did not file required Forms 8-K with the Commission reporting the termination of the issuers' auditor-client relationship with MaloneBailey.[5] In violation of PCAOB Rule 2203, MaloneBailey failed to timely report to the Board that multiple former clients had not filed required Forms 8-K disclosing MaloneBailey's resignation. MaloneBailey did not make the necessary Form 3 filing with the Board until August 14, 2022, after it had received notice of possible deficiencies from the Division of Enforcement and Investigations.

6. Additionally, between January 2020 and May 2022, MaloneBailey obtained new licenses to practice public accounting in a number of states. In violation of PCAOB Rule 2203,

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[3] PCAOB Form 3, at Item 2.1-C (italics in the original removed).

[4] *Id.*, at Item 2.16.

[5] Item 4.01 of Form 8-K requires issuers to disclose certain information if "an independent accountant who was previously engaged as the principal accountant to audit the registrant's financial statements, or an independent accountant upon whom the principal accountant expressed reliance in its report regarding a significant subsidiary, resigns (or indicates that it declines to stand for re-appointment after completion of the current audit) or is dismissed." In such situations, issuers are required to disclose, among other things, (i) whether the former accountant resigned, declined to stand for re-election, or was dismissed; (ii) whether the principal accountant's report on the issuer's financial statements for either of the prior two years contained an adverse opinion or disclaimer of opinion, or was qualified or modified as to uncertainty, audit scope, or accounting principles; and (iii) whether the decision to change accountants was recommended or approved by an audit (or similar) committee or the issuer's board of directors. *See* 17 C.F.R. § 229.304.

MaloneBailey failed to timely report 8 of those changes in its licensing status to the Board on Form 3.[6]

7. MaloneBailey's internal compliance and reporting systems failed to identify its former clients' not filing required Forms 8-K and the changes to the firm's licensing status as being reportable to the PCAOB on Form 3. As a result, MaloneBailey inappropriately failed to notify the PCAOB of those events on a timely basis.

IV.

8. MaloneBailey has represented to the Board that, since the events described in this order, it has established and implemented the following changes to its policies and procedures for the purpose of providing MaloneBailey with reasonable assurance of compliance with PCAOB reporting requirements:

a. MaloneBailey has revised and supplemented its policies and procedures for the purpose of providing MaloneBailey with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by MaloneBailey personnel who participate in MaloneBailey's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. MaloneBailey has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any MaloneBailey personnel who participate in MaloneBailey's PCAOB reporting process; and

c. MaloneBailey has assigned the role of compliance with PCAOB reporting matters to an individual within MaloneBailey who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within MaloneBailey to fulfill those requirements on behalf of MaloneBailey.

[6] MaloneBailey reported the new state licenses it had obtained on a Form 3 filed with the Board on June 17, 2022, well after the 30-day deadline for reporting the majority of the new licenses referenced therein.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), MaloneBailey is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon MaloneBailey.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. MaloneBailey shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K. Street, N.W., Washington D.C. 20006.

3. Respondent shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional(s) or any payment made pursuant to any insurance policy, with regard to any amounts that Respondent shall pay pursuant to this Order.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's

registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), MaloneBailey is required to comply with its PCAOB reporting policies and procedures, including:

1. those intended to provide reasonable assurance that reportable events are identified by MaloneBailey personnel who participate in MaloneBailey's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. those ensuring training concerning PCAOB reporting requirements, at least annually, of any MaloneBailey personnel who participate in MaloneBailey's PCAOB reporting process; and

3. those requiring the assignment of the role of compliance with PCAOB reporting matters to an individual within MaloneBailey who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within MaloneBailey to fulfill those requirements on behalf of MaloneBailey.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 22, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Grant Thornton Auditores Independentes Ltda.,

Respondent.

PCAOB Release No. 105-2022-045

December 22, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Grant Thornton Auditores Independentes Ltda. ("GT Brazil" or "Respondent");

(2) imposing a $20,000 civil money penalty on GT Brazil; and

(3) requiring GT Brazil to comply with its policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that GT Brazil failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, on a timely basis.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **GT Brazil** is a limited liability partnership organized under the laws of Brazil and headquartered in São Paulo, Brazil. GT Brazil is licensed to practice public accounting in Brazil, and is a member of the Grant Thornton International network of firms. GT Brazil is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns GT Brazil's failure to timely disclose to the Board on Form 3 two reportable events regarding a disciplinary proceeding brought against GT Brazil by the Securities and Exchange Commission of Brazil (the Comissão de Valores Mobiliários ("CVM")). PCAOB rules require registered firms, including GT Brazil, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that GT Brazil is required to report on Form 3 are its becoming aware that the firm and/or certain of its personnel have become respondents in certain disciplinary proceedings, and the conclusion of such proceedings.

3. On December 15, 2017, the CVM initiated a proceeding against GT Brazil (and a former partner) related to professional services provided for a firm client ("CVM Proceeding"). The initiation of the CVM Proceeding was a reportable event under Form 3, but GT Brazil failed to file a Form 3 reporting the initiation of the CVM Proceeding until August 15, 2022, after it had received notice of possible deficiencies from the Division of Enforcement and Investigations.

[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

4. Additionally, on March 11, 2019, the CVM entered a settled disciplinary order that resolved the CVM Proceeding and imposed a fine on GT Brazil. The conclusion of the CVM Proceeding against GT Brazil constituted a reportable event under Form 3. However, GT Brazil failed to report the conclusion of the CVM Proceeding until its August 15, 2022 Form 3.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3] To constitute a reportable event, the proceeding in question only has to relate to professional services the firm provided for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

6. Another event requiring reporting on Form 3 occurs when a firm has become aware that a reportable proceeding (*i.e.*, a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[4]

7. The CVM Proceeding was initiated on December 15, 2017, and concerned professional services GT Brazil provided for a non-issuer client.[5] The CVM identified GT Brazil as

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[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed).

[4] *Id.*, at Item 2.10.

[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

a respondent in the CVM Proceeding. However, in violation of PCAOB Rule 2203, GT Brazil failed to timely file a Form 3 with the Board reporting the initiation of the CVM Proceeding.

8. The CVM Proceeding concluded on March 11, 2019, when the CVM entered a settled disciplinary order that imposed a fine on GT Brazil. However, in violation of PCAOB Rule 2203, GT Brazil failed to timely file a Form 3 with the Board reporting the conclusion of the CVM Proceeding.

9. GT Brazil belatedly reported the initiation and conclusion of the CVM Proceeding in a Form 3 filed on August 15, 2022, after GT Brazil received notice of possible deficiencies from the Division of Enforcement and Investigations.

10. GT Brazil's internal compliance and reporting systems failed to identify the initiation and conclusion of the CVM Proceeding as being reportable to the PCAOB on Form 3. As a result, GT Brazil inappropriately failed to timely notify the PCAOB of the initiation and conclusion of a relevant disciplinary proceeding.

IV.

11. GT Brazil has represented to the Board that, since the events described in this order, it has established and implemented the following changes to its policies and procedures for the purpose of providing GT Brazil with reasonable assurance of compliance with PCAOB reporting requirements:

a. GT Brazil has revised and supplemented its policies and procedures for the purpose of providing GT Brazil with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by GT Brazil personnel who participate in GT Brazil's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. GT Brazil has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any GT Brazil personnel who participate in GT Brazil's PCAOB reporting process; and

c. GT Brazil has assigned the role of compliance with PCAOB reporting matters to an individual within GT Brazil who possesses adequate knowledge and experience with PCAOB reporting requirements and

sufficient authority within GT Brazil to fulfill those requirements on behalf of GT Brazil.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), GT Brazil is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon GT Brazil.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. GT Brazil shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K. Street, N.W., Washington D.C. 20006.

3. Respondent shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional(s) or any payment made pursuant to any insurance policy, with regard to any amounts that Respondent shall pay pursuant to this Order.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), GT Brazil is required to comply with its PCAOB reporting policies and procedures, including:

1. those intended to provide reasonable assurance that reportable events are identified by GT Brazil personnel who participate in GT Brazil's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. those ensuring training concerning PCAOB reporting requirements, at least annually, of any GT Brazil personnel who participate in GT Brazil's PCAOB reporting process; and

3. those requiring the assignment of the role of compliance with PCAOB reporting matters to an individual within GT Brazil who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within GT Brazil to fulfill those requirements on behalf of GT Brazil.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 22, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KCCW Accountancy Corporation,

Respondent.

PCAOB Release No. 105-2022-046

December 22, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KCCW Accountancy Corporation ("KCCW" or "Respondent");

(2) imposing a $20,000 civil money penalty on KCCW; and

(3) requiring KCCW to comply with its policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that KCCW failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the

findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KCCW** is a corporation organized under the laws of California and headquartered in Diamond Bar, California. KCCW is licensed to practice public accounting by the California Board of Accountancy (License No. 5813). KCCW is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns KCCW's failure to disclose to the Board on Form 3 four reportable events concerning a disciplinary proceeding brought by the U.S. Securities and Exchange Commission ("Commission") against a KCCW partner and a related disciplinary proceeding against the same partner brought by the California Board of Accountancy. PCAOB rules require KCCW to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that KCCW is required to report on Form 3 are its becoming aware that one of its partners had become a respondent in certain disciplinary proceedings, and the conclusion of such proceedings.

3. On July 1, 2019, the Commission issued an order sanctioning a KCCW partner for causing KCCW to violate auditor independence rules.[2] The initiation of the Commission's proceeding against the partner was a reportable event under Form 3, but KCCW failed to file a Form 3 reporting that the partner had become a respondent in a Commission proceeding.

4. In addition, the conclusion of the Commission's proceeding against the partner constituted a reportable event under Form 3, but KCCW also failed to file a report of the conclusion of the proceeding on Form 3.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] *Thomas Chang, CPA*, Exchange Act Rel. No. 86252 (July 1, 2019).

5. KCCW and the KCCW partner reported the Commission's order to the California Board of Accountancy. On August 31, 2020, the California Board of Accountancy issued an order sanctioning the same KCCW partner for the same conduct underlying the Commission's July 1, 2019 order, and imposed a three year probation period. The initiation and conclusion of the proceeding against the partner by the California Board of Accountancy constituted reportable events under Form 3, but KCCW failed to report either event on Form 3.

C. Respondent Failed to Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

6. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[3] One such specified event occurs when a firm "has become aware that, in a matter arising out of his or her conduct in the course of providing audit services or other accounting services to an issuer, broker, or dealer, a partner, shareholder, principal, owner, member, or audit manager of the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[4] Another such specified event occurs when a firm has become aware that a reportable proceeding (*i.e.*, a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[5]

7. No later than July 1, 2019, KCCW became aware that the Commission had initiated—and concluded—a disciplinary proceeding against the partner for causing KCCW to violate auditor independence rules. That proceeding arose out of the partner's provision of audit services to KCCW's issuer clients.[6]

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[3] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[4] PCAOB Form 3, at Item 2.8 (italics in the original removed).

[5] PCAOB Form 3, at Item 2.10.

[6] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a

8. No later than August 31, 2020, KCCW became aware that the California Board of Accountancy had initiated—and concluded—a disciplinary proceeding against the same partner based on the same underlying conduct as the Commission's proceeding.

9. In violation of PCAOB Rule 2203, KCCW failed to file a Form 3 with the Board with respect to the initiation or conclusion of either the Commission's proceeding against the partner or the California Board of Accountancy's proceeding against the partner.[7]

10. KCCW's internal compliance and reporting systems failed to identify the initiation and conclusion of the proceedings by the Commission and the California Board of Accountancy as being reportable to the PCAOB on Form 3. As a result, KCCW inappropriately failed to notify the PCAOB of the initiation and conclusion of two relevant disciplinary proceedings.

IV.

11. KCCW has represented to the Board that, since the events described in this Order, it has established and implemented the following changes to its policies and procedures for the purpose of providing KCCW with reasonable assurance of compliance with PCAOB reporting requirements:

a. KCCW has revised and supplemented its policies and procedures for the purpose of providing KCCW with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by KCCW personnel who participate in KCCW's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. KCCW has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any KCCW personnel who participate in KCCW's PCAOB reporting process; and

registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001 (i)(iii).

[7] On July 1, 2022, KCCW filed a Form 3 and on July 2, 2022, KCCW filed a Form 3/A reporting the initiation and conclusion of the Commission's proceeding and the related California Board of Accountancy proceeding against the partner.

c. KCCW has assigned the role of compliance with PCAOB reporting matters to an individual within KCCW who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within KCCW to fulfill those requirements on behalf of KCCW.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), KCCW is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon KCCW.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. KCCW shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K. Street, N.W., Washington D.C. 20006;

3. Respondent shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional(s) or any

payment made pursuant to any insurance policy, with regard to any amounts that Respondent shall pay pursuant to this Order; and

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), KCCW is required to comply with its PCAOB reporting policies and procedures, including:

1. those intended to provide reasonable assurance that reportable events are identified by KCCW personnel who participate in KCCW's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. those ensuring training concerning PCAOB reporting requirements, at least annually, of any KCCW personnel who participate in KCCW's PCAOB reporting process; and

3. those requiring the assignment of the role of compliance with PCAOB reporting matters to an individual within KCCW who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within KCCW to fulfill those requirements on behalf of KCCW.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 22, 2022